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ARPA Expands Employment-Related Reimbursements and Extends Unemployment

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Human Resources & Employment

Earlier this month, President Biden signed into law the American Rescue Plan Act of 2021 (ARPA). ARPA extends by another six months, the reimbursement of paid leave offered by the Families First Coronavirus Response Act (FFCRA) that was scheduled to expire on March 31, 2021. In addition, along with extending unemployment benefits under the CARES Act, ARPA provides a new benefit by providing reimbursement of 100% of COBRA continuing healthcare premiums for eligible individuals, from April 1 through September 30, 2021.

FFCRA Reimbursement Extension

ARPA has extended the reimbursement of applicable wages paid under the FFCRA. While employers are no longer required to offer FFCRA, those who do between now and September 30, 2021 will be reimbursed by the federal government in the form of a credit against applicable employment taxes in a calendar quarter. Employers who decide to provide FFCRA must do so for all employees who qualify under the law. [As we wrote about](#) last year, the government will reimburse up to 80 hours of qualifying paid sick leave for full-time employees, subject to caps of \$511/day and \$5,110 in total. Part-time employees are subject to the same monetary caps, with their maximum hours based on the equivalent of their average hours worked in a two-week period. ARPA did not change these limits, though it resets them on April 1, 2021. Therefore, an employer will be eligible for the employment tax credit when an employee takes qualified paid sick leave even if that same employee took leave prior to April 1, 2021.

Additionally, ARPA expands reimbursement for qualifying paid family leave from 10 weeks of leave to 12 weeks. (FFCRA originally provided 10 weeks and a two-week, unpaid period). The cap on paid family leave remains at \$200/day, resulting in a new cap of \$12,000 total.

Additional Qualifying Leave

ARPA expands the qualifying reasons an employee may take both types of FFCRA leave. An employee will be eligible for paid sick leave if:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 ([as we wrote about last year](#), this is not as far-reaching as it sounds);
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- **(NEW)** The employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of COVID-19, and such employee has been exposed to COVID-19 or the employee's employer has requested such test or diagnosis; or

- **(NEW)** The employee is obtaining immunization related to COVID–19, or recovering from any injury, disability, illness, or condition related to such immunization.

ARPA also expands the qualifying reasons an employee may take emergency family leave, which was previously limited to childcare-related reasons:

- The employee is unable to work (or telework) due to a need for leave to care for a child under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such child is unavailable, due to a public health emergency;
- **(NEW)** The employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID–19, and such employee has been exposed to COVID–19 or the employee's employer has requested such test or diagnosis; or
- **(NEW)** The employee is obtaining immunization related to COVID–19, or recovering from any injury, disability, illness, or condition related to such immunization.

As employers continue to navigate the challenges presented by the COVID-19 pandemic, they should consider taking advantage of FFCRA. For employees who qualify, paid leave is one way to improve morale. When employees are exposed, paid leave may help them make the right choice to stay home, rather than risk spreading the virus. Additionally, as vaccines become available to more Americans, FFCRA offers an easy way for employers to encourage employees to take the vaccine without having to design an internal protocol around uncertain wellness program regulations. In sum, FFCRA is an incentive without an incentive program.

Employers interested in providing FFCRA should:

- Decide whether to offer FFCRA without regard to who (among eligible employees) requests it. ARPA prohibits employers from receiving the tax credit if they are found to discriminate in favor of full-time employees, "highly compensated" employees (defined by IRS guidelines), or employees on the basis of employment tenure.
- Update policies and procedures to reflect the change in qualifying reasons and duration.

COBRA Premium Coverage Reimbursement

In order to address anxiety over healthcare coverage in the event of job loss during the pandemic, ARPA will cover 100% of COBRA premiums for eligible individuals (including spouse and dependent children) from April 1, 2021 through September 30, 2021—treating such individuals "as having paid in full the amount of such premiums." As with other aspects of FFCRA, employers will be reimbursed for paid premiums through tax credits. While eligibility will follow the usual COBRA requirements—involuntary termination or the requisite reduction of hours by a covered employer—of particular significance is that even individuals who declined or dropped COBRA coverage prior to April 1 will still be able to receive the benefit. So long as any part of the 18-month COBRA period falls within the covered timeframe, premium coverage will be available. That means that coverage could end prior to or extend past the September 30 cut-off—either way, premiums are only covered from April 1, 2021 through September 30, 2021. As with regular COBRA, coverage will end if the individual becomes eligible for another healthcare plan. Notice must be provided to eligible individuals as to the availability of the premium assistance, along with other required information, including a description of the extended election period. Model notices will be issued by April 10, 2021. Additional guidance will be forthcoming to address the many questions that will arise as this benefit is implemented.

Unemployment Extension

ARPA also extends the \$300 weekly supplement for all individuals receiving unemployment benefit payments from 50 weeks to 79 weeks, beginning on March 14, 2021 through September 6, 2021. Benefits remain available for individuals who would not otherwise qualify, like business owners and independent contractors.

Gould & Ratner's [Human Resources and Employment Law Practice](#) has established a Coronavirus/COVID-19 Response Team to assist its clients with any questions they may have regarding the impacts of Coronavirus/COVID-19.