

Employment Alert: DOL Issues Q&A on Families First Coronavirus Response Act, Setting April 1 Effective Date for Paid Leave Provisions

March 25, 2020

On Tuesday, March 24, the U.S. Department of Labor (DOL) issued a 14 question "Q & A", posted on its website, about the recently-enacted federal Families First Coronavirus Response Act. In the Q&A, the DOL announced the effective date for the Act's Emergency Paid Sick Leave and expanded FMLA paid leave to be **April 1**. This is a slight change from earlier informal guidance which had indicated April 2 would be the effective date.

The Q & A also answered some, but not nearly all, questions employers have regarding the implementation of the two paid leave provisions.

On the issue of whether an employer has more than 500 employees, and thus is not covered by either paid leave provision, the release makes clear that both full time and part-time employees count. It also addresses the factors to consider in determining whether certain business entities, such as parents and subsidiaries or brother/sister corporations, should count their employee groups together when determining coverage.

With regard to the potential exemption of employers having fewer than 50 employees, the Q & A says that more detailed information will be coming, but does make clear that an employer will not "apply" for the exemption, but rather will document the reasons it believes it qualifies, per the forthcoming criteria, and retain that information.

The Q & A also addresses the total amount of leave available under the two laws. Although up to 80 hours is available for Emergency Paid Sick Leave and 12 weeks for the expanded FMLA, the DOL states that only a total of 12 weeks is available to an employee. The 80 hours of paid sick leave would be used to cover the first two weeks of FMLA which is unpaid, it does not expand the total leave available to 14 weeks.

There are also questions answered on issues such as calculating an employee's regular rate to determine how much an employee on a paid leave should receive. Finally, the DOL indicates that additional guidance will be forthcoming on other issues.



The entire Q&A is available at <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

If you have questions about these new paid leave provisions, please contact Brian Woolley, Megan Anderson or your regular Lathrop GPM contact.