



# COVID-19 Stimulus Package

Impact on employee benefit and leave programs

April 9, 2020

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# | Today's Presenters



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# | Agenda

**Introduction**

**Legislation Update**

**Health Plan Provisions**

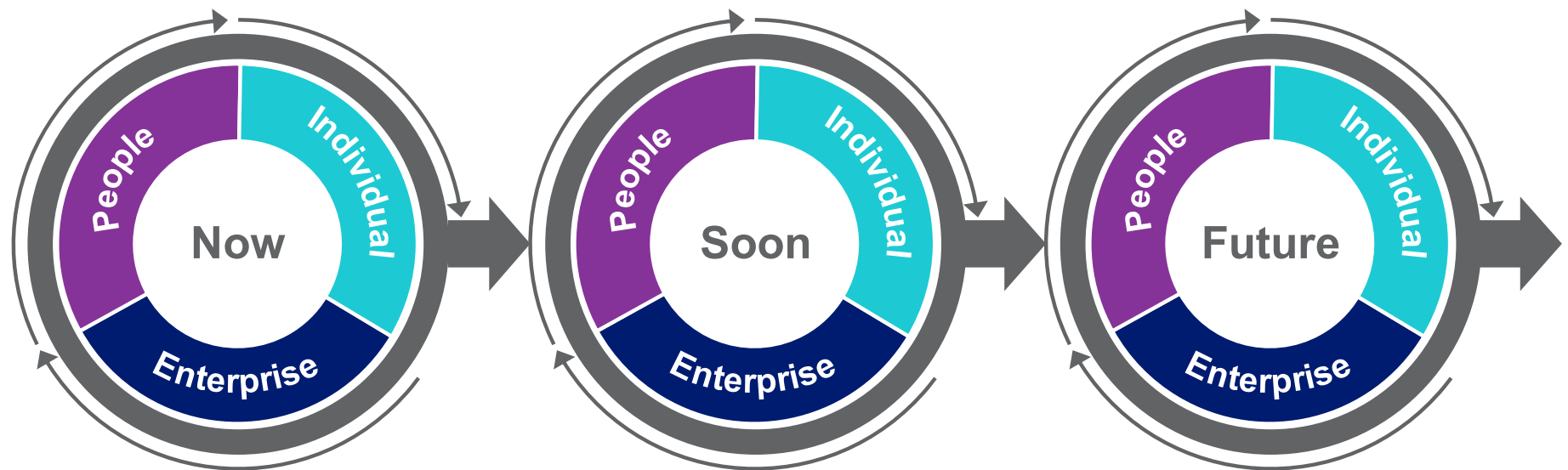
**Leave Provisions**

**Retirement Plan Provisions**

**Resources**

**Q&A**

# The Current Environment



# COVID-19 Legislation Update





# Federal Legislative Actions to Date



## **1.0 Coronavirus Preparedness and Response Supplemental Appropriations Act**

The first coronavirus response law (PL 116-123) was passed on March 6, 2020 and provided \$8 billion for health and international programs and made \$7 billion in small business loans available

## **2.0 Families First Coronavirus Responses Act (Families First Act)**

The second law (PL 116-127) was passed on March 18, 2020 and provides paid leave, tax credits, expanded unemployment and nutrition assistance, and free testing

## **3.0 The Coronavirus Aid, Relief, and Economic Security (CARES) Act**

Enacted March 27, 2020`

# More Legislation Expected...



- Hearing rumors about smaller efforts: 3.1? 3.25?
- Likelihood of 4.0 stimulus bill?

# Health Provisions





# Families First Act and CARES Act

## *COVID-19 Testing and Visits*



**Effective March 18, 2020**

- Group health plans and insurers must cover:
  - Diagnostic tests that are FDA-approved and tests for which approval has been requested or tests developed by States;
  - Test administration; and
  - Items and services given during office / urgent care / telehealth / emergency room visits to the extent they relate to the evaluation or furnishing the test
- No deductibles, copays or coinsurance permitted
- No prior authorization or medical management requirements permitted
- No requirements to cover treatment under Federal law
  - Some state insurance laws are broader, but would not apply to self-insured plans

# Families First Act and CARES Act

## *COVID-19 Tests*



- If the plan (or insurer) has a negotiated rate with a diagnostic test provider that rate would apply
- If the plan (or insurer) does not have a negotiated rate with the provider, the plan (or insurer) must reimburse the provider the cash price for such service as listed by the provider on a public website

