



Best Practices & New Legal Mandates for Employers Confronting COVID-19

April 1 & 8, 2020



Welcome

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Questions?



Guidance During the Evolving COVID-19 Pandemic

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Agenda

- Workplace Safety
- Families First Coronavirus Response Act (FFCRA)
- The CARES Act
- Layoffs and Furloughs
- Unemployment Compensation: State and Federal
- Health and Welfare Plan Considerations

Workplace Safety: OSHA

- **The General Duty Clause**
 - Requires employers to provide to employees "employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."
 - Policies and procedures put in place must be proportionate to the risk imposed by the coronavirus.
- **Personal Protective Equipment (PPE) Standard**
 - Requires the use of gloves and eye, face, and respiratory protection.
 - When respirators are necessary, employers must implement a comprehensive respiratory protection program.
- **Retaliation Against Whistleblowers Prohibited**
 - Prohibits employers from retaliating against workers for raising concerns about safety and health conditions.
 - OSHA also enforces the whistleblower protections of more than 20 industry-specific federal laws.



Workplace Safety: OSHA Recording/Reporting

- **OSHA Recordkeeping Requirements**
 - Employers must record certain work-related injuries and illnesses on their OSHA 300 log, and complete the OSHA form 301 (or equivalent).
- **OSHA also requires employers to report to OSHA any work-related illness that:**
 - (1) results in a fatality; or
 - (2) results in the "in-patient" hospitalization of one or more employees.
- **OSHA recordkeeping rules only apply to injuries or "illnesses"**
 - While OSHA has excluded the cold and flu, it has determined that COVID-19 is a reportable illness (confirmed/diagnosed cases).

Workplace Safety: OSHA Recording/Reporting cont.

- **COVID-19 is a recordable illness if a worker is infected as a result of work-related duties**
- **Employers are only responsible for recording COVID-19 cases if:**
 - Confirmed diagnosis of COVID-19;
 - "Work-related" (Requires an individualized determination of whether event or exposure in the work environment either caused or contributed to the resulting condition, which will be challenging.); and
 - Involves one or more of the general recording criteria (*e.g.*, medical treatment beyond first aid, days away from work).
- **If an employee has a confirmed, work-related case of COVID-19, the employer needs to report if it results in fatality or "in-patient" hospitalization.**
 - Deaths must be reported within 8 hours.
 - In-patient hospitalization must be reported within 24 hours.
 - Reporting obligation is time-limited. (Fatality after 30 days or hospitalization after 24 hours from workplace incident need not be reported.)

Workplace Safety: Communications and Privacy

- ADA confidentiality applies to communications.
- Employers should not disclose identity of employees diagnosed with, or suspected of having, the coronavirus (unless otherwise directed by government).
- Instead, employers should communicate:
 - Report that there has been a confirmed or likely case of a co-worker
 - Recommendation for employees to be careful in observing symptoms
 - Direction that employees avoid the workplace and seek medical attention if symptoms occur
- Employers should reach out separately to any smaller populations that may have been at a higher risk of close contact with the affected employee (*i.e.*, shared cubicle block, officemate, recently in meetings together).

Workplace Safety: Communications and Privacy cont.

- Employers should carefully consider whether and how to disclose suspected exposure based on numerous factors, including:
 - Likelihood of infection based on other facts (*e.g.*, employee has had exposure to someone who has been exposed, employee recently travelled to hot spot, absence of other indicators of likely exposure);
 - Potential extent of exposure within the workplace;
 - Timing of confirmation of test; and
 - Impact on business of disclosing (*e.g.*, potentially unnecessary anxiety) versus impact of not disclosing (distrust of employees who may subsequently blame employer for subsequent spread).
- Best practice: Contact local health authority for direction on action steps, including communication (and document such advice).

Workplace Safety: Temperature Testing and Masks

- Generally the ADA would prohibit this type of testing, but EEOC recently stated its position that COVID-19 pandemic enables employers to measure employees' temperature (although it notes some infected people do not have elevated temperature).
- CDC guidance issued in areas where community spread is significant recommends screening of employees.
- Employers may recommend that employees (particularly those with low-risk exposure) check their own temperatures before coming to work.

