



## Employer Update: Federal Coronavirus Legislation and State Benefits for RI Employees

March 18, 2020: The following is an update to our March 3, 2020 guidance to employers regarding the coronavirus and employers' legal rights and responsibilities.

### **QUESTION: What is the status of the emergency federal coronavirus legislation, and how could it affect employers if enacted into law?**

**RESPONSE:** As of this update's publication, the bill (the "Families First Coronavirus Response Act,"), is still pending. In fact, although the House passed a version on Saturday, March 14th, there were significant revisions in a modified version passed by the House on Monday, March 16th.

The current bill, if it is enacted into law, would impact: (1) public employers, and (2) private employers with *fewer than 500* employees. It would allow businesses with fewer than 50 employees to request that the Department of Labor exempt them from its new Family and Medical Leave Act ("FMLA") requirements.

*The Senate is expected to vote upon the legislation this week, but as of this writing, no vote has been scheduled. We do not yet know what it will look like when it is finalized.*

### **Paid Sick Leave**

As things stand, the bill would provide two (2) weeks of paid sick leave (of up to \$511 per day) to full-time employees (pro-rated for employees who work less than full-time), regardless of how long the employee has been employed, for any of the following reasons:

- 1) To self-isolate due to a coronavirus diagnosis;
- 2) To obtain a diagnosis or care because the employee has symptoms of coronavirus;
- 3) To comply with a recommendation or order to self-isolate by a doctor or public health official;
- 4) To care for a family member who is self-isolating due to a coronavirus diagnosis or who has symptoms of coronavirus or who has been ordered to self-isolate by a doctor or public official; or
- 5) To care for a child whose school or place of care has been closed due to coronavirus.

The sick leave must be paid at an employee's regular rate if the employee uses it to self-isolate or to seek a diagnosis or preventative care for coronavirus. The sick leave must be paid at two-thirds of the employee's regular rate if the employee uses it to care for a family member for such purposes or to care for a child whose school or place of care has closed due to coronavirus.

Sick leave under the bill must be provided in addition to any sick leave that exists under the employer's current sick leave policy. Employers may not reduce or modify existing policies to

avoid providing sick leave under the bill, and they cannot require employees to find replacements to cover for them while they are out. Employers will be required to post notices for employees summarizing their rights under the law.

The paid sick-leave component is set to expire on December 31, 2020.

### **Partially-Paid FMLA Leave**

The bill would temporarily expand FMLA coverage so that it would apply to employers with less than 50 employees and to certain employees; specifically those who have been on the job for at least 30 days and who are unable to work due to needing to care for a child whose school or place of care has been closed due to coronavirus.

The first 14 days of leave may be unpaid. Employees may use accrued sick, vacation, or personal leave to cover those first 14 days, but employers may not require them to do so.

After the first 14 days, eligible employees would be entitled to be paid at a rate of no less than two-thirds of their regular rates of pay (up to \$200 per day).

The modifications to the bill passed by the House on March 16th excluded healthcare providers and first responders from the new benefits, as well as quarantined workers and those employees caring for family members affected by the coronavirus.

Like the new paid sick time benefits, the expanded FMLA coverage and benefits would sunset on December 31, 2020.

### **Funding**

The current legislation proposes paying for these new benefits through making tax credits available to employers on the Social Security taxes they normally pay for employees.

### **QUESTION: What do employers in Rhode Island need to know about unemployment and temporary disability insurance (TDI) programs during the coronavirus pandemic?**

**RESPONSE:** As of March 10, 2020, the Rhode Island Department of Labor and Training (DLT) is waiving the standard seven (7)-day waiting period for unemployment claims related to the coronavirus. The DLT is also permitting employees who are under quarantine to qualify for TDI via self-attestation in lieu of the required medical certification.

**If you have any questions that require immediate attention or are unsure of your rights and obligations, please do not hesitate to contact us. Our employment attorneys have been monitoring the latest developments in this area, and they will make themselves available to take calls and answer e-mails on short notice.**