

# Emergency Family Leave

April 1, 2020 – December 31, 2020

Private Sector < 500 employees  
Selected public sector employers

## Eligibility

### Employee Type

- Full-time and part-time employees

### Reasons

- To care for own child whose school is closed due to COVID-19
- To care for own child whose child care provider is closed due to COVID-19

## Benefits

**Employers are required to maintain health benefits and the following:**

- Up to 12 weeks of job-protected leave
- Initial 2 weeks unpaid
  - Can be covered by regular sick leave, vacation time or Emergency (COVID-19) Sick Leave
- Remaining 10 weeks at 2/3 regular pay
- Max = \$200 / day or \$10,000 in total

**Employers are reimbursed immediately through payroll tax credits**

**CEI**

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## The Process

### Employee

- Employee requests leave in writing (name, date, reasons, statement that they are unable to work)
- Reasons require back-up, including name of child, name and location school or child care that closed, statement that no other suitable person can care for your child

### Employer

- Receive and retain the information above
- File IRS Form 941 (quarterly) to receive a refund / tax credit for paid leave wages, allocable health plan expenses, employer's share of Medicare tax
- If federal employment taxes are less than credit owed, file IRS Form 7200 to claim an advance credit

## Returning to Work

- Employers must provide same or nearly equivalent job
- Employee is not protected from layoffs
- Employers with fewer than 25 employees not required to hold jobs if the position has been eliminated and reasonable efforts to contact worker for similar jobs for 12 months
- Highly compensated salaried workers are not protected

## Small Business Exemption

- < 50 employees AND
- Business viability would be jeopardized if employees were on leave

# Resources

## Employer Requirements

- U.S. Dept of Labor: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

## Employee Protections

- U.S. Dept of Labor: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28a.pdf>

## FAQ

- US Dept of Labor FAQ: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#16>
- IRS FAQ on tax credits: <https://www.irs.gov/newsroom/covid-19-related-tax-credits-how-to-claim-the-credits-faqs>

## Ask Your Question

- Email: [WHD-COVID19@dol.gov](mailto:WHD-COVID19@dol.gov)
- Call: 1-866-4-US-WAGE (1-866-487-9243)

