Beyond the Mic with AEM

Podcast Episode 3 | Published Monday, March 30, 2020

Families First Coronavirus Response Act | Tips for Implementation

Hosted by Brenna Ramy, PHR, SHRM-CP and Megan Schwanz

Brenna Ramy

Thank you for joining us on all of these podcasts as we talk about the regulations and questions and best practices around COVID-19 and employees and employers. We wanted to add this to the beginning of each of these podcasts just as a reminder that, as you all know, information is changing at such a rapid pace that we may be recording something, and within an hour and 1/2 something's changed. So a reminder that we will be continuing to update these. And if you listen to it, please feel free to reach out to any of us by email or phone at AEM Workforce Solutions and to be regularly checking back for updates and or looking at our website for updates. And always remember that some great resource is for the most up to date information are the websites for the Minnesota Department of Labor and the federal Department of Labor, both of which have COVID-19 resource tabs.

Megan Schwanz

Hi everyone, this is Megan Schwanz and Brenna Ramy with me from AEM Workforce Solutions. We're both Senior HR Specialists and there's a lot happening of HR world right now, so we want to catch you up. Last week, President Trump signed into law the Families First Coronavirus Response Act or FFCRA. We want to talk through those practical things that employers with 500 or fewer employees need to have set in place now or be prepared for come April 1st.

Brenna Ramy

That's right, Megan, this is Brenna, and I think I'm excited to get to talk through some practical things that people can be doing today to feel like they're equipped and ready to handle it when it becomes effective on Wednesday.

Megan Schwanz

All right, so what are those things, Brenna? How about right now? What should employers have in place?

Brenna Ramy

Great question. I think the first thing that's really easy to do and really easy to miss is to take care of that notice requirement. So the FFCRA requires that you post an employee notice. There's a poster that the Department of Labor has provided that all employees have to be provided, and they've been pretty great about giving clarity and a lot of freedom about how you post that notice. They explicitly say in some of their frequently asked questions section that obviously a lot of employers are no longer in the office, so they may be all remote or a significant portion of their team is working remotely. So you can really provide that notice in a variety of ways. You can post it in your break room, where you normally post your notices. It's important to say, if you do that, that needs to be a place that people are still going. Our firm, for example, used our Intranet program, our internal communication system that we have to post that so everybody had access to it. So, you could email it, you could do it through your payroll system. Whatever way you want. You just need to make sure that all current employees are provided that poster notice and then any new hires going forward. It's a really easy for a step. Again, the Department of Labor has provided it to us - all you need to do is to provide it either by email or in posting through your systems or through payroll. However you want to do it, just make the best decision to get it to all of your employees.

Megan Schwanz

And I think, too, the questions that I'm getting in, Brenna, are "Do I have to post this in multiple languages?" and the Department of Labor is working to translate into other languages. So for right now, this is the version that you have. And again, that version can be found at www.dol.gov.

Brenna Ramy

Yep, that's great. It's a great point, Megan, that you're right, there isn't. Right now we have this in one language. Everything's moving at the speed of light with legislation. So, they're saying just the one language and that we're looking for a good faith effort here.

Megan Schwanz

So, in specific, related to the paid sick leave or emergency leave - that emergency FMLA. How will your employees request the use of those?

Brenna Ramy

It's a great question, and I think that's something that employers need to be thinking about today. So they're prepared to communicate to their employees how this process will work. We're really recommending that each employer should have a policy in place that outlines for their employee. It could be an addendum to the handbook. It could be a standalone policy because this is a temporary legislation. But that really needs to outline specifically how are employees going to request this leave. And the reason that's pretty important is that the legislation is clear that there are really only six reasons that qualify between the paid sick and the emergency FMLA expansion. I won't go into the details of all of those now, but it does need to be one of those six reasons to qualify for it. So, some of those reasons qualify for paid sick leave. Some of them, such as childcare for your children who may have lost school or childcare. That's really the only reason that qualifies for FMLA expansion, But you need to be in a place where you have a very clear system with employees. I will tell you a best practice that I've heard through many employers is they've created an email account that's specifically four COVID-19 communications to streamline any requests that come in for that. And it's important to have a clear communication around that, because as an organization, you need to be able to identify which qualifying reason are they using? Is this emergency sick leave or is this the FMLA expansion? How many hours for each one? And have a clear way of capturing what that is.

Megan Schwanz

And maybe super quick if the individuals listening have missed our prior podcasts - which you can certainly go back to.

Brenna Ramy

Yes, if you're new to this FFCRA legislation, I would say, don't worry. You have time to catch up. There is time to get this in place and really, it's just a little bit of reading, a little bit of listening, and you can get yourself equipped and up to speed. And I would also just encourage anybody who doesn't know and has questions, the Minnesota Department of Labor and the federal Department of Labor - both of those websites have a wealth of information. Particularly the Department of Labor website has some FAQs. There's actually 19 pages of frequently asked questions that answer a lot of questions that people might have about what this looks like in actual implementation.

Megan Schwanz

How would you say we should track those employees and hours?

