

Understanding the \$900B Stimulus Package

On Monday, Dec. 21, 2020, Congress passed an emergency stimulus package designed to deliver approximately \$900 billion in COVID-19-related aid. On Sunday, Dec. 27, 2020, President Donald Trump signed the bill into law.

TEMPORARY SPECIAL RULES FOR HEALTH AND DEPENDENT CARE FSAS

Extended Periods

Because of the COVID-19 pandemic, employees may be more likely to have unused amounts in health or dependent care FSAs. For plan years ending in 2020 and 2021, the Act allows employers to:

- Permit employees to **carry over unused amounts** remaining in the health and dependent care FSAs to the next plan year.
- **Extend the grace period** to 12 months after the end of such plan year.
- Permit employees who **cease plan participation** during 2020 or 2021 to continue to receive reimbursements from unused amounts through the end of the plan year in which their participation ended.

The Act also includes a special carry forward rule for dependent care FSAs where the dependent aged out during the pandemic. For purposes of determining dependent care assistance that may be paid or reimbursed, the maximum age is increased from 13 to 14 years of age.

Change in Election Amounts

Employees are also able to elect to prospectively modify the amount of their FSA contributions for plan years ending in 2021, even if they have not experienced a change in status. However, the applicable dollar limitations will continue to apply.

BAN ON SURPRISE MEDICAL BILLS

Surprise Medical Bills

Surprise medical bills occur when patients unexpectedly receive care from out-of-network health care providers. For example, a patient may go to an in-network hospital for treatment, such as surgery or emergency care, but an out-of-network doctor may be involved in the patient's care.

Patients often cannot determine the network status of these providers during treatment in order to avoid the additional charges. In many cases, the patient is not involved in the choice of provider at all.

Provided by Sullivan Benefits

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No Surprises Act

The Act applies to surprise bills from doctors, hospitals and air ambulances. It will prohibit these providers from billing patients who have health coverage for unpaid balances. Rather, providers will have to work with the group health plan or health insurance issuer to determine the appropriate amount to be paid by the plan or issuer, under the methodology provided in the Act.

The Depts. of Health and Human Services, Labor and the Treasury will work together to issue regulations regarding this methodology and other requirements of the Act

EXTENDED FFCRA TAX CREDIT BUT NOT LEAVE MANDATE

The Stimulus bill **does not extend the leave mandates** created by the Emergency Family and Medical Leave Expansion Act (EFMLA) and the Emergency Paid Sick Leave Act (EPSLA), which expire on Dec. 31, 2020.

As a result, the requirement for employers to provide employee paid sick leave and expanded family and medical leave under the Families First Coronavirus Response Act (FFCRA) will end on that date.

However, the bill **does extend** the time limit for **employer tax credits** for employee leave required by those laws. Specifically, the tax credits will continue to be available for employers that offer EFMLA and EPSLA leave through March 31, 2021.

Tax Credits for Paid Leave Under FFCRA

The EFMLA and the EPSLA were passed as part of the FFCRA. The FFCRA also created tax credits for employers to cover certain costs of the employee leave required by the law: employee wages, health plan expenses allocable to those wages, and the employer's portion of the Medicare tax related to the wages.

The new bill does not change the FFCRA's original limits on the number of leave days and amount of wages eligible for tax credits.

FFCRA Paid Leave

The FFCRA requires businesses with fewer than 500 employees to provide employees up to 80 hours of paid sick leave for their own COVID-19-related health needs or to care for others. The Act also requires an additional 10 weeks of paid family leave to care for a child whose school or place of care was closed, or child care provider was closed or unavailable, due to COVID-19. The law's paid leave requirements sunset on Dec. 31, 2020.

Employers should keep in mind that some states and local jurisdictions have passed their own FFCRA-like laws that extend beyond Dec. 31, 2020, and others that were set to end Dec. 31 may be extended well into 2021.

UNEMPLOYMENT BENEFITS FUNDING AND EXTENSION

The bill includes funding for unemployment benefits for out-of-work Americans. Specifically, this bill allows unemployed Americans to receive \$300 per week in federal funding in addition to the existing unemployment aid they may be collecting from their state, if those state-level benefits have not already run out. The additional unemployment benefits and extensions included within this bill would provide aid for 11 weeks from their expiration at the end of December 2020 through at least March 14, 2021.

Initial COVID-19 relief for unemployment benefits was introduced by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was enacted on March 27, 2020. The CARES Act provided funding for states to waive any waiting week requirements for unemployment income (UI) benefits during the COVID-19 pandemic and to provide an additional \$600 per week to all individuals receiving UI benefits for weeks of unemployment ending before July 31, 2020. President Trump signed a memorandum to extend a portion of unemployment wages after the initial \$600 per week expired.

Additionally, the bill includes an extension of Pandemic Unemployment Assistance (PUA). PUA is a program that allows workers who are not traditionally eligible to receive unemployment benefits, including self-employed and gig workers, to do so. An 11-week extension in base benefits through this program is also included within the bill.

AID FOR BUSINESSES

The bill includes approximately \$325 billion in funding to the Small Business Administration (SBA) to assist U.S. businesses that have been affected by the COVID-19 pandemic.

Specifically, the bill allocates \$284 billion in funding to replenish the Paycheck Protection Program (PPP), which provides forgivable small business loans to eligible applicants. Under the bill, certain firms that had already applied for, received and exhausted PPP funds will be eligible to apply for another PPP loan. To be eligible for a second PPP loan, a small business must have less than 300 employees and have sustained at least a 25% loss in revenue during any quarter of 2020 when compared to the same quarter in 2019.

Additionally, small 501(c)(6) organizations with 150 or fewer employees that are not lobbying organizations would be eligible for a PPP loan with this round of funding.

The bill also provides the following with regard to the PPP:

- Expansion of expenses eligible for loan forgiveness to include supplier costs and investment costs related to modifying facilities and obtaining personal protective equipment for safety
- Simplified loan forgiveness process for businesses that have borrowed \$150,000 or less in PPP loans
- Confirmation that business expenses paid for with PPP loan funds are tax deductible

Businesses interested in applying for a PPP loan should contact their lender for more information.

The bill also directs \$15 billion in funding for independent live-venue operators affected by COVID-19 and another \$20 billion for small business grants.

DIRECT ECONOMIC IMPACT PAYMENTS

The bill includes another round of economic impact payments —commonly referred to as stimulus checks. The CARES Act provided the first round of stimulus checks for eligible Americans. Under the CARES Act, tax filers with an adjusted gross income of up to \$75,000 for individuals and up to \$150,000 for married couples filing joint returns were eligible to receive the full payment of \$1,200 per individual or \$2,400 per married couple. Parents were also eligible to receive \$500 for each qualifying child.

The bill follows the same eligibility guidelines as the CARES Act, but the amount of the stimulus check is less this time around. Instead of being eligible for a \$1,200 payment, qualifying taxpayers are eligible for a payment of \$600 per individual or \$1,200 per married couple. Parents will also be eligible to receive \$600 for each qualifying child.

OTHER PROVISIONS INCLUDED IN THE BILL

The bipartisan bill provides funding for a variety of other issues, including:

- U.S. Postal Service—\$10 billion
- Health Care Provider Relief Fund—\$35 billion
- COVID-19 Testing and Tracing and Vaccine Distribution—\$69 billion
- Transportation Industry Relief (Airlines, Airports, Buses, Transit and Amtrak)—\$45 billion
- Education—\$82 billion
- Housing Assistance (Rental)—\$25 billion
- Additionally, the bill extends the federal moratorium on evictions until the end of January 2021.