Emergency Family and Medical Leave Expansion Act

Description of Program and Relief

The Emergency Family and Medical Leave Expansion Act (the “EFMLEA”) requires certain employers to provide their employees with paid, job-protected leave for up to twelve weeks in connection with qualified family caregiving needs. The intended beneficiaries of the Act are individuals who meet the requisite eligibility requirements (described at the link below) and who work for, and have been employed for at least 30 calendar days by: (1) private employers with fewer than 500 employees, or (2) government employers.

Government or Lead Agency

The Department of Labor, specifically the Wage and Hour Division, is the agency responsible for overseeing the Act.

Dates Available

The requirement to give employees paid leave under this Act takes effect no later April 2, 2020. The right to paid leave under this act expires on December 31, 2020.

Eligibility Requirements/Restrictions

Up to two weeks of paid leave paid at the employee’s regular rate is available for an eligible employee who is unable to work or telework due to a need to care for their minor child if the child’s school or place of care has been closed, or if the child’s child care provider is unavailable, due to coronavirus.

After two weeks of unpaid leave, employees are entitled to receive a benefit from their employers equal to no less than two-thirds (2/3) of the employee’s usual pay for up to 10 additional weeks. Crucially, this paid leave benefit is capped at $200 per day and $10,000 in the aggregate.

Employees who work under a multi-employer collective bargaining agreement are entitled to paid leave without additional or different requirements.

Employees of small businesses employing fewer than 50 employees may not receive the benefits otherwise conferred under the Act if the imposition of the Act’s requirements would jeopardize the viability of the business as a going concern. Whether the Act’s application would be injurious to a particular business is a decision over which the Secretary of Labor has discretion following an application for exemption by the employer.

The Act is unenforceable by employees of businesses employing 500 or more employees. Employees of companies of such scale must seek paid leave benefits from their employers directly.
Lastly, an employer may elect to exclude employees who are health care providers or emergency responders from obtaining the benefits otherwise conferred under this Act.