

C & A Benefits Group LLC: Important Notice

Tax Credit for Emergency Paid Sick Leave & Extended FMLA for COVID-19 Events Extended to September 30, 2021

The [American Rescue Plan Act of 2021](#) (ARPA), which was signed into law by President Biden on March 11, 2021, expands and extends the tax credits that employers may opt to receive under the Families First Coronavirus Response Act (FFCRA) for voluntarily providing paid COVID-19-related leave through September 30, 2021. Employers can continue to voluntarily offer 10 days of Emergency Paid Sick Leave (EPSL) and up to 12 weeks of Expanded Family Medical Leave (EFMLA) for school and child care closures associated with COVID-19, and receive the tax credits. However, there are some new changes for 2021 that are important for you to know.

Reset of EPSL and EFMLA clock: Employers may grant a new 10-day bank of time of EPSL for each employee and a new (up to 12-week) bank of time for EFMLA starting on April 1, 2021. This means if an employee used EPSL or EFMLA for a qualifying COVID event prior to March 31, 2021, they will be eligible to receive another 10-day EPSL and up to 12 weeks of EFMLA, if needed, effective April 1 – September 30, 2021 and the employer will receive the tax credit.

New Qualifying Reasons for EPSL: There have been 2 new qualifying events added to the 6 qualifying events from the original program.

Original 6 Qualifiers

1. State or federal mandate to self-isolate because of a COVID-19 diagnosis;
2. To obtain a medical diagnosis or care when experiencing COVID-19 symptoms;
3. Because a health official or health care provider has recommended quarantine;
4. To care for a family member with COVID-19 or who is seeking diagnosis/care;
5. To care for a family member in quarantine; and
6. When a child's school or childcare provider is closed because of COVID-19 event.

New Qualifiers:

1. To get a COVID-19 vaccine
2. To recover from the adverse effects of the vaccine

Changes to the EFMLA :

Originally, EFMLA was only available (and the tax credits claimed) if the employee was unable to work or telework due to the COVID-related issue of a child's school or childcare being closed or unavailable.

1. EFMLA leave can now be claimed for all of the qualifying uses of EPSL listed above.
2. FFCRA originally provided that the first two weeks of EFMLA were unpaid, with the remaining (up to) ten weeks paid at 2/3 the employee's regular rate, up to \$200 per day and a total maximum of \$10,000.

3. The American Rescue Plan Act (ARPA) has deleted the unpaid two-week provision, meaning that the entire (up to) twelve weeks of EFMLA is paid. And, accordingly, the per-employee EFMLA tax credit limit has been increased to \$12,000.

New Non-discrimination Provision: Employers cannot claim the tax credits if the employer discriminates in favor of highly compensated employees or full-time employees, or discriminates on the basis of employment tenure with the employer, in providing EPSL or EFMLA. This means that if you decide to voluntarily continue offering the leave, you must offer the leave to all regular employees, regardless of employment status or time with the company.

Next Steps

1. If you decide to continue offering the paid leaves listed above, create communication to inform your employees about the updated program and the new expiration date.
2. Update your leave forms, handbook policies and tracking forms to align with the new changes.

The Department of Labor may issue new guidelines concerning these changes. We will share the information as it becomes available.