



FAQ's

3/19/2020

Q: What are guidelines for employees who have a significant other at home who was exposed to a person with a confirmed case of COVID-19 at their job?

This was addressed in the webinar — refer to slides 12 and 13 within the recording. If you have further questions, please contact your Parker, Smith & Feek service team.

Q: Any recommendations on how many of the symptoms should be present when sending someone home?

This ultimately is a business decision and one Parker, Smith & Feek cannot make on behalf of your organization. However, a conservative response would be that all employers should review the COVID-19 symptoms with employees and tell them that they should not come to work if they have any of these symptoms (at least if they are not explained by some other condition). Explain that staying home when they have these symptoms prevents the spread of the virus and minimizes exposing coworkers to a serious chance of illness.

Here is a helpful employment law resource: <https://www.sidley.com/en/insights/newsupdates/2020/03/covid-19-us-employment-law-update-and-guidance-for-employers>

Q: If an essential employee tests positive for COVID-19 and works in a food manufacturing plant, what steps does the plant need to take to keep operating?

Great question and its one that was addressed in detail during our geared towards risk management strategies, contract liability, and commercial insurance programs. [Click here to listen to the recording.](#)

Q: For the FFCRA, when it says 500 or fewer employees per company is that based on the EIN?

We have a parent company with one EIN and several subsidiaries each with their own EIN.

This is one section of the Act that is still ambiguous and unclear. We are anxiously awaiting the DOL to release regulations that should clarify how to determine this size requirement threshold. A couple other unknowns for which we need clarification include:

- How will the emergency FMLA and emergency sick leave work/coordinate with intermittent leave?
- Will the emergency FMLA and emergency sick leave overlap with other leave benefits? If an individual has already exhausted their FMLA, will they receive another new 12 emergency FMLA weeks for childcare-related needs? We think not, but need the DOL to confirm.
- What is the effective date? We know that the language states the Act is to be implemented “no later than 15 days” of enactment (signing). So, this technically could be implemented before April 2nd.
- Would a mandatory shelter in place order or quarantine qualify under the new emergency sick leave portion of the Act? What if someone needs to care for someone in a mandated shelter in place or quarantine area, but is not necessarily sick?

Q: We really need to know if the ACA's eligibility requirement is going to shift, bend, or go away--we use a six month look-back period to manage eligibility and most of our hourly workers will not have enough hours to meet the eligibility.

We understand the frustration and, unfortunately, many of the carriers are still silent on what they will allow. But, as mentioned in the presentation, most medical carriers will put the onus back on the employer and accept whatever eligibility the employer follows. This is really a case-by-case situation.

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FAQ's (continued)

You will want to make sure all your benefit contracts include your six-month look-back measurement provision language. If you are allowing pre-tax elections (which you most likely are), then technically for an employee whose full-time status has been determined via the look-back measurement, per IRS Section 125 and the ACA rules, they have earned coverage for the length of their stability period (assuming the stability period is six months to match your measurement period). Furthermore, the provisions state that regardless of the employee's hours during the stability period, coverage is to remain in place. So long as the employee remains employed and on payroll, but perhaps experiencing a reduction in hours (i.e. furlough), then they should remain on benefits during this time. If you wish to allow an exception and provide an opportunity for those employees to drop coverage while within the stability period, we suggest you consult with your counsel and ensure you are providing this same opportunity for all similarly situated employees. You can also consider a layoff (temporary termination) instead of a furlough, as this would allow the employee to enroll for coverage elsewhere (e.g., COBRA, spouse's plan, the exchange, etc.).

Q: Recommendations on when people call in with a few symptoms or even just a cough?

See Q2.

This was a good point provided by one of the attendees via the chat feature (as of Thursday, March 19th): if your employees are going to go out to ESD for standby benefits, know that the return to work date given has to be within four weeks of the application date or it will be auto rejected.

We can confirm that as of recently, Washington ESD has now approved a **12-week** limit (or required 12-week rehire date), instead of four weeks!

If you have more questions, contact your Parker, Smith & Feek account team.

Furthermore, applicants may receive an automated notice from ESD indicating their request is denied. According to ESD's website, that notice does not reflect the emergency rules that allow workers to request up to 12 weeks of standby. Employers will be notified of employee applications. ESD is in the process of updating their computer systems and will review all standby denials from March 8th forward to determine whether they meet the new standby criteria. If the request is approved, the applicant will receive another letter informing them of the approval. Continue to file weekly claims during this time.

DISCLAIMER

The information provided here is based on the Washington PFML statute, website information, benefit guides, and questions Parker, Smith & Feek has posed to the State. It is not intended to provide legal or actuarial advice. The issues and analyses presented here should be reviewed with outside counsel before serving as the basis of any legal or other decision.
