

Labor & Employment Law Alert: Employer COVID-19 Leave Obligations in 2021

Over the past year, employers have grappled with several issues concerning paid leave obligations that arose because of the COVID-19 pandemic. Many employers were required to offer paid leave under the federal Families First Coronavirus Response Act (“FFCRA”). The FFCRA has two components: (1) the Emergency Paid Sick Leave Act (“EPSLA”); and (2) the Emergency Family and Medical Leave Expansion Act (“EFMLA”).

Both the EPSLA and the EFMLA are set to expire on December 31, 2020. The latest COVID-19 relief bill passed by Congress declined to extend coverage of the FFCRA, which means that as of January 1, 2021 employers are not required to provide EPSLA or EFMLA. However, employers covered by the FFCRA may voluntarily provide such paid leave and, if an employer does so, it may be eligible to receive the tax credit associated with FFCRA leave. However, the tax credit for FFCRA leave is available only for leave offered through March 31, 2021.

While the FFCRA requirements will expire on December 31, 2020, employers must remember that COVID-19 paid leave obligations under New York State law continue. Employer-paid leave obligations under New York State law are described in a previous [alert](#) and are available if an employee is subject to a quarantine or isolation order. If an employee in New York State has not already exhausted this benefit, the employee remains eligible for COVID-19 paid sick leave under New York State law in 2021. Further, even if an employee has already exhausted his or her COVID-19 paid sick leave under New York State law in 2020, the employee may be eligible for a combination of New York State Paid Family Leave and disability benefits to cover the employee’s time away from work if the employee is subject to another quarantine or isolation order in 2021.

Finally, if an employee has exhausted his or her COVID-19 paid leave benefits under New York State law and his or her employer does not voluntarily continue to offer FFCRA benefits in 2021, the employer should consider whether the employee is eligible for paid or unpaid leave under New York’s new sick leave requirements that start January 1, 2021.

Labor and employment issues surrounding the COVID-19 pandemic continue to rapidly evolve. As local, New York State and federal governments offer further guidance on these issues, we will endeavor to update clients accordingly. As employers navigate these issues, our Firm’s labor and employment attorneys listed below are standing by to provide legal advice.