

TECHNICAL UPDATE



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ARPA Extends Voluntary Leave

The American Rescue Plan Act (ARPA) signed into law this March contains provisions that expand two types of emergency leave created by the Families First Coronavirus Response Act (FFCRA).

The two types of leave, Emergency Paid Sick Leave (EPSL) and Public Health Emergency Leave (PHEL or eFMLA), expired December 31, 2020; however, the Consolidated Appropriations Act, 2021 (CCA) gave employers who were subject to the FFCRA leave mandates the option of voluntarily making EPSL and PHEL leave available until March 31, 2021. The ARPA expands the conditions under which EPSL and PHEL leave can be taken and extends an employer's ability to provide the two types of voluntary leave until September 31, 2021, along with an employer's ability to receive payroll tax credits in connection with the leave.

The FFCRA made EPSL mandatory for the following reasons:

1. The employee was subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The employee had been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee was experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee was caring for an individual who was subject to a quarantine or isolation order as described in (1), or had been advised as described in (2), above.
5. The employee was caring for a son or daughter whose school or place of care had been closed, or the child care provider was unavailable, due to COVID-19 precautions.

The ARPA keeps these reasons but expands reason 3 to cover the following:

The employee is (a) seeking or awaiting the results of a COVID test or medical diagnosis if the employee has been exposed or the employee's employer has requested the test or diagnosis; (b) obtaining a COVID immunization; or (c) recovering from an injury, disability, illness, or condition related to a COVID immunization.

The ARPA extended PHEL leave to cover the same reasons as EPSL leave, whereas before, it was limited to reason 5. Under the FFCRA, the first two weeks of PHEL leave were unpaid. With the ARPA expansion, all 12 weeks of PHEL can be paid.

The ARPA also refills the 10-day allotment of EPSL leave available after April 1, 2021, which means employees who used all ten days of EPSL leave before March 31, 2021, may have ten more days available at their employer's discretion as extending EPSL or PHEL is voluntary.

WHAT THIS MEANS FOR COUNTIES

Counties should decide if they want to make extended EPSL or PHEL available to their employees. To take advantage of payroll tax credits, employers must meet certain conditions outlined by the Department of Labor and the IRS. For more information, consult your county attorneys or contact CTSI at 303 861 0507.