MARCH 2020

NAHAD Issue Alert

Last night President Trump signed the "Families First Coronavirus Response Act" into law. The provisions of the bill will go into effect on April 2nd. This legislation is designed to protect families and workers hit by the spreading coronavirus. Included in the package were several provisions that will impact NAHAD member businesses, including requirements to offer expanded paid sick leave and extended medical leave and tax credits to pay for the required time off.

The House made technical corrections to the legislation before final passage, updated summary of the bill requirements below:

Under this legislation, all employers with fewer than 500 employees, starting April 2nd, must offer:

Paid Sick Leave:

- Full-time employees can take up to 80 hours (equivalent to 2 weeks full time) paid sick leave for coronavirus related time off including self-quarantine, seek a diagnosis or preventive care, or receive treatment for COVID-19.
- Part-time workers are entitled to the average number of hours worked over a 2-week period.
- All time off up to the up to these limits must be paid at full compensation (up to $511 per day).
- Full-time employees are entitled to two weeks (80 hours) paid time off and part time workers are entitled to average number of hours worked, at two-thirds of their regular pay (up to $200 per day) to care for a family member or to care for a child whose school has closed, or if their child care provider is unavailable due to COVID-19.
- This sick leave is in addition to any already offered sick leave, and employees are required to use this sick leave before use of existing sick leave, existing sick leave does not reduce the maximum number of hours of new paid sick leave.
- Employers must post information about this new sick leave policy.
- No employee can be laid off or discriminated against for using this paid sick leave.
- Coronavirus sick leave will be required through the end of 2020.
- The Department of Labor is authorized to write regulations to exempt businesses with fewer than 50 employees that would jeopardize the viability of the business when providing emergency paid sick time. The exemption however would not prevent employees from using sick leave.

Emergency Paid Family Leave

- Eligible full-time employees and part-time employees are entitled to 12 weeks of job-protected leave to take care for their children in the event of a school closure or their childcare provider is unavailable due to COVID-19.
- Employees must have been employed for at least 30 calendar days before using paid family leave.
- The 12 weeks of job-protected leave include two weeks of unpaid leave, followed by 10 weeks of paid leave. Eligible employees may elect or be required to overlap the initial two weeks of unpaid leave with two weeks of other paid leave they have available.
- After the first two weeks, employers must compensate employees at least 2/3 of their regular wages for up to 12 weeks.

To help offset the increased costs of providing this paid sick leave and family medical leave, employers can deduct the cost from payroll taxes.

- Employers will be reimbursed via refundable tax credits for the cost of wages and employer contribution for health care insurance during the either sick or family leave.
- Employers will deduct the cost of paid sick or family leave from the employer portion of Social Security taxes.
- Employers will submit emergency paid sick or family leave expenses as part of their estimated quarterly tax payments.
- Employers can deduct up to $511 per day per employee that is sick ($5,110 total), and up to $200 per day for employees caring for someone else ($2,000 total).
- The deduction for sick leave is capped at 10 days.
- If the total deduction is greater than the total payroll taxes owed, the remaining portion is available to the employer as a refundable credit.
- For employees taking family leave, the deduction is capped at $200 per day up to $10,000 per year.
- The family medical leave deduction is also refundable if the total deduction exceeds the tax liability.

Lastly, the House bill added new policies for states implementing unemployment insurance:

- Employers must provide information to laid-off employees on eligibility for unemployment insurance.
- Allows states to increase UI taxes on high-layoff employers.
- Provide states with technical assistance for programs offered to employers that reduce hours instead of lay off workers.

These provisions will go into effect on April 2nd. NAHAD is currently seeking guidance from the Department of Labor about required disclosures to employees to ensure compliance.