



# Guide to the Families First Coronavirus Response Act March 2020

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Resources for AMGA Members

AMGA

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## Overview

This document outlines and describes the relief measures available to individuals and small businesses through the [Families First Coronavirus Response Act](#).

**Families First Coronavirus Response Act (FFCRA)** -- signed into law March 18, 2020, the FFCRA includes \$100 billion in financial assistance for qualifying employees and self-employed individuals to receive compensation for sick leave or family leave due to COVID-19. Employers and self-employed individuals will receive tax credits to pay for the leave. The tax credit is an immediate dollar-for-dollar payroll tax offset against every dollar that is paid for sick and family leave. Where a refund is owed, the IRS will send the refund as quickly as possible.

Please note, the FFCRA provides relief specifically for those who are ill or quarantined from COVID-19, caring for others with the disease, or caring for a child because the child's school is closed. To learn about relief that is available solely for economic hardship, please see the *AMGA Guide to the Coronavirus Preparedness and Response Supplemental Appropriations Act* and the *AMGA Guide to The Coronavirus Aid, Relief, and Economic Security Act*.

## How to Qualify for Coverage

For the remainder of 2020, the FFCRA requires all companies with up to 500 employees to pay sick and family leave to employees who are impacted by COVID-19. Self-employed individuals may also elect to take sick and family leave and be reimbursed for lost earnings. To qualify for paid sick leave or family leave, an employee or self-employed individual must meet one of the six criteria below.

### Sick leave

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19
2. The employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns
3. The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis

### Family leave

4. The employee is caring for an individual who is subject to a federal, state, or local quarantine order, or the individual has been advised by a health care provider to self-quarantine due to COVID-19 concerns
5. The employee is caring for the employee's son or daughter (under 18 years old), if the child's school or childcare facility has been closed or the child's care provider is unavailable due to COVID-19 precautions, or
6. The employee is experiencing any other substantially similar condition specified by Health and Human Services in consultation with the Department of the Treasury and the Department of Labor

## Benefits for Employees and Self-Employed Individuals

### Sick Leave

- Full time employees who qualify for **sick leave** can receive full pay for two weeks (80 hours), up to **\$511 per day, or \$5,110 total**.
- The paid sick leave shall be the employee's **regular rate of pay**.
- **Part time** employees can receive pay for the number of hours that such employee works, on average, over a two-week period.
- All eligible employees may take paid sick leave beginning on **April 2, 2020**.
- Paid sick leave shall be available to qualified employees **regardless how long** the employee has been employed by an employer.
- An employee must provide the employer with such **notice** of leave as is practicable.

### Family Leave

- Employees who qualify for **family leave** can receive compensation for up to two weeks (80 hours) and are paid "an amount that is **not less than two-thirds of an employee's regular rate of pay**" and which accounts for "the number of hours the employee would otherwise be normally scheduled to work."), with a maximum of **\$200 per day or \$10,000 total**.

- For family leave, an “eligible employee” means any employee who has been employed for at least **30** calendar days by the employer with respect to whom leave is requested.
- An employer shall provide paid **family leave** for each day that an employee takes **after first taking leave for 10 days**. Employees can use existing sick or vacation time to cover these 10 days, or may use unpaid leave. Employees cannot be required to first use up vacation or other sick time before receiving this benefit.
- If the family leave is due to the employee caring for the employee's son or daughter (under 18 years old) because that child's school or childcare facility has been closed (or the child's care provider is unavailable) due to COVID-19 precautions, **the employee may take up to an additional 10 weeks of paid leave** at 2/3 the employee's pay (capped at \$200 per day or \$10,000 in the aggregate).

A note about employees or self-employed individuals with irregular hours:

- In the case of **an employee whose schedule varies** from week to week to such an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave, the employer shall use “a number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type. **If the employee did not work over such period**, [the number is equal to] the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

### Employer Benefits, Responsibilities, and Exemptions

- Employers will receive **tax credits for 100 percent** of what they pay out for sick and family leave.

- **How the tax credits work:** employers who pay qualifying sick or family leave will be able to retain an amount of payroll tax equal to the amount of qualifying sick and family leave that they paid, rather than deposit the payroll tax with the IRS.
- The full amount of payroll tax owed for all employees—including **income tax and FICA**—can be retained to cover the costs of employee leave.
- If there are not sufficient payroll taxes to cover the cost of qualified sick and family leave paid, employers will be able to file a request **for an accelerated payment** from the IRS.
- Employers may pay for qualifying sick or family leave with funds from an **Economic Injury Disaster Loan**.
- The tax credit will be limited to **10 days** per employee per quarter.
- Employers must **post a notice** that advises employees of their rights under the Act. The Secretary of Labor [has created a model for employers to use](#).
- Small businesses -- fewer than **50** employees -- can **apply for financial hardship waivers** from the family leave provisions affecting workers whose children are out of school. For employers with 50 or fewer employees, the Secretary of Labor can exempt the business from these requirements if they “would jeopardize the viability of the business as a going concern.” The Department of Labor will establish expedited rules explaining guidelines for this exemption in the coming week.
- Upon the completion of the paid leave period, employers with fewer than **25** employees do not have to **restore employees to their previous positions**, if the position held by the employee when the leave started does not exist after the period of leave (due to economic conditions or other changes caused by a public health emergency). However, the employer must make reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment. If the reasonable efforts of the employer fail, the employer shall make reasonable efforts to contact the employee if an equivalent position becomes available.

## Sick & Family Leave for Certain Self-Employed Individuals

- Self-employed individuals may also receive sick leave and family leave benefits. The amount of leave and associated compensation is **equivalent to the amount provided for employees** (as described above).
- Self-employed individuals will be compensated for the leave through tax credits that may be claimed **when filing their annual income tax return**.
- An eligible self-employed individual is an individual who would be entitled to receive paid leave under the Emergency Paid Sick Leave Act if the individual were an employee of an employer (other than himself or herself).
- Such self-employed workers, **including independent contractors**, can claim a credit against their regular income taxes related to sick or family leave. The credit covers 100 percent of self-employed individuals' daily self-employment income if caring for him/herself or 67 percent if an individual is taking care of another person or a child whose school is closed.
- The per-day amount is limited to the lesser of (1) an individual's average daily self-employment income, or (2) \$511 per day if caring for themselves or \$200 if caring for another individual (including a minor child).
- The number of eligible days for self-employed individuals to receive such credits is capped at **10 if related to sick leave or 50 if related to family leave**.

For additional information, [visit the IRS website](#).