# Families First Act and CARES Act

## *COVID-19 Test and Vaccine Reimbursement*



- Providers of diagnostic tests must post their cash price on a public website – HHS may impose a civil monetary penalty for failure to do so
- Group health plans must treat a future COVID-19 preventive service or vaccine as an ACA-required preventive service within 15 business days of the issuance of the USPSTF recommendation

# HDHP/HSAs

*IRS Notice 2020-15*



- High-Deductible Health Plans (HDHP) may cover COVID-19 testing and treatment before deductible met
- IRS rationale:
  - Unprecedented public health emergency
  - Need to eliminate potential administrative and financial barriers to testing and treatment
  - Vaccines = preventive care
- Broadly written to apply to any benefits related to COVID-19
- <https://www.irs.gov/pub/irs-drop/n-20-15.pdf> (March 11, 2020)



# HDHP/HSAs and Telehealth

## *CARES Act*



### **High-Deductible Health Plans (HDHP) may cover telehealth or other remote care services before the deductible is met**

- Effective March 27, 2020, and applicable to plan years beginning on or before December 31, 2021

### **So, if the plan offers telehealth, what is required?**

- Telehealth related to COVID-19 *testing* must be paid without cost sharing during the public health emergency (Families First)
- Regular cost sharing may be applied to telehealth related to COVID-19 *treatment* and treatment for other conditions

Same telehealth rules apply to other health plans that are not HDHPs

# HIPAA Guidance

## Telemedicine

- HHS will not penalize health care providers that use telecommunication methods that may not fully comply with HIPAA
  - <https://www.hhs.gov/hipaa/for-professionals/special-topics/hipaa-covid19/index.html>
  - Makes it easier for individuals to seek virtual care from their current provider
  - Does not affect existing network telehealth programs
- Medicare has also expanded telehealth availability
  - <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>



# HDHP/HSAs and Other Provisions

## *CARES Act*



- ACA rule that required a prescription before plan could pay for over-the-counter drugs and medications repealed
- Permits menstrual care products may be treated as medical expenses eligible for reimbursement from HSAs, HRAs, and FSAs (for expenses after December 31, 2019)

# Take Action



## The Now

Notify employees/ participants of benefit changes (medical, Rx, telehealth, etc.)

Communicate with employees about existing benefits available to them (e.g., EAP, behavioral health benefits)

## The Soon

Consider whether additional benefit changes are advisable (e.g., more telehealth)

## The Future

Amend plan documents



# Leave Provisions



# Families First Act

*Creates two new federal leave programs*



**Effective April 1, 2020 – December 31, 2020**

- Programs apply to most public employers and to private employers with fewer than 500 employees
- Employers must post notices concerning the new leave programs
- Group health plan benefits must continue during the leaves

# Families First Act

## *Emergency Family and Medical Leave Expansion*



- Employers must permit employees to take up to 12 weeks of leave if they are unable to work or telework due to a public health emergency and:
  - Must care for a child (under 18) if school or daycare closed or child care provider unavailable
- Applies to all workers who have been employed for at least 30 days
- First two weeks are unpaid; however, employee may choose to use paid sick leave or accrued paid time off. Additional 10 weeks are paid based on 2/3 pay, not to exceed \$200/day, and \$10,000 in the aggregate

# Families First Act

## *Emergency Paid Sick Leave Act*



- Employers must allow employees to take paid sick leave if unable to work or telework due to quarantine order, self-quarantine, experiencing symptoms and seeking diagnosis, or caregiver role related to COVID-19
- Paid sick leave is 80 hours for full-time employees, part-time may use average hours worked over two-week period
  - Immediately available to all employees no matter how long they have been employed
  - Employees may use paid sick leave before using any other leave to which they are entitled
  - Does not preempt state/local leave laws





