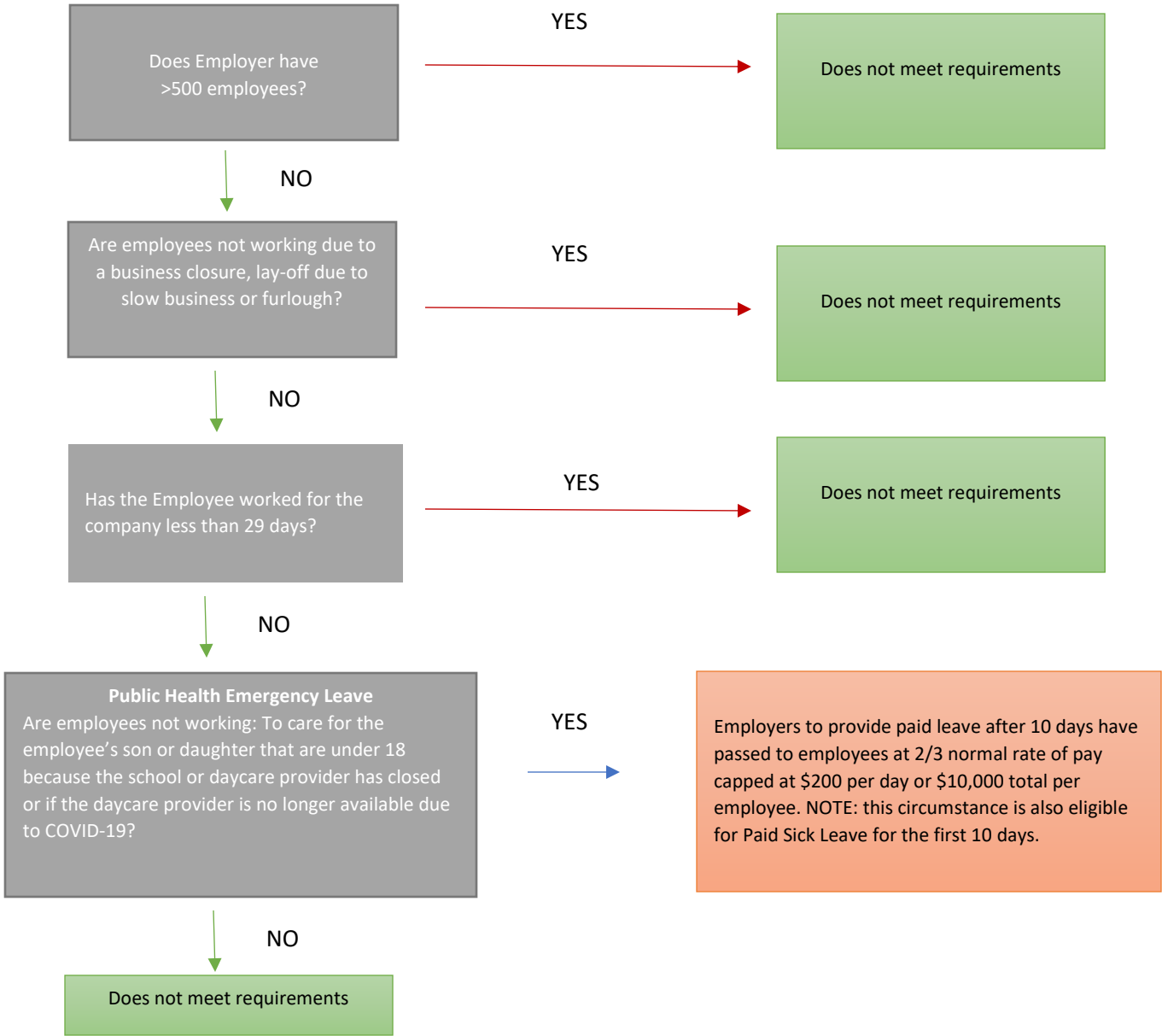




## Emergency Paid FMLA

- Up to 12 weeks (~days 11 -60) ▪1 reason only
- ▪Weeks 1 –2: unpaid (unless paid under Emergency Paid Sick Leave)
- ▪Weeks 3 –12: 2/3 pay –subject to cap



