Engage PEO Client Alert:

Update: Families First Coronavirus Response Act (FFCRA)

What the American Rescue Plan Means for the FFCRA's Paid Leave Provisions

In March 2020, Congress passed a number of provisions to help curtail the spread of COVID-19 in the workplace, which included mandatory Emergency Paid Sick Leave (EPSLA) and Emergency Family and Medical Leave (EFMLA) benefits to employees for qualifying reasons. The provisions and obligations of the original Families First Coronavirus Response Act (FFCRA) expired on December 31, 2020.

That same month, Congress passed a second Coronavirus stimulus bill providing varying levels of relief to individuals and small businesses. This second stimulus bill extended the tax credits available to employers who voluntarily continued to offer paid leave according to the FFCRA framework through March 31, 2021, but did not extend the obligation on employers to provide paid leave.

Congress has now passed the latest Coronavirus stimulus bill, the American Rescue Plan, which goes into effect April 1, 2021. This most recent stimulus bill will further extend the tax credits available to employers who continue to voluntarily offer paid leave according to the FFCRA framework through September 30, 2021.

In addition to the tax credit extension, **it also expands the reasons for leave** to include time needed to get a COVID-19 vaccine, leave related to recovery from any injury, disability, illness or condition related to the vaccine, and to seek or await the results of a COVID-19 test, in addition to the following previously existing reasons:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- The employee has been advised by a health care provider to self-quarantine related to COVID-19;
- The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- The employee is caring for an individual subject to a quarantine or isolation order or has been advised to self-quarantine by a health care provider;
- The employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
- The employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

For more information see these previous FFCRA Client Alerts: Jan 2021, March 2020.

There is also a non-discrimination component added to the bill, which requires employers who have decided to voluntarily continue to provide paid leave under the FFCRA to do so uniformly for all employees. Therefore, the tax credit will not be available for employers who allow only certain employees to take paid leave, but not all employees. This prohibition includes situations where eligibility for paid leave is determined not only on traditionally discriminatory factors (such as one of the protected classes), but also on other factors like full-time/part-time status, tenure, compensation, or other classification.

Finally, it allows for the tax credits to apply to an additional 10-day period if leave is taken after April 1, 2021. Up until now, for employers who provided either mandatory paid leave prior to December 31, 2020, or have voluntarily continued to provide paid leave through March 31, 2021, any paid leave provided past the initial 10-day period provided under the FFCRA would not be eligible for tax credits. After April 1, 2021, employers will be able to claim a tax credit for an additional 10 days of paid leave for leaves taken under the existing FFCRA framework.

If you have any questions, please contact your Engage HR Consultant or Account Manager.