Workplace Safety: Temperature Testing and Masks cont.

- Employer best practices for mandatory testing:
 - Testing should be done in non-discriminatory manner;
 - Testing done by someone with adequate medical skill and training (consider third-party health care vendor);
 - Temperature-measuring device must be reliable/accurate and as non-invasive and sanitary as reasonably possible (consult with health care professional on accuracy between infrared and tympanic thermometers and whether process of initial and confirmation testing utilizing different methods should be used);
 - Testing a mandatory subject of bargaining for union employees (at least in the absence of a clear governmental directive requiring it), unless the management rights clause is broad enough to encompass;

Workplace Safety: Temperature Testing and Masks cont.

- Employer best practices for mandatory testing cont. :
 - Testing process needs to provide for social distancing (*i.e.*, people aren't lined-up next to each other waiting);
 - The time spent lining up to test is like compensable time from a wage and hour (and probably CBA) standpoint; and
 - The temperatures become confidential employee medical information subject to adequate protection and if recorded to related recordkeeping requirements under the ADA.
- Latest CDC guidance recommends wearing cloth masks outside home, doesn't replace social distancing.

FFCRA: Overview

- Addresses impacts of the coronavirus on personal safety and financial security.
- Applies to businesses with fewer than 500 employees, but larger employers looking to leave provisions as guide in determining their benefits.
 - Exclusions for "health care providers" and "emergency responders"
 - Exclusions for businesses with fewer than 50 employees for child care reasons
- Provides for the following:
 - Expanded family and medical leave
 - Expanded paid emergency leave
 - Enhanced Unemployment Insurance
- Effective April 1, 2020



FFCRA: Overview cont.

- Expanded Family Leave
 - Employee of employer with fewer than 500 who have worked for at least 30 days and are unable to work (or work remotely) because they need to care for their child whose school has been closed or alternative childcare provider is unavailable due to the coronavirus, with up to 12 weeks of family leave.
 - The first 10 days of the leave may be unpaid (although employee can elect to use either the paid sick leave available under FFCRA or substitute available vacation, personal, medical or of sick leave if terms of employer leave allow).
 - Remaining leave paid at not less than 2/3 regular rate up to \$200 per day and \$10,000 in total.
 - Employers get payroll tax credit for the qualified family leave wages they pay, subject to the caps.

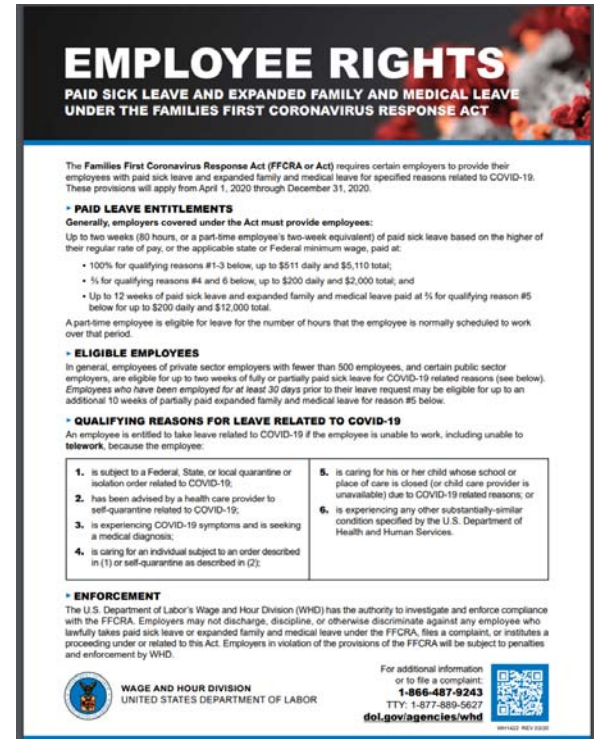
FFCRA: Overview cont.

