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EMPLOYMENT LAWSCENE ALERT: DOL UPDATES GUIDANCE ON FFCRA COMPLIANCE

On Monday, March 30, 2020, the U.S. Department of Labor (DOL) issued further guidance for employers on the Families First Coronavirus Recovery Act (FFCRA). You can find the updated DOL guidance here.

For private sector employers, the updated DOL guidance does the following:

1. Updates Q #8 clarifying the regular rate calculation when it includes commissions, tips, or piece rates;
2. Updates Q #15 regarding what records employers need to keep when an employee takes paid leave;
3. Updates Q #16 regarding what information an employee must provide his or her employer when taking paid leave;
4. Adds Q #38 describing which employees are eligible for paid sick leave and expanded family and medical leave;
5. Adds Q #39 clarifying who is a "covered employer" that must provide paid leave;
6. Adds Q #40 clarifying who is a son or daughter;
7. Adds Q #41 and #42 explaining what employees should do if their employer denies them paid leave;
8. Adds Q #43 describing an employee's right to restoration to their job position after taking paid leave;
9. Adds Q #44 describing the amount of leave an eligible employee is entitled to within a 12-month period under the Family and Medical Leave Expansion Act (FMLEA);
10. Adds Q #45 explaining how much leave an employee can take under the FMLA over the next 12 months after taking leave under the FMLEA;
11. Adds Q #46 answering whether paid sick leave counts against other types of paid sick leave;
12. Adds Q #47 answering whether an employee can use paid sick leave and expanded family and medical leave together for any COVID-19 related reasons;
13. Adds Q#48 defining who is a full-time employee under the Emergency Paid Sick Leave Act;
14. Adds Q#49 defining who is a part-time employee under the Emergency Paid Sick Leave Act;
15. Adds Q #50 answering whether the definition of a covered employed under the FMLA applies to defining a covered employer under the FMLEA;
16. Adds Q #51 answering whether employees in a waiting period for health insurance coverage will have effective coverage if the waiting period expires while the employee

is on paid leave;
17. Adds Q #52-54 providing additional guidance to public sector employers;
18. Adds Q #55 defining who is a “health care provider” for purposes of providing advice for an individual to self-quarantine;
19. Adds Q #56 defining who is a “health care provider” as to who may be excluded by their employer from paid sick leave or expanded family and medical leave;
20. Adds Q #57 defining who is an emergency responder;
21. Adds Q #58 answering when the small business exemption applies to exclude a small business from the provisions of the Emergency Paid Sick Leave Act and FMLEA; and
22. Adds Q #59 answering when a small employer is exempt from the requirements to provide paid sick leave or expanded family and medical leave.

We will continue to provide you with updates from the U.S. Department of Labor regarding FFCRA compliance as they are released.