

November 22, 2020

For clarity with the team about your policy for paying team for time off related to covid and any covid required testing costs according to **The Families First Coronavirus Response Act (FFCRA or Act):**

1. Any team member including doctor who is covid symptomatic and out of the practice- the team member will be paid their normal working hours with no bonuses paid for up to 2 weeks of time off. These paid hours are not subtracted from the team member's annually accrued time off or vacation time. And these two weeks up to 80 hours are paid at the team member's regular rate of pay.
2. If any team takes time beyond 2 weeks related to COVID symptomatology then it is up to the team member to use their own vacation or health days for such time off.
3. If the practice has short term disability coverage for the team member the team member may apply for such coverage after any waiting period.
4. If the team member needs to be out of the practice to care for a covid positive sick quarantined family member or their own children who are home due to school closings related to covid the team member is entitled to be paid for up to 2 weeks (up to 80 hours) at a rate of 2/3 of the team member's regular rate of pay.
5. The team member who has been working for you for 30 days or more is also entitled to be paid for up to 10 additional weeks at 2/3 of their regular pay if the team member must stay home with a child whose school is closed due to COVID

As an employer you may apply for exception to these requirements:

- **Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.**

References

- *Two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or*
- *Two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and*
- *Up to an additional 10 weeks of paid expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.*

Payment for COVID testing:

If testing is recommended by a health professional due to exposure and or symptoms of a team member

- "Health plans are required to cover most COVID-19 testing without cost-sharing—such as deductibles, co-pays and co-insurance—when testing is ordered by a medical provider for diagnostic purposes."

If testing is required of an employer to return to work then it is the employer's responsibility to cover the cost of that testing:

- "Federal law does not require health plans to cover tests if the reason for testing is not an individualized diagnosis or treatment," she added. For example, return-to-work screenings would not have to be paid by an employee's health plan.
- The Equal Employment Opportunity Commission's [*Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees Under the ADA*](#) states that if an

employer requires an employee it reasonably believes will pose a "direct threat" to the health and safety of themselves or others to be examined by a health care professional of the employer's choice, then the employer must pay all costs associated with the visit.

"Passing these costs along to employees, even if legally permitted, may have a detrimental impact on morale. Whether the employer separately has an obligation to pay for all or some portion of the cost of the test will turn on state or local law," said Christine Keller, an attorney with Groom Law Group in Washington, D.C. "In the absence of a specific rule pertaining to COVID-19 testing, the employer's practices regarding payment for mandatory drug tests may be a useful guide." Keller said.