- Paid Sick Leave
 - Employers with fewer than 500 employees are required to provide up to 80 hours of paid sick leave to their employees who are unable to work or telework for any combination of the following reasons:
 1. Employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19 (note that Evers' "Stay-at-Home" order would not count for essential business employee);
 2. Employee has been advised by a health care provider to self-quarantine related to COVID-19;
 3. Employee is experiencing COVID-19 symptoms and seeking a medical diagnosis;
 4. Employee is caring for an individual who is subject to a quarantine or isolation order, or has been advised by a health care provider to self-quarantine related to COVID-19;
 5. Employee is caring for his or her child whose school has been closed or alternative childcare provider is unavailable due to COVID-19;
 6. Employee is experiencing any other substantially similar condition, specified by HHS and DOL.

FFCRA: Overview cont.

• Paid Sick Leave *cont.*

- Available pay (calculated using regular rate average over prior 6 months):
 - Reasons (1), (2), or (3): regular rate of pay up to \$511 per day, \$5,110 in total
 - Reasons (4), (5), or (6): two-thirds regular rate of pay up to \$200 per day, \$2,000 in total
- Full-time employees are entitled to up to 80 hours and part-time employees are entitled to the typical number of hours they work in a typical two-week period.
- Employers cannot require employees to use other paid leave provided by the employer before using the paid sick leave under this Act.
- Employers will receive a payroll tax credit for the qualified sick leave wages they pay, subject to the caps.
- Employers are required to post/email/mail model notice of employee rights to employees by April 1.
- Poster now available on DOL website



EMPLOYEE RIGHTS
PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE
UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

PAID LEAVE ENTITLEMENTS
Generally, employers covered under the Act must provide employees:
Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅓ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

ELIGIBLE EMPLOYEES
In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19
An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;	5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
2. has been advised by a health care provider to self-quarantine related to COVID-19;	6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;	
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);	

ENFORCEMENT
The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to the Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.

For additional information or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

891423 REV 02/20

FFCRA: DOL Q&A Guidance

- The DOL released FFCRA guidance in Q&A form; has answered 79 questions so far and updates frequently: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
- **Intermittent FFCRA Leave:** FFCRA leave may be taken intermittently but only with advanced employer approval in certain circumstances.
- **Intersection of FFCRA and FMLA:** Employees may take FFCRA paid sick leave, regardless of how much FMLA leave has been taken. But, employee eligibility for expanded family leave depends on how much FMLA leave they have already taken in the FMLA year (only 12 weeks total).
- **FFCRA Leave and Unemployment Benefits:** An employee's FFCRA paid leave will count against the employee's eligibility for unemployment benefits.
- **Documentation for FFCRA Leave:** Employers should require employees taking FFCRA leave to provide documentation of need for leave (*i.e.*, a doctor's note, an email indicating a school closure or copy of school closure order from internet); important for employer tax credit.

Guidance issued on 3/30 by Q&B regarding notice, policy and suggested forms can be found here: <https://www.quarles.com/publications/ffcra-leave-provisions-effective-april-1-and-cares-act-provides-relief-for-small-businesses-and-unemployed-workers/>

"Health Care Provider" and "Emergency Responder" Under FFCRA





- The FFCRA Q&A guidance broadly defines who is a "health care provider" and "emergency responder" employee who employer can decide is excluded from paid sick leave/ expanded family and medical leave.
- Includes anyone who works in doctor's office, hospital, clinic, pharmacy, retirement or nursing home, laboratory, police, EMTs, etc.
- Also applies to employees of entity that contracts with the foregoing if employee's services support its operations.
- Different definition of "health care provider" for determining those whose advice to self-quarantine can be relied on as a qualifying reason for paid sick leave.



