

COVID-19 RELIEF BILL AND ITS HR IMPACT ON YOUR PRACTICE

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CONFLICT OF INTERESTS

The following information is presented by an employment attorney engaged in private practice who certifies that he has no affiliation or involvement with any organization or entity with any financial interest or non-financial interest in the subject matter or materials discussed in this webinar.



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FAMILIES FIRST CORONAVIRUS RESPONSE ACT

- Federal law, effective from April 1, 2020 through the end of the year.
- Key sections:
 - Emergency Paid Sick Leave Act
 - Emergency Family and Medical Leave Expansion Act
 - Tax Credits for Paid Sick and Paid Family Medical Leave
- State and local laws also in effect.

EMERGENCY PAID SICK LEAVE ACT

Employer Threshold

- Private employers with less than 500 employees and government employers.
- Employers with less than 50 employees can apply for exemption if compliance would jeopardize the viability of the business (DOL will issue regulations on this process).

Employee Eligibility

- All employees are eligible, no matter how long they've been employed.



EMERGENCY PAID SICK LEAVE ACT

Calculating Pay

Number of hours:

- Full-time employees get up to 80 hours of paid leave.
- Part-time employees get the number of hours they'd work over a two-week period, on average.

Rate of compensation:

- Normal rate of pay or applicable minimum wage, whichever is higher.
- Rate of pay may be reduced by 1/3 based on reason for leave.
- Compensation is capped based on reason for leave.



EMERGENCY PAID SICK LEAVE ACT

Employee Cannot Work Because:

- Subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- Experiencing symptoms of COVID-19 and seeking a medical diagnosis.

Amount of Pay:

Normal rate of pay or applicable minimum wage, whichever is higher. Capped at \$511 per day or \$5,110 total.



EMERGENCY PAID SICK LEAVE ACT

Employee Cannot Work Because:

- Caring for an individual subject to a quarantine or isolation order or who has been advised by a health care provider to self-quarantine.
- Caring for a son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable.
- Experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Amount of pay:

2/3 of normal rate of pay or applicable minimum wage, whichever is higher. Capped at \$200 per day or \$2,000 total.



EMERGENCY PAID SICK LEAVE ACT

Using Sick Leave

- Employees are entitled to immediate use of the emergency sick leave and can use the emergency sick leave before any other accrued leave.
- Employers cannot require employees to exhaust accrued leave time before taking emergency sick leave.
- Employees can use emergency sick leave for a combination of qualified reasons, but total capped at 80 hours/2 weeks of leave.
- The leave provided by the Emergency Paid Sick Leave Act does not rollover from one year to the next and expires as soon as the employee returns to work.





EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

Employer Threshold

- Standard FMLA applies to employers with 50 or more employees.
- Expanded FMLA applies to private employers with less than 500 employees and to government employers.
- Employers with less than 50 employees can apply for exemption.

Employee Eligibility

- Employees must be employed for past 12 months for standard FMLA.
- Expanded FMLA available to employees who've been employed for at least 30 calendar days.



EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

Expanded Leave for One Situation

Eligible employees can take 12 weeks of protected leave to care for a minor son or daughter if the child's school or place of care has closed, or the usual childcare provider is unavailable, because of COVID-19.

Provides Paid Leave

- Only form of paid FMLA leave.
- First 2 weeks are unpaid, but employee can elect to use emergency paid sick leave or any accrued paid leave.
- Remaining 10 weeks paid at 2/3 usual rate of pay, capped at \$200 per day or \$10,000 total.

TAX CREDITS FOR PAID LEAVE

- Tax credits are available immediately.
- Employers can claim payroll tax credits equal to 100% of the benefits paid for emergency sick leave or FMLA leave.
- Includes federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes.
- If amount of benefits is greater than tax credits, employers can request an expedited advance payment from the IRS for the difference.



