



# Enforcing New Individual Rights and Protections Under the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act

On March 18, 2020, the Families First Coronavirus Response Act (FFCRA) became law, followed by the Coronavirus Aid, Relief, and Economic Security (CARES) Act on March 27, 2020. While the FFCRA and CARES Act are only the beginning of the necessary government response to COVID-19 and the resulting economic crisis, they established a series of critical protections to help working people during the pandemic. The current health and economic crisis has created an unprecedented need for attorneys willing to come forward and provide legal assistance to individuals seeking to access these new protections.

The following is a summary of some of the key rights provided to individuals seeking to negotiate these unprecedented challenges in the FFCRA and CARES Act, including:

- Emergency Paid Sick Days
- Emergency Paid Family Leave
- Unemployment Insurance
- Direct Assistance Payments
- Eviction Moratorium and Rental Assistance
- Mortgages Foreclosure Moratorium
- Student Loan Relief

This is not intended to be a comprehensive overview of the laws. There are many new or expanded programs in the FFCRA and CARES Act not outlined below, including: child care assistance, food and nutrition assistance, health care coverage, small business protections, and more. For more detail on necessary relief measures, please see the [We Demand More](#) letter from the National Women's Law Center and a coalition of organizations committed to gender justice. This summary is accurate as of April 24, 2020. Federal agencies continue to put out guidance and regulations to implement these new laws, and additional legislation to respond to the crisis is expected in future weeks. We encourage everyone to regularly check the National Women's Law Center [coronavirus resource page](#) for updated information.

## Emergency Paid Sick Days

Under the FFCRA, certain employers must provide paid sick time to employees who are unable to work—including telework—because of the coronavirus health emergency.<sup>1</sup>

### WHO IS COVERED?

Under the FFCRA, public employers of all sizes and private employers with fewer than 500 employees must grant two weeks (80-hours for full-time employees and hours equivalent to two-week average for part-time employees) of job-protected paid sick leave to employees who are unable to work or telework for the following reasons:

1. To comply with a government-mandated quarantine or isolation order from a public health official;
2. To self-quarantine in compliance with advice of a health care provider due to concerns related to COVID-19;
3. To obtain a medical diagnosis or care if experiencing symptoms of COVID-19;
4. To care for an individual<sup>2</sup> who is complying with a government-mandated quarantine or self-isolating because of a COVID-19 diagnosis or symptoms;
5. To care for a child whose school is closed, or whose child care provider is closed/unavailable, due to the COVID-19 pandemic;
6. Substantially similar conditions as specified by the Secretaries of Health and Human Services, Treasury, and Labor.<sup>3</sup>

There are no work authorization requirements or immigration status-related limits on eligibility for paid sick days. Part-time workers are covered by the emergency paid sick days provision—unless they fall into one of the other exceptions outlined below.

### WHAT PROTECTIONS DID THE NEW LAWS CREATE?

For employees taking sick leave to care for themselves, employers must provide them with full pay, up to a maximum of \$511 per day and \$5,110 total.<sup>4</sup> For employees taking sick leave to care for a child<sup>5</sup> or other loved one, employers must provide them with 2/3 pay, up to a maximum of \$200 per day and \$2,000 total. Rate of pay for part-time employees is determined based on the number of hours worked in an average 2-week period. If an employee's schedule varies from week-to-week so dramatically that

the employer is unable to determine the number of hours worked in an average 2-week period, then benefits are either based on the employee's average daily schedule over the 6-month period prior to taking leave, or—if the employee has not been employed for the prior 6 months—the employee's reasonable expectation of hours per day when they were hired. The emergency paid sick days protections sunset at the end of 2020.

