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FFCRA Leave – What Employers Need to Know For The End of 2020

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The Families First Coronavirus Response Act (FFCRA) requires covered employers with less than 500 employees to provide eligible employees with up to twelve weeks of paid leave. As 2020 comes to an end, here is some information about the FFCRA that employers should keep in mind:

FFCRA BENEFITS EXPIRE ON DECEMBER 31, 2020

All FFCRA leave benefits—including Emergency Paid Sick Leave (EPSL) and Expanded Family and Medical Leave (EFMLA)—were created by a time-limited statutory authority and are set to expire on December 31, 2020. This means that, currently, employees are not entitled to receive EPSL or EFMLA past December 31, 2020, and employers will not receive reimbursement from the federal government under the FFCRA for leave taken after December 31, 2020.

In its current form, the FFCRA does not require employers to "pay out" unused EPSL and EFMLA to employees. Any balance of unused EPSL or EFMLA will expire on January 1, 2021, unless the FFCRA is extended or otherwise amended.

It is possible that Congress may extend FFCRA leave benefits past December 31st, but it has not yet done so. While President-elect Biden has expressed support for legislation that both extends and expands COVID-19-related leave, it is uncertain whether Congress will enact these proposals. Stay tuned for updates regarding the status of FFCRA leave.

FFCRA LEAVE AND SCHOOL WINTER BREAK

As schools begin to close for winter break, employers should be mindful of the employee eligibility requirements for FFCRA leave. An employee may take EPSL or EFMLA if he or she is unable to work (or telework) because of the need to care for a child whose school or place of care is closed, but only if that school or place of care is closed "due to COVID-19 related reasons." As such, an employee is not eligible for FFCRA leave if the leave request is based solely on a school closure due to winter vacation or the end of an academic semester, as these are not "COVID-19 related reasons." Employers should ensure that they understand the FFCRA's eligibility requirements and the bases for their employees' leave requests.

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