The CARES Act

- Enacted into law 3/27/2020
- Provides stimulus to individuals, businesses, and hospitals in response to the economic distress caused by COVID-19
 - **Paycheck Protection Loan Program:** \$349 billion loan program for small businesses, including non-profits and physician practices
 - **Economic Injury Disaster Loan Program:** \$10 billion in additional funding to help small businesses recover from economic losses
 - **Pandemic Unemployment Assistance Program:** Expands eligibility for unemployment insurance and provides additional \$600 per week

THE CARES ACT: COVID-19 PHASE III RELIEF LEGISLATION

-  Direct payments to the American people
-  Emergency loans and resources for small businesses
-  Major relief and resources to hospitals
-  Investments in new medicines, therapeutics, and vaccines

The CARES Act: Paycheck Protection Loan Program

- Meant to encourage small businesses (generally no more than 500 employees) to keep workers
- Loans available on a first come, first-served basis from February 15, 2020 through June 30, 2020
- Maximum loan amount of 2.5 times average total monthly payroll costs, up to \$10 million (interest rate of 1% per year)
- All or a portion of the loan may be forgivable for the following costs incurred during 8-week period after loan is issued.
 - Payroll costs, including employee compensation up to \$100K per employee (75% of forgivable loan costs must be spent on this)
 - Mortgage interest
 - Rent
 - Utilities

The CARES Act: Paycheck Protection Loan Program cont.

- Quarles & Brady alerts:
 - <https://www.quarles.com/publications/federal-stimulus-package-makes-loans-available-to-small-businesses-to-help-keep-people-employed/>
 - [https://www.quarles.com/publications/a-few-cautionary-notes-on-the-covid-19-loans-available-to-small-businesses/?utm_source=033020 A Few Cautionary Notes on the COVID 19 Loans Available to Small Businesses alert&utm_campaign=Email 2020&utm_medium=email](https://www.quarles.com/publications/a-few-cautionary-notes-on-the-covid-19-loans-available-to-small-businesses/?utm_source=033020_A_Few_Cautionary_Notes_on_the_COVID_19_Loans_Available_to_Small_Businesses_alert&utm_campaign=Email_2020&utm_medium=email)
 - <https://www.quarles.com/patrick-j-maxwell/publications/new-paycheck-protection-loan-program-to-open-april-3-for-small-businesses/>
 - <https://www.quarles.com/patrick-j-maxwell/publications/paycheck-protection-loans-sba-answers-some-questions-punts-on-others/>
 - [https://www.quarles.com/publications/paycheck-protection-program-loans-sba-guidance-continues-to-trickle-out-provides-potential-opportunity-for-applicants-with-foreign-operations/?utm_source=040720 Paycheck Protection Program Loans SBA Guidance Continues to Trickle Out Provides Potential Opportunity for Applicants With Foreign Operations alert&utm_campaign=Email 2020&utm_medium=email](https://www.quarles.com/publications/paycheck-protection-program-loans-sba-guidance-continues-to-trickle-out-provides-potential-opportunity-for-applicants-with-foreign-operations/?utm_source=040720_Paycheck_Protection_Program_Loans_SBA_Guidance_Continues_to_Trickle_Out_Provides_Potential_Opportunity_for_Applicants_With_Foreign_Operations_alert&utm_campaign=Email_2020&utm_medium=email)

The CARES Act: Economic Injury Disaster Loan Program

- Meant to help small businesses recover from economic losses sustained because of the COVID-19 pandemic
- Cover the period January 31, 2020 through December 31, 2020
- Loans made directly by the SBA in an amount not to exceed \$2 million
- Eligibility expanded to any business with less than 500 employees
- Up to \$10,000 of the proceeds of a loan may be advanced to the applicant, within three days after the SBA receives an application
- Payments of principal and interest under all new and existing loans will automatically be entitled to deferment for one year

The CARES Act: Economic Injury Disaster Loan Program cont.

- Requirement to show ability to obtain credit elsewhere is waived
- Business had to be in operation by January 31, 2020
- Personal guarantees not required for loans less than \$200,000
- SBA is authorized to base its credit decision solely on an applicant's credit score or "alternative appropriate methods" for determining the applicant's ability to pay (ordinary requirement of prior year tax returns is waived)
- An applicant that receives a disaster loan can refinance it into a Paycheck Protection loan

Layoffs and Furloughs

- Refresher on Layoffs and Furloughs
 - WARN Act requirements
 - Reductions in pay or scheduled hours
 - Furloughs

Layoffs and Furloughs cont.