# Families First Act

## *Emergency Paid Sick Leave Act*

**Paid at 100% of pay or minimum wage, whichever is greater**

- Only 2/3 if absence due to caregiver role

### **Maximum:**

- \$511/day and \$5,110
- \$200/day and \$2,000 for caregiver leave

### **Other details:**

- Cannot cash out
- No carryover

# Families First Act Leave Options

	Family Leave	Paid Sick Leave
<b>Covered Employer</b>	Private employers with fewer than 500 employees and governmental employers	
<b>Qualifying Event</b>	Caring for children under 18 whose school is closed or caregiver unavailable	Quarantine order, self-quarantine, symptoms, caring for children under 18 or another quarantined individual
<b>Length of Leave</b>	Up to 12 weeks	80 hours for full-time employees, part-time based on hours worked
<b>Benefits</b>	First two weeks unpaid (although paid sick leave would provide pay); maximum 10 weeks of 2/3 pay up to \$200/day, \$10,000 aggregate	Normal wage or minimum wage, whichever is greater, up to \$5,110 for quarantine or illness; 2/3 wages for caregiving up to \$2,000
<b>Employer Tax Credit</b>	Up to \$200/day, \$10,000 aggregate	Up to \$511/day \$5,110 aggregate for quarantine or illness; up to \$200/day, \$2,000 aggregate for caregiving

# Multiemployer Leave Provisions

## **Contributing employers may provide leave directly and claim tax credit**

- Plan may provide the leave if they choose to do so and if employer contributes based on the amount of leave to which employee is entitled
- Contributing employers with fewer than 50 employees may be able to document that they meet criteria for an exemption



# Families First Act

## *Common Questions*



### **What documentation is needed?**

- Documentation must include a signed statement containing the employee's name, date for which leave is requested, the COVID-19 qualifying reason for the leave, and a statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason
- Additional documentation is required based on the reason for the leave:
  - Identity of quarantine or isolation order
  - Name of health care provider advising to self-quarantine
  - Name of child and school or provider that is unavailable; and statement no other suitable person can take care of child
  - For health conditions, the normal FMLA certification rules apply
- Information must be retained for four years



# Families First Act

## *Common Questions*



### **I'm a private employer. How do I claim the payroll tax credit?**

- Employers are entitled to receive refundable tax credits for paid sick leave and family leave payments
- Employers will report payments on their federal employment tax return, Form 941 Employer's Quarterly Federal Tax Return
- Taxes owed may be retained by employers, rather than depositing them with the IRS

# Take Action



## **The Now**

Post the Notice

Contact disability and leave administrators

Develop procedures for employees to request leaves and document process

Review applicable state or local leave laws

## **The Soon**

Prepare to offset leave against payroll tax obligation

## **The Future**

Review paid and unpaid leave policies to assure they are consistent with state and federal law and flexible enough for your enterprise

# Families First Act

## *Guidance*



### **General guidance, notices, and FAQs**

<https://www.dol.gov/agencies/whd/pandemic>

### **Guidance on COVID-19-related tax credits for paid leave**

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

# Retirement Provisions



# CARES Act

## *Retirement Plan Distributions*



**Allows for “coronavirus-related distributions” of up to \$100,000 from 401(k), 403(b), and governmental 457(b) plans**

- Otherwise applicable 10 percent early distribution penalty waived
- Income tax due on the distribution can be spread over three years
- Repayment permitted within three years as an eligible rollover distribution

# CARES Act

## *Retirement Plan Distributions*



### **Does not override in-service distributions restrictions for money purchase and defined benefit plans**

- However, the tax relief (waive of penalty, payment of tax over three years and permitted repayment over three years) applies to coronavirus-related distributions otherwise allowed under such plans (i.e., upon termination or retirement).



# CARES Act

## *Retirement Plan Distributions*



### **Coronavirus-related distribution =**

One made in 2020 to a participant who has tested positive for COVID-19, or whose spouse or dependent has tested positive for COVID-19

**OR**

To a participant who experiences one or more of a wide range of adverse financial consequences including being quarantined, furloughed or laid-off, having work hours reduced, or being unable to work due to lack of child care

# CARES Act

## *Retirement Plan Loans*

- For defined contribution and defined benefit plans that allow loans
- For participants who are eligible for coronavirus-related distributions and who take out loans within 180 days beginning March 27, 2020, the loan maximums have been increase to the lesser of \$100,000 or 100% of the nonforfeitable accrued benefit
  - Up from the lesser of \$50,000 or 50% of the participant's nonforfeitable accrued benefit



# CARES Act

## *Retirement Plan Loans*

In addition, such participants with outstanding loans on or after March 27, 2020, would not have to make loan repayments for an additional year on any repayment due between March 27, 2020 and December 31, 2020.



