

MCBB NEWS



IMPORTANT EMPLOYER UPDATE

PRESIDENT TRUMP SIGNS THE FAMILIES FIRST CORONA VIRUS RESPONSE ACT

The Act significantly alters employer responsibilities with regard to COVID-19.

COVID-19: WHAT DO YOU NEED TO KNOW?

Page 2: What employers can do to avoid violating the provisions of the ADA or the Rehabilitation Act.

PRESIDENT TRUMP SIGNS THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act, which significantly altered employer responsibilities with respect to employee leave related to COVID-19. The Act applies to all employers with fewer than 500 employees from April 2, 2020 through December 31, 2020, and requires leave benefits that many affected employers may not have previously been providing. The most relevant provisions of the Act are summarized below:

- Employees are entitled to up to 12 weeks of Family and Medical Leave Act ("FMLA") leave to care for a child whose school or childcare facility is unavailable due to COVID-19. The first two weeks of this leave may be unpaid (subject to other paid leave the employee is entitled to use). After two weeks, employees are entitled to paid leave of two-thirds of their normal wages, but no more than \$200 per day or \$10,000 total.
- In addition to the FMLA leave discussed above, employers must provide employees with two weeks of paid leave if the employee is quarantined due to a government order or doctor's advice for reasons related to COVID-19, has symptoms of COVID-19, has to care for another person who is quarantined due to COVID-19, or has to care for a child whose school or childcare facility is unavailable due to COVID-19.

This leave must be paid as follows:

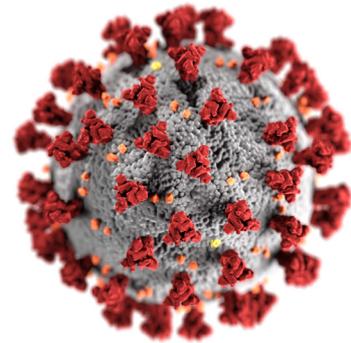
- The two weeks paid leave is at the employee's normal rate of pay and based on normal hours worked (80 hours total for full time employees) if it is for the employee's own quarantine or condition, but no more than \$511 per day or \$5,110 total.
- The two weeks paid leave is at two-thirds of the employee's regular rate of pay and based on normal hours worked (80 hours total for full time employees) if it is to care for another person, but no more than \$200 per day or \$2,000 total.
- Employers may not require employees to find a replacement before taking leave.
- Employers may not require employees to use other accrued leave before using the leave provided by the Act.
- Employers must post specific notice of the paid leave benefit discussed above on a form to be announced by the Secretary of Labor.

For further information, contact your Manning Curtis Bradshaw & Bednar PLLC attorney or MCBB's COVID-19 Taskforce.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION RELEASES STATEMENT ABOUT COVID-19

The Equal Employment Opportunity Commission released a statement about the Americans with Disabilities Act, the Rehabilitation Act and COVID-19. The EEOC confirmed that during the COVID-19 pandemic employers can do the following without violating the provisions of the ADA or the Rehabilitation Act:

- Ask employees if they are experiencing symptoms of COVID-19, provided that the employer maintain that information as a confidential medical record;
- Measure an employee's body temperature;
- Tell employees who become sick with the symptoms of COVID-19 to stay at home, or to leave the workplace immediately;
- Require returning employees to provide a doctor's note stating they are fit for duty;
- Screen job applicants for symptoms of COVID-19 after making a conditional offer of employment so long as the employer screens all entering employees in the same type of job; and
- Withdraw a job offer if an applicant tests positive for COVID-19 and the employer needs the employee to begin work immediately.



The EEOC further recognized that COVID-19 is considered to be an international pandemic, and reaffirmed its prior guidance on pandemics that was issued during the 2009 H1N1 outbreak. Thus, employers now also have the following guidance:

How Much Information May an Employer Request From an Employee Calling in Sick

During a pandemic, ADA-covered employers (employers employing more than 15 employees) may ask employees who call in sick if they are experiencing symptoms of COVID-19, which include fever, chills, cough, shortness of breath, or sore throat. Employers must keep all information about employee illness confidential.

An employer may also measure an employee's body temperature (although some people with COVID-19 may not have a fever).

Manning Curtis Bradshaw & Bednar PLLC will continue to monitor this rapidly developing situation. Employers should be aware that guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Contact your MCBB attorney for the latest and most current information.

This newsletter is intended to provide an overview of specific federal guidance during the COVID-19 pandemic. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.



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