Brenna Ramy

Great question. And I think that's going to be where everybody really needs to have again a really intentional process here. So for sick leave, you have up to 80 hours of paid emergency sick time, and that might be less of your part time, but up to 80 hours. And then on the FMLA expansion, once you've maxed out and hit the 80 hours, you have an additional 10 weeks that could be available to you. So just like under traditional FMLA, non-COVID-related, you need to track how many hours people are using. You need to have a system in place to know, has somebody used up all of their expanded FMLA? How many hours of emergency paid sick leave to they have left? How many people in any department do I have out on those leaves or paid sick leave and what does that look like? So you could be as complicated or as simple in the system.

I think if you're in a position and it's the Friday before this implements on Wednesday. Everybody's least favorite solution, but an Excel spreadsheet might be your best friend. Just in getting one place where you can do that. I think the others - and it's really important and if there's only three takeaways from our brief talk today - I would say they need to do three things. We talked about two already. One of them is you need to get your notice out to employees. Two is that you need to have a clear system for how people will request to go out and use either of these leaves and what that looks like and how they can say which one they need. And the third is, you need to have your payroll system set up in a way that there is clarity around how people will enter that in the payroll system.

And Megan, I think what's really important to note about this payroll setup is that this is really going to be critical when it comes to getting reimbursements through the payroll tax credits. So, what we know today is that there's obviously going to be different reimbursement rates. Let's say the person is out on a leave for one of the first 2 reasons for sick leave, and they're full time employee. Then they may be eligible for 100% of their regular hours worked, right? Or let's say its reason 4, which means they might only be eligible for that two thirds regular rate. And a reminder to our listeners, and I'm sure we're all up to speed on this, but a reminder that there are caps on what those reimbursable rates are. So on the full time 100% reimbursement there is a cap of $511 per day of eligible reimbursement out there and for the two thirds rate there's a cap at $200 per day. And it's critical that all of those codes in your payroll system exist. So you're going to need to have multiple payroll codes and you're going to have to enter those rates of pay accurately in ADP or payroll, so what does that look like realistically?

Let's say an employee comes to you and says - sends you an email - they say, "Dear Megan, thank you for being such a wonderful HR person," because they think you're wonderful. And then they tell you, "I have COVID-19 symptoms. So I have a scratchy throat, I have a fever, I've called my doctor. My doctor said that I need to quarantine 14 days because my symptoms are such that they believe I have COVID-19. They've actually said, 'don't come in and get a diagnosis, but I do want you to quarantine for 14 days.'" And let's say that's after April 1st. So we've determined in the organization that they would be eligible for paid sick time, right? They're under this new FFCRA legislation, they would be eligible for paid sick time, so they have 80 hours. So I need to track, A, that they requested it. I need to track, B, what actual qualifying reason they selected and what criteria I used to determine that they were eligible for that qualifying reason. Then I need to enter those hours in the payroll system as paid sick time coded in the payroll system. So at the end of that quarterly tax payroll tax time when that payroll report runs, it shows on there how many hours were for paid sick time paid 100%. Because again, there's that daily cap so you're going to have to show per day how much each person was paid or, for example, if it was two thirds or if it was the FMLA expansion. All of that's going to have to be accurately recorded within your payroll paying system because you're going to have to report and show how much per person per day was paid. And was it for sick leave? Was it for 100%? What does that look like? And when it was paid and to whom and that they didn't get more than they were eligible for. So it sounds simple, but it really is important. And it's not going to be something that you're going to want to be running around starting April 1st to set up your payroll system.

Again, major takeaways, if the only thing you take away from this quick little 10 minute snippet is: get your notice to your employees. Have a plan for how people will request to use these leaves and how will you review them and track them. And get your payroll system set up that you're capturing those hours correctly as you pay them, because that will be very critical when we start talking about reimbursement at the end of the quarter.

Megan Schwanz

I would also add when you speak to those payroll codes that when you're coming up with those cold names, you will want to be sensitive. And you want to protect the privacy of any employees affected by COVID or utilizing his codes. So you know, essentially you're going to have those three codes. When you name them, protect the privacy of those employees using those.

Brenna Ramy

Yep, absolutely, good point. And I will say, too, I do know some of the larger payroll provider service's are working on getting consistent codes set up. So it's a great recommendation - don't start creating a whole bunch of things if you haven't asked your provider yet. It's possible that your payroll software provider is already working on getting these in place. So reach out before you start doing the legwork and making those set ups manually.

Megan Schwanz

Well, thank you so much Brenna. That was very helpful. And I hope it was helpful for our listeners. We're with you through this. So just feel free to reach out and certainly tune in to any of our prior podcasts that we've done. Just a reminder that this information coming in regarding COVID is changing literally by the hour.

Brenna Ramy

Agreed, right? Things change at really rapid pace right now. So keep checking in. And my friendly reminder always is those Department of Labor websites are really up to date and always have the most recent information available, so check back there and reach out with questions. And good luck with getting the Families First Coronavirus Response Act in place at your organization!

Thank you for listening! We hope you found this information helpful.

Are you interested in more content? Please check out our podcast page for our episode list and additional resources. You can access our podcast page by clicking below:

More Episodes