

MEMORANDUM

To: Teamsters Local 600

From: Greg A. Campbell and Brandon M. Hall

Date: March 25, 2020

Re: COVID-19 Q and A:
Summary of Families First Coronavirus Response Act

This Memorandum and Program is meant for basic educational purposes only and does not constitute nor shall it be taken as legal advice. Please contact counsel for matters pertaining to each individual situation.

Introduction

The Families First Coronavirus Response Act (H.R. 6201, hereinafter referred to as “the Act”) was signed into law by President Trump on March 18, 2020. The provisions of the Act go into effect 15-days after passage, or April 2, 2020. Benefits available under the Act sunset on December 31, 2020. The Act applies to employers who have more than 50 employees and less than 500 employees. While Hammond and Shinnors expects further legislation to be passed, at the time of this writing, that is not the case.

Accordingly, this Memo provides a short summary of the material provisions of the Families First Coronavirus Response Act below.

Emergency Family and Medical Leave Expansion Act

This portion revises the Federal Family and Medical Leave Act and contains the following provisions:

1. Who is entitled to leave: An employee who has been employed for at least **30 calendar days** by employer.
2. Requires the following protected leave:
 - a. Unpaid leave for 2 weeks (10 days) – employee can substitute any accrued vacation, personal or medical or sick leave as they would under ordinary FMLA.
 - b. 10 work weeks of subsidized leave of 2/3rds of the employee’s regular rate of pay – Capped at \$200 per day and \$10,000 in total for each employee.

3. Reason for leave – If the employees is unable to work or telework due to the need to care for a child under 18 years of age and the school or childcare has been closed or is unavailable due to a public emergency related to COVID-19 declared by Federal, state or local authority.

4. Guaranteed reinstatement to the employee’s position as provided under FMLA unless:

- a. Employer has fewer than **25 employees;**
- b. The position held by the employee when the leave began does not exist due to the economic conditions or other changes in the operating conditions of the employer that:
 - i. affect employment; and
 - ii. are caused by a public health emergency during the period of leave.
- c. The employer makes reasonable efforts to restore the employee to a position equivalent to the position the employee held before leave with equivalent benefits, pay and other terms and conditions of employment; and
- d. If the reasonable efforts of the employer under subparagraph (C) fail, the employer makes reasonable efforts during the period described in paragraph (3) to contact the employee if an equivalent position described in subparagraph (C) becomes available.

5. If the employer is subject to a Multiemployer Labor Agreement the employer may fulfill its obligations by paying into the multiemployer fund, plan or program based on the paid leave each of its employees are entitled to under that Agreement while working.

Emergency Paid Sick Leave Act

1. Provides **paid sick time** to an employee when an employee is unable to work or telework because:

- a. The employee is subject to a Federal, state, or local quarantine or isolation order related to COVID-19 (capped at **\$511 per day and \$5,110 total**);
- b. The employee has been **advised by a health care provider** to self-quarantine due to COVID-19 (capped at **\$511 per day and \$5,110 total**);
- c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis (capped at **\$511 per day and \$5,110 total**);
- d. The employee is caring for an individual who is:

- i. under a quarantine or isolation order related to COVID-19; or
 - ii. has been **advised by a health care provider** to self-quarantine due to COVID-19.
 - iii. Capped at **\$200 per day and \$2,000 total**.
- e. The employee is caring for a child whose school or care provider has been closed due to COVID-19 (capped at **\$200 per day and \$2,000 total**); or
 - f. The employee is “experiencing any other substantially similar condition” as specified by the Federal agencies (capped at **\$200 per day and \$2,000 total**).
2. Length of leave is **80 hours for full-time** and pro-rata for part-time based on a two (2) week period.
 3. Leave ends earlier with the next regular shift after the emergency ends.
 4. This leave is in addition to any other leave the employee may be entitled to receive.

Penalties for violating the statute are similar to those for employers who fail to comply with the Fair Labor Standards Act.

Coronavirus FAQs

Q1: What happens if an employee thinks the employee has COVID-19 or is experiencing fever of 100.4, cough, and trouble breathing?