# CARES Act

## *Required Minimum Distributions*



- Eliminates required minimum distributions in 2020 for participants in all DC plans (including profit sharing, money purchase, 401(k), 403(b) and governmental 457(b) plans).
  - Retroactively effective as of January 1, 2020
- Also eliminates the required minimum distribution for individuals who turned age 70½ in 2019 and who would otherwise have had to take the 2019 required beginning date distribution by April 1, 2020.

# CARES Act

## *Plan Amendments*



- Plan amendments related to the distribution and loan relief, as well as the waiver of 2020 calendar year required minimum distributions, are not required until the last day of the first plan year beginning on or after January 1, 2022 (2-year extension for governmental plan).
- However, the plan must operationally comply with the terms of the amendment prior to the adoption date.

# CARES Act

## *Relief for Defined Benefit Plans*



- Due date for defined benefit plan contributions normally due during 2020 delayed until December 31, 2020
  - Gives Congress time to consider the possibility of defined benefit plan funding reform, which may happen in a subsequent stimulus bill
- For benefit restrictions applicable to single-employer defined benefit plans, plan sponsors may elect to use the adjusted funding target attainment percentage (AFTAP) for the last plan year ending before January 1, 2020 as the AFTAP for plan years that include calendar year 2020.



# Take Action



## The Now

Make necessary immediate decisions

Communicate with employees

Remind employees of existing programs that can help them (e.g., financial hardship distributions)

## The Soon

Implement plan changes

Consider CARES Act's tax-advantaged student loan repayment provision

## The Future

Amend your plan

Consider benefit offerings on financial literacy

# For More Information

The image displays three overlapping screenshots of the Segal website, showcasing articles related to the CARES Act and DOL guidance. Each screenshot includes the Segal logo, a navigation bar with links like 'Consulting Services', 'Industry Expertise', 'Client Stories', 'Insights', 'About', and 'Contact', and a search icon. The top-left screenshot features the article 'Impact of CARES Act on Health Plans', dated March 30, 2020. The top-right screenshot shows 'Impact of CARES Act on Retirement Plans', also dated March 30, 2020. The bottom-center screenshot displays 'DOL Guidance on Paid Leave Related to COVID-19', dated March 30, 2020. The articles provide detailed information about the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Department of Labor's (DOL) guidance on paid leave provisions under the Families First Coronavirus Response Act (FFCRA).

**Impact of CARES Act on Health Plans**  
Compliance News | March 30, 2020  
The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), the third federal law that addresses the coronavirus (COVID-19) public health emergency, was signed into law on March 27, 2020. The scope of the CARES Act is sweeping.  
Below, we cover highlights of the CARES Act provisions that affect group health plans:  
• Amendments to the COVID-19 testing requirements contained in the Families First Coronavirus Response Act (Families First Act) that became law on March 18, 2020  
• New rules for telemedicine offered by high-deductible health plans (HDHPs) paired with Health Savings Accounts (HSAs)  
Plan sponsors must implement the new testing-related provisions, but retain flexibility under federal law to set

**Impact of CARES Act on Retirement Plans**  
Compliance News | March 30, 2020  
The Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), the third law that addresses the coronavirus (COVID-19) public health emergency, was signed into law on March 27, 2020. The scope of the CARES Act is sweeping.  
Below, we cover highlights of the CARES Act provisions that affect retirement plans to give participants access to their plan funds and provide temporary relief for single-employer DB plans.\*  
The CARES Act is generally immediately effective. That means there are action items plan sponsors need to address, as discussed below.  
The CARES Act was first published on March 30, 2020, and was effective as of April 1, 2020.

**DOL Guidance on Paid Leave Related to COVID-19**  
Compliance News | March 30, 2020  
The Families First Coronavirus Response Act (FFCRA) provides for two new types of leave for governmental employers and private employers with fewer than 500 employees: Emergency Family and Medical Leave and Emergency Paid Sick Leave. The leave provisions of the FFCRA are effective from April 1, 2020 through December 31, 2020.  
On March 27, 2020, DOL issued guidance on those leave provisions. The guidance, which includes fact sheets for employees and employers, as well as an extensive set of answers to frequently asked questions, addresses several key implementation issues.

[www.segalco.com/COVID-19](http://www.segalco.com/COVID-19)

# Questions?

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