

LunchChat

Connect. Inform. Help.



Navigating Unemployment Resources & Laws for You and Your Employees

March 31, 2020

Hosted by Rockford Area Convention & Visitors Bureau

#StayHomeRKFD

Panelists



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The Workforce Connection
Executive Director



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#StayHomeRKFD

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UnitedWayRRV.org/covid-19

OR

Text TOGETHER to 40403

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Layoffs & Furloughs

- **Layoff:** generally understood to mean employment has terminated.
- **Furlough:** generally understood to mean employment has not terminated – a reduction in hours or unpaid leave.

Layoffs & Furloughs

Considerations:

- WARN Acts
- Eligibility for unemployment
- Payment of accrued vacation
- Health & other benefits
- Impact of other laws – discrimination, retaliation

Families First Coronavirus Response Act

Effective April 1, 2020

- **Paid Sick Leave**

Up to 80 hours for full-time or 2 weeks for part-time employees

- **Extended FMLA**

Up to 12 weeks to care for a son or daughter under 18, due to school and daycare closures. First 10 days without pay; remainder at 2/3 of regular rate.

Emergency Paid Sick Leave Act (“PSL”)

- Public employers and private employers with **fewer than 500** employees.
- All **current** employees are eligible. If laid off or furloughed, PSL not available.

Emergency Paid Sick Leave Act (“PSL”)

PSL available if two criteria met:

1. If the employee is **unable to work or telework** (Employees on layoff or furlough are not covered)
2. Due to a need for leave for a **qualifying reason**

Qualifying Reasons for PSL

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 concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeing a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for a child of such employee if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Amounts of PSL

- When needed for reason #1, #2 and #3, PSL is paid at the employee's **regular rate** and capped at **\$511 per day** and **\$5,110 in the aggregate**.
- When needed for reasons #4, #5 and #6 is paid at **two-thirds (2/3)** of the employee's regular rate and capped at **\$200 per day** and **\$2,000 in the aggregate**.

More PSL Information

- Sick time paid prior to April 1 does not count.
- PSL expires December 31 and does not carry over.
- Unused PSL is **not payable on termination** of employment.
- **Employee choice:** they may use PSL first before any employer benefits.
- PSL noncompliance is a violation of the FLSA: liquidated damages and attorney's fees awardable in addition to amounts owed. Anti-retaliation protection included.

E-FMLA Leave and Benefits

- E-FMLA available **only if** unable to work or telework due to the need to care for son or daughter under 18, due to school or daycare closure.
- Businesses with **fewer than 500** employees
- DOL exemption if **fewer than 50** and would jeopardize the viability of the business.
- Employees eligible if employed at least **30 calendar days**. Not those laid off or furloughed, but includes employees recalled after being laid off after March 1, who worked at least 30 to 60 days prior to layoff.

E-FMLA Leave and Benefits

- The first **ten (10) days** of the E-FMLA leave may be unpaid.
- After the **10 days**, pay is no less than **two-thirds** of the employee's regular rate of pay for the number of hours the employee would have been normally scheduled to work, capped at **\$200 per day** and **\$10,000** in the aggregate.

E-FMLA Leave and Benefits

- E-FMLA expires December 31.
- May be taken **intermittently** only if both parties agree.
- E-FMLA noncompliance is a violation of the FMLA: attorney's fees awardable in addition to amounts owed. Anti-retaliation protection included.

Tax Credits

- Employers may **retain payroll taxes** (federal income taxes, Social Security and Medicare taxes) equal to the amount of qualifying PSL and E-FMLA paid to employees.
- If insufficient, employers may file a request for an accelerated payment from the IRS.


Small Business Exemption

Businesses with fewer than 50 employees may claim an exemption from providing paid sick leave (PSL) or extended FMLA (E-FMLA) because doing so would “jeopardize the viability of the small business as a going concern” by meeting one of these 3 criteria:

1. Providing PSL or E-FMLA would result in the small business’s expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity.
2. The absence of the employee(s) requesting PSL or E-FMLA would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities.
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee(s) requesting PSL or E-FMLA, and these labor or services are needed for the small business to operate at a minimal capacity.

Notice Posting Requirements

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf



EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE
UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

• **PAID LEAVE ENTITLEMENTS**
Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.


A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

• **ELIGIBLE EMPLOYEES**
In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

• **QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19**
An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:


1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;	5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
2. has been advised by a health care provider to self-quarantine related to COVID-19;	6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;	
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);	

• **ENFORCEMENT**
The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



WH1422 REV 03/20

Documentation

- Keep **appropriate records** of the reason for leave, benefits paid and how calculated, as well as any payroll taxes retained to ensure tax credits available.

Dr. Lisa M. Bly-Jones



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Executive Director

IDES Unemployment Services

IDES offices are closed to the public until further notice.

In order to process the extremely high volume of unemployment benefit claims due to COVID-19, IDES has implemented the following schedule for those filing claims online and over the phone:

Online Filing Schedule: www.ides.illinois.gov

- Last names beginning with A-M; file claims on Sun/Tues/Thurs
- Last names beginning with N-Z; file claims on Mon/Wed/Fri
- Saturdays will be available for anyone

Call Center Filing Schedule: 800-244-5631 (7:30 a.m. – 6 p.m.)

- Last names beginning with A-M; call on Tues/Thurs
- Last names beginning with N-Z; call on Mon/Wed
- Fridays will be available for anyone

The day or time of day in which a claim of filed will not impact whether you receive benefits or your benefit amount. Additionally, claims will be back-dated to reflect the date in which a claimant was laid-off or let go from their job due to COVID-19.



Services for Employers

- Work Experiences
- On-the-Job Training
- Incumbent Worker Training
- ACT WorkKeys Assessment

Services for Career Seekers

- Job Search Assistance & Resume Assistance
- Coaching and Preparation for Interviews
- Assessments for Vocational Training

Employment Opportunities

- Transportation, Distribution and Logistics (Warehousing)
- Healthcare
- Retail
- Manufacturing and Food Processing

Hotjobs updated weekly on our website –
www.theworkforceconnection.org



Q&A

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Tuesdays & Thursdays @ 12 noon

www.gorockford.com/lunchchat

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Thank you!

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