

DATE: March 19, 2020

Summary of the Families First Coronavirus Response Act

On March 18, 2020, after passing through both chambers of Congress, President Trump signed into law the *Families First Coronavirus Response Act* ([P.L. 116-127](#)). The legislation passed the House by a vote of [363-40](#) on March 14, and the Senate by a vote of [90-8](#) on March 18. This is the second package signed into law in response to the coronavirus, the first was the *Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020* ([P.L. 116-123](#)), which included \$8.3 billion to combat the coronavirus. A TFG memo on the first funding package is available [here](#).

Funding Highlights

- Up to \$1 billion for emergency transfers to states in FY 2020 to process and pay unemployment benefits. Each state will receive a proportional amount based on the share of federal unemployment taxes paid by its employers. States would receive half of their allocation within 60 days of March 18 if they certify that they meet certain requirements. The package also includes extended benefits for unemployment insurance; eligible laid-off workers can receive regular unemployment benefits for as long as 26 weeks in most states.
- \$250 million for Department of Health and Human Services programs that aid elderly Americans. Of this amount, \$160 million is for home-delivered nutrition services, \$80 million for congregate nutrition services, and \$10 million for nutrition services for American Indians.
- \$1 billion to allow the National Disaster Medical System to reimburse provider costs associated with testing uninsured individuals.
- \$500 million in emergency funding to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).
- \$400 million to the Commodity Assistance Program for the emergency food assistance program (TEFAP), \$100 million of which could be used for costs related to the distribution of goods.
- \$100 million for grants to the Northern Mariana Islands, Puerto Rico, and American Samoa for nutrition assistance provided in response to the virus.
- Waives federal work requirements for Supplemental Nutritional Assistance Programs (SNAP) eligibility.
- States are eligible for a 6.2% increase in their federal medical assistance percentages (FMAP). To be eligible, states must provide coverage of coronavirus testing without cost sharing.
- Requires insurers, Medicare, Medicaid, and other federal health programs to fully cover testing and related services for the virus.

Important Provisions

Emergency Family Leave

The new law creates an emergency paid leave program to directly respond to the coronavirus. Private sector employers with fewer than 500 workers and public/local government entities must provide up to 12 weeks of job-protected leave under the Family and Medical Leave Act (FMLA) for employees who are unable to work or telework because they have to care for a child younger than 18 whose school or day care has closed because of the coronavirus. The Department of Labor is authorized to issue regulations that would exclude certain health-care providers and emergency responders from paid leave benefits and exempt small businesses with fewer than 50 employees from the paid leave requirements.

The 12 weeks of job-protected leave includes two weeks of unpaid leave, followed by 10 weeks of paid leave. Eligible employees may elect or be required to overlap the initial two weeks of unpaid leave with two weeks of other paid leave they have available. Eligible employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay. The law also exempts employers with fewer than 25 workers from requirements to restore an employee's original position if it no longer exists because of economic conditions or changes to operations due to the public health emergency. The Emergency Family and Medical Leave Expansion Act provisions will become effective no later than April 2, 2020 and run through December 31, 2020.

Emergency Sick Leave

Private sector employers with fewer than 500 workers and public/local government entities will have to provide employees who are unable to work or telework with immediate paid sick time off to comply with a federal, state, or local quarantine, or isolation order; self-quarantine per a healthcare provider's advice; obtain a medical diagnosis for coronavirus; or care for an individual who is in quarantine or for a child whose school or day care have closed due to coronavirus.

Full-time employees will receive 80 hours of sick leave under the new emergency leave program and part-time workers are granted time off that's equivalent to their scheduled or normal work hours in a two-week period. Workers must be paid at least their normal wage or the federal, state, or local minimum wage, whichever is greater. If providing care to another individual or child, they would be paid at two-thirds of wages.

Leave assistance is capped at \$5,110 (i.e., up to \$511 per day over two weeks) for a worker to self-quarantine, seek a diagnosis or preventative care, or receive treatment for COVID-19 and \$2,000 (i.e., up to \$200 per day over two weeks) to provide care for a family member or to care for a child whose school has closed, or if their childcare provider is unavailable due to COVID-19. Employers are prohibited from requiring a worker to find a replacement to cover their hours during time off; and discharging or discriminating against workers for requesting paid sick leave or filing a complaint against the employer.

An employer will be subject to civil penalties for a violation of paid sick leave requirements. The Department of Labor is authorized to issue regulations to exclude certain healthcare providers and emergency responders from the paid leave benefits; and exempt small businesses with fewer than 50 employees from paid leave requirements. The Emergency Paid Sick Leave Act provisions will be in effect no later than April 2, 2020 and run through December 31, 2020.

Employer Tax Credits

The new law provides refundable tax credits to employers** to cover wages paid to employees while they are taking time off under the bill's sick leave and family leave programs. The sick leave credit for each employee would be for wages of as much as \$511 per day while the employee is receiving paid sick leave due to quarantine, or \$200 if they are caring for someone else who is quarantined or their child's school is closed. The limit would be excess of 10 days over the aggregate number of days taken into account for all preceding calendar quarters. The family leave credit for each employee would be for wages of as much as \$200 per day while the employee is receiving paid leave, or an aggregate of \$10,000.

Employers will front the cost of emergency paid sick leave but will be fully reimbursed by the federal government within three months. That reimbursement will cover both the wages paid and the employer's contribution to employee health insurance premiums during the period of leave. Employers will be reimbursed through a refundable tax credit that counts against employers' payroll tax, which all employers pay regardless of non-profit/for-profit status. The credit is in effect for wages through the end of 2020 and will become available to employers no later than April 2, 2020.

*****Local, state, and federal governmental entities are not eligible to receive this refundable tax credit even though local, state, and federal government employees are eligible for both the emergency paid sick and family leave programs.***

Next Steps

TFG is working to eliminate or change the employer tax credits exclusion for local governmental entities in pending coronavirus legislation. Senate Majority Leader Mitch McConnell (R-KY) has vowed that the Senate will not adjourn until they have passed an economic stimulus measure – this would be the third piece of legislation passed in response to the coronavirus.

Both the Administration and Congress are also working on an economic stimulus and relief plan. The White House proposed a \$1 trillion plan that would include industry bailouts and payments to individual taxpayers. The plan includes \$500 billion for payouts to individual Americans that would be distributed via two separate checks of equal amounts – one on April 6 and one on May 18. The specific amount each individual receives would be based on income level and family size.

TFG is closely tracking the developments around the coronavirus and we have created a [Coronavirus Update Library](#) on our website to store TFG memos and briefs on the outbreak, as well as critical information and guidance released by Congress and the Administration.