Navigating the Paid Leave Requirements of Families First Coronavirus Response Act as a Small Business Owner

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After some delay in passage, the Families First Coronavirus Response Act (“the Act”), appears poised to be passed by the Senate and signed into law. The provisions of the Act make significant, yet temporary changes to the Family and Medical Leave Act (“FMLA”) among others. Small businesses will be affected by these changes and will need the right legal advice to negotiate them.

Most notably, the Act imposes upon employers with fewer than 500 employees a requirement to provide sick leave as well as family and medical leave to their employees in response to the present crisis.

**Paid Sick Leave**

Under the Act, covered employers will need to offer employees two weeks, or an equivalent to be used by the employee to:

- The worker has a current diagnosis of COVID-19.
The worker is quarantined (including self-imposed quarantine), at the instruction of a health care provider, employer, or government official, to prevent the spread of COVID-19.

The worker is caring for another person who has COVID-19 or who is under a quarantine related to COVID-19.

The worker is caring for a child or other individual who is unable to care for themself due to the COVID-19-related closing of their school, child care facility, or other care program.

Paid leave under this provision must be provided at 100% of the employees’ salary, unless the leave is taken for the last two reasons, in which case leave must be provided at 2/3 of salary.

**FMLA Leave**

Additionally, covered employers will be required to provide employees with 12 weeks of paid family leave for employees, employed longer than 30 days for the care of minor children who need care because of the closure of a school or daycare. These benefits are available after two weeks of leave, covered either by the aforementioned sick leave, an employer’s sick preexisting sick leave, or unpaid time.

These benefits are to be paid at a rate of 2/3 of the employee’s regular rate. Although some caps in place may result in a lower rate for more highly compensated employees.

**Conclusion**

Although the discussed provisions of the Act place a burden on smaller employers, some may qualify for reimbursement of paid leave in the form refundable tax credits. Others may qualify for waivers under the Act. Specific circumstances may vary, and the right legal advice is crucial to navigating the recent changes and making the right moves for your business and your employees.

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