### WHO IS NOT COVERED?

Unfortunately, the emergency paid sick days provision under the FFCRA exempted private sector employers with more than 500 employees. In addition, businesses with fewer than 50 employees may be exempt from providing paid sick leave in the case of school or place of care closures or child care provider unavailability if they are concerned that complying with that requirement would “jeopardize the viability of the business as a going concern.”<sup>6</sup> A small business could declare itself exempt from providing leave in these circumstances if:

1. Providing paid sick days would result in expenses and financial obligations exceeding available revenues and cause the small business to cease operating at a minimal capacity;
2. The employee's absence poses a substantial risk to the financial health or operational capabilities of the business because of the employee's specialized skills, knowledge, or responsibilities; or
3. There are not sufficient qualified and available employees to perform the job and these labor or services are needed for the small business to operate at a minimal capacity.

According to initial temporary regulations, small businesses are allowed to claim this exemption, without pre-approval from the Department of Labor (DOL), if an “officer of the business” makes the determination that one of the three criteria apply, they “document that a determination has been made,” and then “retain the records in [company] files.”<sup>7</sup>

The Office of Management and Budget may also exempt certain federal executive branch employees from paid sick leave coverage. The FFCRA also allowed employers of health care providers or emergency responders to elect to deny paid sick days to these front-line personnel. DOL regulations interpreted both of those categories of employees very broadly.<sup>8</sup>

## HOW ARE THESE RIGHTS ACCESSED OR GUARANTEED?

In order to request paid sick time, an employee must provide the following information to their employer (either orally or in writing): (1) name; (2) the date(s) for which leave is requested; (3) the qualifying reason for leave; and (4) a statement affirming that they are unable to work or telework because of the previously identified reason. If sick leave is requested to comply with a quarantine, they must provide the name of the government entity or health care provider that issued the quarantine order. If the employee is requesting leave to care for a child, they must provide the child's name, the school or child care provider that has closed, and a statement that no other person is available to care for the child.<sup>9</sup>

All employers, even small businesses that choose to exempt themselves, must post a notice to employees regarding the new protections in person, via mail or email, or on their website.<sup>10</sup>

Employers cannot fire, discipline, retaliate against, or discriminate against any employee who has taken sick leave or is planning to take sick leave under the law.<sup>11</sup> If an employer refuses to provide sick leave, they are considered to have failed to pay the minimum wage in violation of section 6 of the Fair Labor Standards Act (FLSA)<sup>12</sup> and they are subject to penalties under the FLSA.<sup>13</sup> A private right of action is available to employees to recover lost wages, unpaid overtime, and, as the case may be, an equal amount in liquidated damages.<sup>14</sup> Remedies under the FLSA may also include reasonable attorney's fees and the statute of limitations for such actions is two years, unless the violation is determined to be "willful."<sup>15</sup>

## Emergency Paid Family Leave

The FFCRA expanded the Family and Medical Leave Act (FMLA) to provide longer-term paid "public health emergency leave" in response to the COVID-19 pandemic. While the implementing regulations refer to this leave as "expanded family and medical leave," it is only available to cover certain caregiving responsibilities caused by COVID-19, not extended medical care.

### WHO IS COVERED?

Unlike the leave normally available under the FMLA, this emergency leave is *paid*, although it is limited in qualifying uses and eligible employees. Under the new laws, employers

must grant up to 12 weeks of job-protected paid leave to employees who are unable to work because they need to care for a child whose school is closed or whose child care provider is closed/unavailable due to the COVID-19 pandemic. The regulations interpreting the law incorporated the FMLA definition of "son or daughter," which includes "children under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical disability."<sup>16</sup> However, this definition still excludes many people with caregiving responsibilities, including those who care for young grandchildren or siblings, for parents or grandparents with disabilities, or for chosen family.

Part-time workers are also guaranteed emergency paid leave under the new laws and there are no work authorization-based restrictions.

