



The following summary of the Families First Coronavirus Response Act was recently provided to all Pharmacists Mutual members. A copy of this correspondence is being provided to members of the Pharmacy Marketing Group as a courtesy reference tool.

## **Families First Coronavirus Response Act**

Congress recently passed and President Trump signed the Families First Coronavirus Response Act (HR 6201), which becomes effective April 1, 2020 and continues through December 31, 2020. Pharmacists Mutual is providing this alert to its members to help you implement the requirements under the act.

There are two specific provisions that provide employees with additional benefits beyond those normally provided by their employer. The Act applies to most private employers with fewer than 500 employees. Employers with less than 50 employees may ask the Secretary of Labor for an exemption if providing the benefits would jeopardize the viability of the small business. Regulations are not yet in place to ask for this exemption. The two benefits complement each other, but there are differences in the requirements for the two benefits. Each will be addressed separately. This summary is provided as a courtesy to our members and is not intended to provide legal advice. Members are encouraged to contact their attorney for specific advice.

### **Emergency Paid Sick Leave**

The Act requires an employer to provide paid sick leave to an employee who is unable to work or telework due to one of the following six reasons:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine related to COVID-19
3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis
4. The employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2)
5. The employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. The employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury (more detail to come on this one).

Here are some key points regarding this benefit:

- Every employee is eligible. There is no minimum tenure required.

- Full-time employees are entitled to 80 hours of paid sick leave.
- This leave is in addition to any other sick leave or paid time off benefits an employer already provides.
- Part-time employees are entitled the number of hours equal to the average number of hours usually worked in a two week period (For part-time employees who work variable schedules, the number of hours is calculated based on the average for the prior six months of employment).
- The employer may not require that the employee take any other paid leave provided by the employer prior to using this leave and may not require the employee to find their replacement prior to using the leave.
- The employer is also prohibited from disciplining or terminating an employee who uses the leave or files any complaint related to use of the leave.
- This benefit does not carry over to next year if it not used and any unused balance is not payable upon the employee's termination of employment.
- The rate of pay depends on the reason that the employee is unable to work or telework.

Reason for Leave	Items 1, 2, or 3	Items 4, 5, or 6
Amount of Benefit	100% of regular rate of pay	2/3rds of regular rate of pay
Maximum Daily Benefit	\$511	\$200
Maximum 10 Day Benefit	\$5,110	\$2,000

### **Health Care Providers Exemption**

The Act allows employers of certain health care providers and emergency responders to exclude them from the definition of eligible employee making them ineligible to receive benefits under this section. The Secretary of Labor has defined health care provider to be anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. To minimize the spread of the virus associated with COVID-19, the Department of Labor encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the Act.

### **Emergency Family and Medical Leave Expansion**

The second benefit provided for in the Act is an expansion of Family and Medical Leave Act (FMLA). The first 10 days of this benefit are unpaid, but the employee can chose to use any existing paid leave benefit offered by the employer during this initial 10-day period. While the 80 hours of paid sick leave provided for in the other portion of the Act has no tenure requirement, this benefit is provided only for employees who have been employed for at least 30 days.

Here are some key points regarding this benefit:

- This expanded FMLA benefit has only one reason to trigger its use. It can only be used if employee is unable to work or telework in order to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.
- After the first 10 days of leave under this section each employee is eligible to receive 2/3rds of their regular rate of pay, up to a maximum of \$200 per day or an aggregate of \$10,000.
- Employees are paid based on their normal work hours. Fulltime employees would be entitled to pay based on 40 hours per week.
- Part-time employees are entitled the number of hours equal to the average number of hours usually worked in a two-week period. (For part-time employees who work variable schedules, the number of hours is calculated based on the prior six months of employment).

This section also allows employers of certain health care providers and emergency responders to exclude them from receiving benefits under this section using the same definition of health care provider used for the Paid Sick Leave benefit given above.

#### **Employment Tax Credits**

Employers who provide benefits under either of these sections are eligible for a tax credit based on the costs of the benefits actually provided to employees. Employers are encouraged to discuss this provision with their tax advisor to ensure proper recordkeeping and tax filing requirement are met.