



LEGAL UPDATE

Schneider Smeltz Spieth Bell LLP

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

In light of the House of Representatives passing the Families First Coronavirus Response Act granting coronavirus related leave on March 14, 2020, we wanted to provide a quick overview of the proposed legislation as it relates to employee leave.

The House legislation broadens the availability of leave under the Family and Medical Leave Act (“FMLA”) for coronavirus related events. The employee eligibility requirements were relaxed to include an employee who has been employed for at least 30 days by an employer rather than requiring an employee (i) to work for at least 12 months for an employer (which months do not need to be consecutive); and (ii) to have worked for the employer for at least 1250 hours over the 12 months immediately preceding the start of the leave. Additionally, the House legislation changed the definition of a covered employer to require employers who employ less than 500 employees to comply with the FMLA as expanded by the House legislation.

The expansions to the FMLA are effective through the end of this year and (as noted above) are tied to coronavirus related events such as the employee’s sickness, caring for a family member with the coronavirus or under quarantine/self-isolation, and caring for a child of an eligible employee if the child’s school and/or child care provider is closed. In those situations, the House legislation requires the employer to provide paid family medical leave time for up to 12 weeks, subject to certain conditions (we expect clarification and/or changes on the requirements and conditions as the legislation moves forward through the senate). The pay for family medical leave must be at least two thirds of an employee’s regular rate of pay.

The House legislation also provides for the Emergency Paid Sick Leave Act (“EPSLA”) which runs through the end of this year and similarly applies to covered employers who employ fewer than 500 employees. The EPSLA provides for paid leave for employees regardless of how long employees have worked at an employer. The amount of paid sick leave would depend on whether an employee is full or part time with full time employees receiving 80 hours of paid sick leave and part time employees receiving a pro rata share of such paid leave, based upon the number of hours worked.

An employee can use EPSLA paid sick leave time to self-isolate, obtain a medical diagnosis, go into quarantine, care for a family member who is self-isolating or sick, and care for an employee’s child if the child’s school or childcare provider is closed. This paid sick leave is in addition to any paid sick leave an employer already offers to its employees and an employer cannot amend its sick leave policies to avoid the EPSLA.

The House legislation currently provides for tax credits to compensate employers for the costs associated with these requirements and prohibits discrimination and retaliation for taking sick leave. In certain circumstances, the FMLA also requires employers to keep jobs open for employees that take FMLA related leave.

Please note that as the Families First Coronavirus Response Act works through the Senate it may change from the version passed by the House of Representatives. Stay tuned for additional updates on the Families First Coronavirus Response Act.

If you have questions or concerns, please contact Michael Schauer or any of the attorneys at Schneider Smeltz Spieth Bell, who remain committed to the health and safety of our clients and our community.

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