



Labor & Employment Issues Client Alert

Pitta LLP
For Clients
March 20, 2020 Edition



CONGRESS PASSES AND PRESIDENT SIGNS SECOND COVID-19 BILL

In what is the second of what promises to be several relief bills connected to the Coronavirus (“COVID-19”) pandemic, the United States Congress passed the Families First Coronavirus Act (“Act”) with bipartisan support. President Donald Trump signed the Act into law.

The COVID-19 pandemic has caused the closure of schools, universities, places of worship, concert and sport venues, restaurants, bars and other places of large social gatherings and has led the Center of Disease Control (“CDC”) to issue guidelines recommending social isolation and other measures to stem the crisis. Congress passed the Act to provide Americans with protections to be able to practice social isolation and tend to the illness in cases of infection. The Act includes provisions for emergency paid sick leave, emergency family leave due to the COVID-19, additional funding for anti-hunger and nutrition programs, health coverage and insurance provisions connected to the virus and additional funds to support Medicaid and the Children’s Health Insurance Program (“CHIP”).

Family & Medical Leave

The Act implements a public health emergency leave program under the Family and Medical Leave Act. The Act applies to workers that have held their positions for at least 30 days at government agencies and private organizations that employ between 51-499 people. The Act permits employees leave if they pose a risk of transmitting the COVID-19 to other employees, to care for children under 18 whose school or day care closes due to COVID-19 virus, or for the care of a family member that has symptoms or has been exposed to the virus.

The first 14 days of leave are unpaid but permits the employee to concurrently use any paid vacation, personal, medical or sick leave that they have previously accrued. After the fourteenth day of leave, employers are required to provide paid leave for each day an employee takes leave at a rate of 66.67% of their normal pay.

Paid Sick Leave

The Act requires that government workers and workers at private organizations with less than 500 employees be provided with paid sick time if any employee needs to:

1. Self-isolate due to diagnosis with the COVID-19;
2. Receive a medical examination or medical services due to the COVID-19
3. Comply with a recommendation from a health official or public official to enter into quarantine; or
4. Care for family that has self-isolated, been diagnosed or is experiencing symptoms of the COVID-19, or to care for a child whose school/childcare has closed due to the COVID-19.

Under the terms of the Act, full-time employees are entitled to 80 hours of paid leave, while part-time employees are eligible for an amount of leave equal to their normal scheduled hours during a two-week

period. The Act states that employees will be paid at their normal wage for sick leave due to their own health condition but would be paid at a rate of 66.67% for leave to care for a family member.

The Act contains provisions which prohibits employers from requiring a worker to find a replacement to cover their work schedules, it also protects workers from discharge or discrimination for requesting paid sick leave or filing a complaint against their employer regarding its use. Any remaining paid leave at the end of the year carries over to the following year. These provisions would apply on top of any existing employer paid leave policies.

Employer Tax Credits for Sick & Medical Leave

The Act provides payroll tax credits to employers to cover the cost of providing paid leave to employees under the Act's sick and family leave programs. The Act's sick leave tax credit for each employee would apply to wages of up to \$511 per day while the employee is receiving paid sick leave for their own medical conditions, or \$200 per day if the sick leave is to provide care to a family member or child whose school/daycare is closed due to the COVID-19.

The Act's family leave tax credit for each employee applies to wages of as much as \$200 per day while the employee is receiving paid leave, or an aggregate of \$10,000. The bill makes the tax credits refundable if they exceed the amount the employer owed in payroll tax, and the credits will be in effect for wages through the end of 2020.

Anti-Hunger & Nutrition

The Act provides additional funding to programs that provide food for the nation's most vulnerable, at-risk, and low-income individuals. The Act provides:

1. \$500 million for the Special Supplemental Nutrition Programs for Women, Infants, and Children ("WIC"), which provides wholesome and nutritious meals for pregnant women, new moms, and young kids.
2. \$400 million for the Commodity Assistance Program, which provides emergency meals for low-income Americans and the elderly.
3. \$160 million for the Meals on Wheels Program to ensure that homebound and transportation-limited seniors have access to meals.

No-Cost COVID-19 Testing

The Act requires health insurance companies to cover the test for the COVID-19 and services related to it without cost-sharing from patients or prior authorization requirements. The Act also waives cost-sharing requirements and testing costs for patients covered by Medicare, Medicare Advantage, Medicaid and TRICARE.

Securing Medicaid & CHIP

The Act provides states with additional Medicaid funds to expand access to COVID-19 testing and will cover the complete costs for the testing of uninsured people. In addition, the comprehensive package also increases the Federal Medicaid Assistance Percentage by 6.2% if the state provides Medicaid coverage of the COVID-19 testing without imposing eligibility tests or imposing premiums on recipients.

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