



The Families First Coronavirus Response Act (the “Families First Act”)

I. The Families First Act (enacted on 3-18-2020) mandates that all fully insured and self-funded group health plans (including grandfathered health plans and retiree health plans) provide:

Coverage of testing and diagnosis for COVID-19 without any cost share (e.g. deductibles, copayments or coinsurance) or prior authorization or other medical management requirements. This includes in- and out-of-network telemedicine visits, office visits, ER visits and urgent care visits related to determining the need for a test or the actual test, and any related medical services during that time.

The mandate does not require health plans to cover COVID-19 treatment at no cost share at this time.

II. The Families First Act also contains two Federal Leave Provisions. This is a high level overview of HPI’s understanding of the new requirements. Clients should consult with their labor or employment counsel to address questions about the applicability of the new rules to their work places. **The rules take effect April 1, 2020**, and are currently scheduled to expire 12/31/2020.

Emergency Paid Sick Leave Act

Applies to:	Employers with fewer than 500* employees and government employers. Employers of healthcare providers and emergency responders are not required to provide paid sick leave to those employees.
Available to:	Employees who qualify as employees under the Fair Labor Standards Act (virtually all private sector employees, whether full time, part time, temporary or permanent, as well as most government employees) without regard to how long the employee has been employed
Mandatory when:	Employee is unable to work or telework because the employee: <ol style="list-style-type: none"> 1. Is subject to a federal, state, or local quarantine or isolation order related to COVID-19; 2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; 3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis; 4. Is caring for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19, or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; 5. Is caring for a son or daughter whose school or day care has been closed, or the regular child care provider is unavailable due to COVID-19 precautions; or 6. Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
Benefit:	<p>Categories 1, 2 and 3 above</p> <ul style="list-style-type: none"> • 100% of regular pay up to a daily maximum of \$511 in addition to and before any existing paid time off provisions would apply <p>Categories 4, 5 and 6 above</p> <ul style="list-style-type: none"> • 2/3 of regular pay, up to a daily maximum of \$200 in addition to and before any existing paid time off provisions which would apply <p>Full-time employees are entitled to 2 weeks (80 hours) of qualified paid sick leave.</p> <p>Part-time employees are entitled to the number of hours that they are regularly scheduled to work during a two-week period. If the part-time employee’s scheduled hours vary, then the benefit is based on the average number of hours worked over the six month period ending on the date on which the employee takes this paid sick leave, including any hours for the employee took leave of any type. If the employee did not work for the six month period, the benefit is based on the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.</p> <p>Employers who maintain a paid sick leave policy must provide the emergency paid sick leave in addition to their current paid sick leave, and may not require employees to use other forms of paid leave (e.g., vacation leave) instead of the emergency paid sick leave.</p>

Continued on page 2



The Families First Coronavirus Response Act (the “Families First Act”)

Paid FMLA/Emergency Family and Medical Leave Expansion Act

Applies to:	Employers with fewer than 500* employees and government employers. Employers of healthcare providers and emergency responders are not required to provide paid sick leave to those employees.
Available to:	Employees who qualify as employees under the Fair Labor Standards Act and have been employed at least 30 calendar days.
Mandatory when:	Employee is unable to work or telework because the employee: Is caring for a son or daughter under age 18 whose school or day care has been closed, or the regular child care provider is unavailable, due to a public health emergency. The Act defines “public health emergency” as an emergency with respect to COVID-19 declared by a federal, State, or local authority.
Benefit:	2/3 of regular pay for 12 weeks up to a daily maximum of \$200 in addition to any existing paid time off provisions would apply. Employees may take paid family and medical leave after they take the emergency paid sick leave described above. The first 10 days an employee takes leave under the FMLA Expansion Act may consist of unpaid leave, but if the employee qualifies for the emergency paid sick leave, the employee may get paid for those 10 days under the Sick Leave Act. An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave.

Important: Workplace closures that prevent an employee from working or teleworking do not trigger these leave requirements.

Impact on medical coverage

The leaves are expansions of the FMLA. As such, the same terms and conditions for continuing coverage under the FMLA apply to these leaves.

*The rule leaves room to issue regulations to exempt employers with fewer than 50 employees when it would jeopardize the viability of the business as a going concern, but those regulations have not yet been issued.

The information contained in this overview is based on our current understanding of how significant developments may affect group benefit plans. It should not be construed as specific legal advice or legal opinion. The contents are for general information purposes only and are not a substitute for the advice of legal counsel.