FREQUENTLY ASKED QUESTIONS

1. Do employees get paid sick leave because of slow or lost business?
2. Does this law change all forms of FMLA leave?
3. Can my employees take normal FMLA leave?
4. Do I need to document why my employees took leave?
5. Are the paid leave benefits retroactive?
6. Do the Colorado or Denver “Stay in Place” orders trigger the paid sick leave?



FUTURE LEGISLATION

The Senate passed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) March 25, 2020. The House is voting today.

Provides \$2 trillion in relief with provisions that may be relevant to your practice, including:

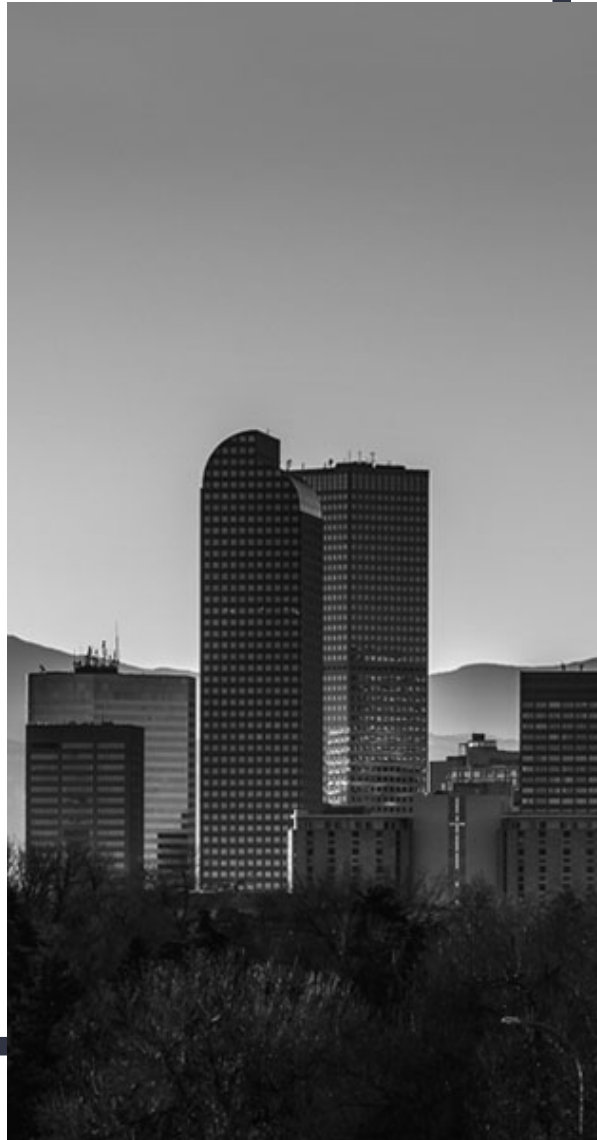
- Small Business Administration loans;
- Potential small business loan forgiveness for qualifying expenses incurred between February 15 and June 6, 2020;
- Withdrawal of up to \$100,000 from 401(k) without penalty for certain hardships related to COVID-19;
- Deferred payment of the employer share of the Social Security tax for employers and self-employed individuals until December 31, 2020; and
- Unemployment compensation benefits increased by up to \$600 a week.



STATE AND LOCAL ORDERS

Elective/Non-Essential Surgeries and Procedures Suspended

- Effective until April 14, maybe longer.
- Suspends procedures that can be delayed at least 3 months without undue risk to the current or future health of the patient.
- Exempts procedures where (1) there is a threat to the patient's life; (2) there is a threat of permanent dysfunction; (3) there is a risk of metastasis or progression of staging of a disease or condition; or (4) there is a risk that the patient's condition will rapidly deteriorate.



Colorado “Stay in Place” Order

- Effective until April 11, maybe longer.
- Does not change suspension of elective/non-essential procedures.
- Necessary, emergency procedures still permitted. Travel to perform such procedures is permitted.
- Local “Stay at Home” orders are superseded by State order, but also permit emergency dental procedures.

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THANK YOU