- For employers with 50 or fewer employees that would be put at risk by these provisions, the Secretary of Labor can exempt the business from these requirements (exact requirements not know as of 3/26/20).
- In certain instances, employers with less than 25 employees may be exempted from this rule
- Employer cannot force employees to take other paid leave first.
- These wages are not subject to the employer's portion of Social Security Tax
- Payroll Tax credit is allowed for wages paid as a result of the Emergency Family and Medical Leave Expansion capped at \$10,000
- Credit is taken against 941 payments



## Emergency Paid Sick Leave

- Up to 80 hours (~first 10 days)
- 6 different reasons
- Full pay or 2/3 pay (depending on reason) –subject to cap

Does Employer have >500 employees?

YES

Does not meet requirements

NO

Are employees not working due to a business closure, lay-off due to slow business or furlough?

YES

Does not meet requirements

NO

### SELF CARE LEAVE

Is the employee not working because:

- 1) employee is subject to a federal, state, or local quarantine or isolation order
- 2) employee advised by a health care provider to self-quarantine because of COVID-19
- 3) employee experiences symptoms of COVID-19 and is seeking a medical diagnosis

YES

Employers to provide 80 hours of paid sick leave to full-time employees or two weeks of fully paid sick leave to part-time workers, based on average hours that the part-time employee works. Paid at full normal rate of pay capped at \$511 per day or a total of \$5110 per employee.

NO

### FAMILY CARE LEAVE

Is the employee not working because:

- 1) employee is caring for an individual or family member subject or advised to quarantine or isolation
- 2) employee is caring for a child whose school is closed or daycare provider is unavailable due to COVID-19 precautions
- 3) employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services

YES

Employers to provide 80 hours of paid sick leave to full-time employees or two weeks of fully paid sick leave to part-time workers, based on average hours that the part-time employee works. Paid at 2/3 normal rate of pay capped at \$200 per day or a total of \$2000 per employee.

- Normal FMLA rules apply if applicable to SELF CARE LEAVE after the initial paid ten days
- These wages are not subject to the employer's portion of Social Security Tax.
- For employers with 50 or fewer employees that would be put at risk by these provisions, the Secretary of Labor can exempt the business from these requirements (exact requirements not know as of 3/26/20).
- Employer cannot force employees to take other paid leave first.
- Payroll Tax credit is allowed for wages paid as a result of the Emergency Paid Sick Leave Component -credit is taken against 941 payments.

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IF AN EMPLOYEE IS HOME WITH HIS OR HER CHILD BECAUSE THE PLACE OF CARE IS CLOSED, OR CHILD CARE PROVIDER IS UNAVAILABLE, DOES HE OR SHE GET PAID SICK LEAVE, EXPANDED FAMILY AND MEDICAL LEAVE, OR BOTH—HOW DO THEY INTERACT?

They may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. They may take both paid sick leave and expanded family and medical leave to care for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid **Sick Leave** Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless they elect to use existing vacation, personal, or medical or sick leave under the employer's policy. After the first ten workdays have elapsed, they will receive 2/3 of their regular rate of pay for the hours they would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that they can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

The two available leaves would work together in this way:

- *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.*

**COVID-19 Disclaimer:** HR Affiliates cannot provide legal, accounting or tax advice and is not liable for issues, interpretations and discussions related to COVID-19. We are relying on general information that is made available and being revised or changing on a regular basis. The general information we provide is not a substitute for professional advice you should receive from attorneys, accountants or other professional advisors. HR Affiliates disclaims any and all liability with respect to actions taken or not taken based on any or all of the contents of provided to the fullest extent permitted by law. Do not act or refrain from acting upon the information contained in this document without seeking professional or other advice.

