The Families First Coronavirus Response Act (H.R. 6201)

Overview guidance for Ohio credit unions
Overview of General Provisions

• Employees impacted by COVID-19 may receive paid leave, food assistance, and expanded unemployment insurance
• Increased Medicaid funding to states
• Provides tax credits to employers to offset costs with providing emergency sick leave
• Excludes employers with 500 employees or more and may exclude employers of 50 or less where a hardship exemption applies
• Requires insurers, Medicare, Medicaid, and other federal health programs provide full coverage for testing and related services for the virus
Enactment and Effective Dates

• H.R. 6201 is effective as of March 18, 2020 (enactment date)
• Provisions apply and within 15 days of the date of enactment (no later than April 2, 2020) as prescribed by the Secretary of the Treasury and ends on December 31, 2020
Expanded Paid Leave Opportunities

- Establishes an emergency paid leave program in response to COVID-19
- New FMLA leave applies to employers with fewer than 500 employees
- May also exclude employers with fewer than 50 employees where a hardship exemption applies
- Includes employees working for at least 30 days for a covered employer, and they would be immediately eligible to use emergency paid leave
New Acceptable FMLA Leave Reasons

Eligible employees may take up to twelve (12) weeks of job-protected FMLA leave for the following reasons:

- To comply with a recommendation or order by a public official or health care provider regarding COVID-19
- To care for quarantined family member based on a recommendation or order due to exposure to or symptoms of coronavirus
- To care for a child if the child’s school or place of care has been closed, or the child-care provider is unavailable, due to coronavirus.
New FMLA Requirements

• The first 14 days of FMLA leave are unpaid, but employees may choose to substitute accrued paid time off for leave under this section. An employer cannot require such substitution.

• Following 14 days, an employee must be paid not less than two-thirds of their regular rate of pay for each day of FMLA leave. There are separate provisions regarding this paid leave benefit for employees subject to a multi-employer collective bargaining agreement.

• For the most part, this is job protected leave.
  • Employers can still take actions that will not provide any greater right to employment than those not on leave. There are some additional limitations to job protection rights for employees working at an employer with fewer than 25 employees.
Paid Sick Leave for Impacted Employees

- Applies to employers with fewer than 500 employees
- All full-time employees (subject to limited exceptions) would be entitled to take 80 hours paid sick leave immediately. Part-time employees would get a pro-rated amount
- New sick leave amounts are in addition to employer-provided paid sick leave benefits; employers must permit employees to use coronavirus-related sick leave before other sick leave
- Amounts cannot be carried over into the new year or be paid out at termination
New Paid Sick Leave Employer Requirements

- Employers are required to pay employees at their regular rate of sick pay during coronavirus-needed leave.
- Employers must pay employees two-thirds of their regular rate of pay when taking leave to care for a family member or because of school closure or child-care related issues.
- Employers must post a notice related to this section in a conspicuous place in the workplace.; a model notice will be provided by the Department of Labor.
Employer Tax Credits Available

- **HR 6201 provides tax credits to employers paying out leave benefits.**
  - The Tax Credits for Paid Sick and Paid Family And Medical Leave provides a refundable tax credit equal to 100% percent of qualified paid leave benefits paid by an employer subject to certain caps and offset against social security taxes paid by the employer.
Considerations for Credit Unions

- Credit unions should evaluate their labor and employment obligations under the Families First Coronavirus Response Act.
  - **Assess communications** with employees to provide assurance, to the extent possible, about the safety of the workplace, the steps being taken in protecting the workplace from exposure, and how you are addressing exposures or close contacts that may create an exposure for transmission of the Coronavirus.
  - **Evaluate Collective Bargaining Agreements** for compliance obligations and existing limitations, and evaluate issues which may be associated with scheduling and obligations to employees in the event of absence and/or layoff from work. Proactive discussions with the labor union as to the effects of the decision being made may help to lessen conflict.
Considerations for Credit Unions

• **Review current policies** and be careful of policy adjustments in an effort to provide supplemental benefits prior to the Act. The Act makes clear that the rights of employees under policies existing at the time enactment cannot be reversed or used as an offset against the entitlements now required by the law. This may result in the “doubling up” on benefits and entitlements not otherwise intended by the employer.

• **Develop a Coronavirus Policy and FAQs for your employees.** During this time, employee uncertainty breeds unrest and unwarranted concerns as to what the future may bring. Employers should provide employees with guidance and the comfort necessary to understand that the employer has taken the steps necessary to protect and inform the work environment from the contracting and/or spreading of COVID-19.
Considerations for Credit Unions

- **Develop “work from home” rules.** Confirm with employees who will be asked, or who may elect with employer permission, to work from home what the expectations for such a work arrangement will be.

- **Update your Family and Medical Leave Policy** to reflect the requirements of this new law. This may be by way of addendum since the EFMLEA is an interim, stop-gap measure expiring on December 31, 2020.
Considerations for Credit Unions

• **Provide employees with clear expectations and procedures** as it relates to absences from work, eligibility for Paid Sick Leave and communications with/notices to Human Resources. It is critical that employees alert Human Resources as to vacations or trips to areas which are domestic “hot-spots” or level 2 or 3 zones, as identified by the CDC. This information will be important for communications with employees and to evaluate any special concerns raised or actions to be taken to protect the workplace from exposure.

• **Remain calm.** Now is the time for company leadership and human resources to demonstrate the steady-hand of leadership in addressing the issues and concerns from employees; qualities that are the hallmark of the credit union movement. Emotions may be running high as people are uncertain as to the virus and its consequences to them and their loved ones. Appreciation for the uncertainty and concerns is essential as employers move forward.