- **WARN Act Requirements**

- Applies to employers with 100 employees
- Requires a 60-day notice of employment loss, including for plant closing and layoffs of more than six months or 50% hour reduction for six months
- Triggered by:
 - A plant closing – where employment site (or one or more facilities or operating units within site) will be shut down, resulting in employment loss for 50 employees in 30-day period.
 - Mass layoff – employment loss of 33% of the employer's total active workforce at the site (up to 90-day window for calculation) or an employment loss of 500 or more workers at a site of employment during a 30-day period
- Affected employees – excludes part-time who average fewer than 20 hours per week and newer who have been employed fewer than six of last 12 months

Layoffs and Furloughs cont.

- **WARN Act Requirements** *cont.*

- Allows exceptions for temporary layoffs (less than six months), unforeseeable circumstances, faltering company, and natural disasters
 - Even if unforeseeable, an employer must provide notice as soon as practicable.

- **Mini-Warn Compliance**

- Wisconsin has mini-WARN – Wisconsin business closing law that applies to employers with only 50 employees and is trigger at lower thresholds (greater of 25 employees or 25%)
- Many states have Mini-WARN statutes, and there are county and local laws and ordinances that apply to smaller employers and/or require notice for smaller workforce reductions (*e.g.*, CA, IL, MD, NJ, NY, TN, WI).

Layoffs and Furloughs cont.

- **Reductions in Pay**

- Because non-exempt employees typically only get paid if they work, there is no legal restriction on scheduling fewer hours or reducing pay as long as employers pay minimum wage and overtime.
- Exempt salaried employees must be paid minimum salary to remain exempt – current federal minimum is \$684 per week or \$35,568 annually.
- Note: Some states have requirements for written advanced notice (*e.g.*, 30 days in MO). Follow this link to our 50-state survey on reduction notice requirements: <https://www.quarles.com/employer-notice-requirements-for-wage-reduction-a-o-march-18-2020/>
- Additionally, employers do not have the unilateral right to alter or cancel employment agreements where the employee is not at-will (and reduction could trigger termination for "good cause" by the employee provision triggering severance pay or other damages).

Layoffs and Furloughs cont.

- **Furloughs (exempt employees)**
 - Partial-week furloughs occur when an exempt employee's workweek is reduced (*e.g.*, to three or four days per week) with a corresponding reduction in salary. This is permissible, so long as:
 - Done in advance (and in compliance with wage reduction notice requirements)
 - Changes are not made so frequently as to appear to be the functional equivalent of an hourly wage.
 - *Partial-week furloughs can also be supplemented by available vacation or PTO, but ability to force use subject to terms of the policy and state law.
 - Full-week furloughs are permissible, but if exempt employee performs any work during the week, the employee is entitled to full salary.
 - Checking emails and voicemails enough unless employee in violation of clear rule against doing so on furloughs

Unemployment Compensation: Wisconsin

- Currently, Wisconsin provides up to 26 weeks, with a maximum of \$370 and a minimum of \$54 per week.
 - Employees can seek partial UC, but not if they work or received pay for 32 hours or more or earn more than \$500 per week.
- Unemployment benefits are available to individuals who are unemployed/partially unemployed through no fault of their own.
 - If an employer must shut down operations and no work is available, employees may be eligible for unemployment benefits.
 - Individuals need not search for work during COVID-19 pandemic.

Unemployment Compensation: Wisconsin cont.

- Individuals ill because of the coronavirus and unable to work are not eligible for state unemployment benefits.
 - Individuals who are in mandatory quarantine because of suspicion of having the coronavirus similarly will likely not be eligible for state unemployment benefits.
- There is still a one-week waiting period for applying for benefits in Wisconsin.
 - Governor has urged the legislature to waive.