A: If an employee exhibits symptom of COVID-19, the employee should contact the employee’s healthcare provider or the local health department (**St. Louis City:** (314) 657-1499; **St. Louis County:** (314) 615-2660; **St. Charles County:** (636) 949-1899) **PRIOR TO** returning to work. The employee’s healthcare provider will work with the state’s public health department and CDC to determine if the employee needs to be tested for COVID-19 and quarantine if necessary.

Q2: What happens if an employee is diagnosed with COVID-19?

A: An employee will be asked to self-isolate for 14 days if diagnosed with COVID-19, even if the local public health department does not test but recommends self-isolation, regardless of an actual diagnosis.

Q3: What happens if an employee is healthy but has a sick family member in the same household that is experiencing a fever of over 100.4 or respiratory issues?

A: The sick family member should seek medical guidance from a healthcare professional to determine if whether a medical evaluation is needed. The employee should contact a designated person at the employer's facility with an update after the evaluation.

Q4: What does an employee do if the employee has been exposed to a person who has been diagnosed with COVID-19 but does not live in the same household as that person?

A: In the event of exposure to a confirmed COVID-19 patient within the employer's facility, the employer should work with the local health department regarding isolations of all exposed employees and should take all measures mandated by the CDC and Health Department to ensure the health and safety of all involved.

If an employee is exposed to a confirmed case of COVID-19 outside of the workplace, the employee should immediately notify his or her supervisor.

Q5: What can I do to help protect myself, my family, and coworkers?

A: Stay home if sick with flu-like symptoms, shortness of breath, cough and/or fever. Employees should be fever free for 24 hours, without taking fever reducing medicine or cough suppressants, before returning to work. Missed days will not be counted as unexcused absence occurrences.

- Practice enhanced hygiene:
 - Wash hands frequently with soap and water for 20 seconds (sing Happy Birthday twice).
 - Use hand sanitizers when handwashing is not possible.
 - Avoid touching eyes, nose and mouth.
 - Avoid shaking hands.
 - Cough or sneeze into tissue then throw it away, or by using your elbow and immediately wash your hands.
 - Avoid high-touch items in public places such as handrails, elevator buttons, door handles, keypads, or sanitize prior to use. Use a tissue or sleeve to cover your hand.
 - If you are healthy, the CDC does not recommend wearing masks or gloves, however, you may choose to wear either or both, if desired.
- Utilize telemedicine/virtual doctor appointments (if available) in seeking medical advice due to high traffic in doctor's offices, urgent care facilities and emergency rooms. Contact the customer service telephone number on the back of your insurance card to see if the option is available as part of your health coverage.
 - If going to the doctor, urgent care, or hospital due to suspected COVID-19, please call prior to arrival to alert staff so that precautions can be taken for staff and other patients.
 - Doctors, urgent care centers, and ER cannot test for COVID-19 yet.

- There is currently no vaccine for COVID-19. The flu vaccine is ineffective against COVID-19.
- Avoid nursing homes and long-care term facilities.
- Employees should inform their employer if they intend to travel outside the employer’s operating region. If travelling is necessary, please:
 - Disinfect rental cars, hotel rooms, and airplane surfaces.
 - Don’t share drinks or food.
 - Beware of buffets and salad bars.

Q6: What if an employee has travelled within the U.S. in high risk areas, through airports, train stations, or highly populated areas or venues in which they could have been exposed to someone with COVID-19?

The employee should notify their supervisor.

Q7: I have a high-risk medical condition. My doctor told me I must self-isolate due to having high risk medical conditions (increased risk of infection, immune suppressed, underlying health issues). What can I do?

A: If your isolation is mandated by a healthcare professional or government agency, you may be eligible for a medical and/or FMLA leave of absence. Please contact the appropriate company employee to discuss your options.

Q8: Does the Family and Medical Leave Act (FMLA) leave apply for employees or immediate family members who contract COVID-19?

A: Yes. COVID-19 qualifies as a “serious medical condition” under FMLA. An employee who has contracted COVID-19 or whose family members have contracted COVID-19 may be entitled to FMLA leave under certain circumstances. Please contact the appropriate company employee for the necessary paperwork.

Q9: I am an employee who is denied benefits guaranteed by the Act, what should I do?

A: If an employer fails to comply with the requirements of the Act, an employee should file a complaint with the U.S. Department of Labor’s Wage and Hour Division at 1-866-487-9243 or visit www.dol.gov/agencies/whd.