Unemployment Compensation: Federal

- The CARES Act creates a temporary Pandemic Unemployment Assistance Program.
- Provides \$250 billion in unemployment insurance benefits
- \$600 per week on top of state unemployment benefits and appears no pro-rations of amount (*i.e.*, even if someone receiving partial UC under state law they will receive entire CARES additional amount)
 - Through July 31, 2020
 - CARES \$600 fully funded by federal (not employer account)
- Expands benefits after 26 weeks under state law exhausted for an additional 13 to a total of 39 weeks (January 27, 2020 through December 31, 2020)
- Expands Work Share Programs (WI has existing program)

Unemployment Compensation: Federal cont.

- Expands scope of those who are eligible for unemployment benefits, including those who:
 - Have been or have had a household member diagnosed with COVID–19 or are experiencing symptoms of COVID–19 and seeking a medical diagnosis;
 - Are providing care for a family or household member who has been diagnosed with COVID–19;
 - Have primary caregiving responsibility for a child who is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
 - Are unable to reach work because of a quarantine imposed as a direct result of the COVID-19 public health emergency or self-quarantine advised by a health care provider;
 - Were scheduled to commence employment and do not have a job or are unable to reach the job as a direct result of the COVID-19 public health emergency;

Unemployment Compensation: Federal cont.

- Expands scope of those who are eligible for unemployment benefits, including those who cont. :
 - Have become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID–19;
 - Had to quit their job as a direct result of COVID–19;
 - Worked in a place of employment that is closed as a direct result of the COVID–19 public health emergency; or
 - Meet any additional criteria established by the Secretary of Labor for unemployment assistance.
- Only individuals expressly excluded from receiving unemployment compensation are those who can telework and those receiving paid sick leave or other paid benefits.

Health and Welfare Plan Considerations

- **Health plan eligibility** – check if you use a "forward-looking" ("scheduled to work XX hours") or "backward-looking" test (IRS "Employer Shared Responsibility" Rule)
 - If employee allowed to stay on, how will they pay for premiums? Loan?
 - Modify plan terms if you want (self-funded); discuss with carrier (fully insured)
- **Eligibility for other welfare plans** (*e.g.*, life; long-term disability; short-term disability; AD&D) – similar analysis as above
- **FFCRA requires all "group health plans" to cover certain, specified testing during Coronavirus "emergency period"**
 - Cannot impose any "cost-sharing" requirements (deductibles, copayments, coinsurance) or "prior authorization or other medical management requirements"
 - Coverage of testing on pre-deductible basis will not destroy "high deductible health plan" status.

Health and Welfare Plan Considerations cont.

- **FFCRA creates new health plan "credit."** Amount of credit employer can receive for required paid family leave/sick leave generally increased by "amounts paid or incurred" to "provide and maintain a group health plan", to extent amounts are excluded from employee's gross income under Code Section 106(a).
 - New IRS FAQs from March 31 provide some answers on how to calculate.
 - Most health plans (medical; dental; vision; health FSA; HRA; ICHRA) count .
 - Employer "allocates" health plan expense on per-employee-on-leave, per-day basis.
 - *E.g.*, Acme Co. has 400 employees on fully-insured plan; pays \$5,200,000 in 2020
 - Total of \$5,200,000 is divided by 400 = \$13,000 premium per employee
 - Calculate "average number of work days"; can use 52 weeks x 5 days = 260 days
 - Calculate "daily average premium rate" = $\$13,000 / 260 \text{ days} = \$50 / \text{day}$
 - \$50 per employee per covered leave day is the "qualified health plan expense" employer can claim as tax credit.

Health and Welfare Plan Considerations cont.

- **CARES Act:** Builds on FFCRA – and goes beyond it
 - Tweaks definition of what Coronavirus testing must be covered
- Establishes what a **self-funded health plan must pay** for coronavirus testing
 - If had "negotiated rate" before emergency declaration use that
 - If not, look to "cash price" on provider's "public internet website" or negotiate price
- **"Speed up" coverage of coronavirus coverage** if and when vaccine or other "preventive" coverage becomes possible (15 calendar days after announced).
- Removes ACA limitation on health FSA, HRA, HSA reimbursement of **over-the-counter medicines**
 - Also clarifies that menstrual care products can be reimbursed.
 - Optional; modify plan if you want it.
 - Do so retroactive to 1/1/2020? Or just going forward?

Health and Welfare Plan Considerations cont.

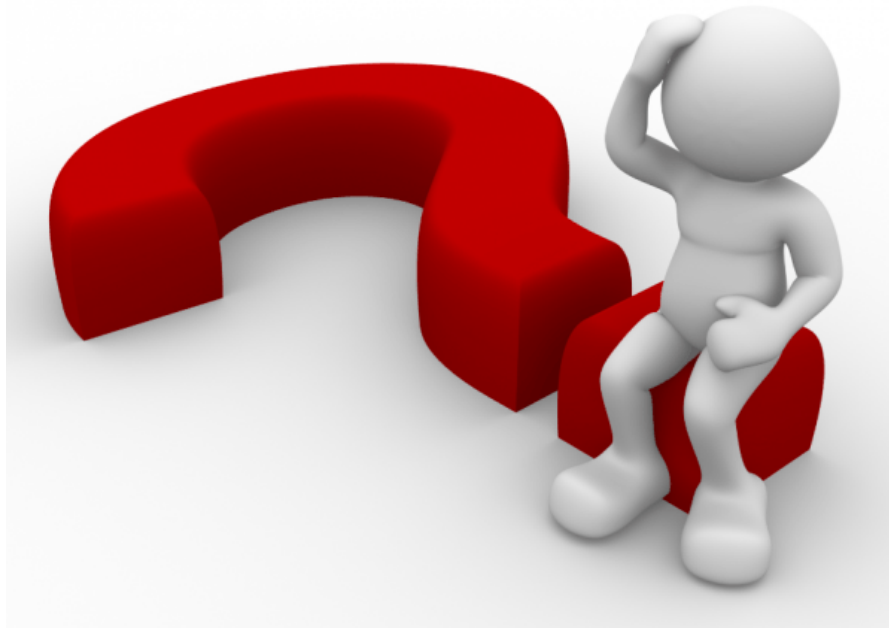
- **PPP** loan program allows loans for health plan expenses (but details not clear).
- CARES Act allows for "**telehealth** and other remote care services" to be provided by a high-deductible health plan, without destroying HSA eligibility.
- Allows employers to provide up to \$5,250 tax exclusion for employer payments toward certain **employee student loans**
 - Must meet certain administrative requirements (*e.g.*, written plan) and be aware of "expiration" date of December 31, 2020
- Many questions on **cafeteria plans** (*e.g.*, Can dependent care elections be changed if your dependent care provider temporarily closes?)
- **Bonus Retirement Plan Considerations:** Retirement plans can have a "partial plan termination" if 20%+ are laid off; could require immediate vesting.
 - CARES Act allows Coronavirus-related distributions (no early withdrawal taxes) and loans.
 - Required minimum distributions waived for 2020.

Resources for Employers



- Being prepared is the best way to protect your organization from effects of the coronavirus. Additional information can be found at the resources below:
 - www.osha.gov/SLTC/covid-19/
 - <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
 - [www.eeoc.gov/facts/pandemic flu.html](http://www.eeoc.gov/facts/pandemic_flu.html)
 - www.dol.gov/coronavirus
 - <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>
 - <https://dwd.wisconsin.gov/covid19/public/ui.htm>
- Please visit <https://www.quarles.com/covid-19-guidance-for-clients/> for articles to help employers navigate many aspects of the COVID-19 pandemic.

Questions?



Thank You



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Sharing Best Practices

BHCG Member Employers



Q & A

Discussion



Thank You!

A recording of today's webinar as well as presenters' slides will be made available. Watch your inbox or visit bhcgwi.org.

Stay safe & be well!