Employees working for an employer with 25 or more employees are guaranteed job protection, meaning that if they take advantage of the emergency FMLA expansion they must be restored to the same or an equivalent position upon their return to work,<sup>17</sup> unless the employer implements layoffs or other "employment actions . . . that would have affected the Employee regardless of whether he or she took leave."<sup>18</sup> An employee working for an employer with fewer than 25 employees may be denied job restoration if their job no longer exists because of the public health emergency and their employer makes "reasonable efforts" to restore them to a job with equivalent pay, benefits, and other terms and conditions of employment. In the event that the "reasonable efforts"—which are not defined in statute or regulation—are unsuccessful, the employer must also contact the employee if an equivalent position becomes available within one year (beginning either on the date the leave related to COVID-19 reasons concludes or the date twelve weeks after the employee's leave began, whichever is earlier).<sup>19</sup>

### WHAT PROTECTIONS DID THE NEW LAWS CREATE?

After the first 10 days, which are unpaid (but may be covered by paid sick leave or other accrued paid time off), employers are required to provide 2/3 pay when an employee takes emergency family leave, up to a maximum of \$200 per day, or \$10,000 total. Regular rate of pay for part-time employees is calculated based on the number of hours an employee would normally be scheduled to work. Benefits for employees with varying hours are calculated the same way as they are for emergency paid sick days.

## WHO IS NOT COVERED?

Private employers with more than 500 employees are not required to give their employees emergency paid family and medical leave. The same “hardship exemption” for small businesses with fewer than 50 employees outlined under the paid sick days provision also applies to emergency paid leave for school or care provider closures.

## HOW ARE THESE RIGHTS ACCESSED OR GUARANTEED?

Employees must provide the same documentation required for emergency paid sick days in order to take paid family leave.<sup>20</sup> Employers cannot interfere with an employee’s use of emergency FMLA leave or discriminate against an employee for taking family and medical leave. If an employer refuses to provide paid family and medical leave under the FFCRA, they are subject to the same enforcement provisions outlined in section 107 of the FMLA.<sup>21</sup> Employees filing a private suit to enforce the FMLA must file within two years and may receive wages, employment benefits, or lost compensation. They may also be eligible for reinstatement and may recover reasonable attorney’s fees.<sup>22</sup>

Employees have a private right of action to enforce public health emergency leave under the FFCRA only if their employer is otherwise subject to the FMLA, which means that no private right of action is available against employers with fewer than 50 employees.<sup>23</sup> Employees who lack a private right of action under the FMLA may still file a complaint with the Secretary of Labor<sup>24</sup> and complaints alleging violations of the emergency family leave provisions may be filed with the Wage and Hour Division of the DOL.<sup>25</sup>

## Unemployment Insurance

The traditional unemployment insurance program operates as a partnership between states and the federal government. The federal government sets minimum requirements and provides oversight while states make determinations on coverage, financing, and day-to-day administration. A typical state program provides up to 26 weeks of benefits to unemployed workers, and weekly benefits range from \$215 to \$550.<sup>26</sup> In addition to standard UI benefits, states allow workers who are partially unemployed, or underemployed, to apply for partial benefits. Underemployment can include workers who see a significant but temporary cut to their typical hours and workers who are able to take on limited or part-time work while searching for more permanent employment.

The CARES Act created or modified three Unemployment Insurance (UI) programs:

1. Pandemic Unemployment Assistance: covers many workers left out of state UI programs;
2. Pandemic Emergency Unemployment Compensation: provides an additional 13 weeks of benefits for workers who have exhausted state UI benefits; and
3. Pandemic Unemployment Compensation: adds an additional \$600 to benefits individuals receive through both new UI programs and traditional UI programs through July 31, 2020.

## Pandemic Unemployment Assistance (PUA)

### WHO IS COVERED?

People are eligible for PUA if they are not eligible for regular UI compensation or the extension of UI benefits through Pandemic Emergency Unemployment Compensation and can certify that they are able and available to work, but are unemployed or underemployed because:

1. They have been diagnosed with COVID-19 or are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
2. A member of their household has been diagnosed with COVID-19;
3. They are providing care for a family member who has been diagnosed with COVID-19;
4. They are unable to work because a person in their home, for whom they have primary caregiving responsibilities, cannot attend school or child care because of the COVID-19 public health emergency;
5. They cannot reach their place of employment because of the quarantine;
6. They have been advised by a health care provider to self-quarantine;
7. They were scheduled to start a job that is no longer available or that they cannot reach as a result of the health emergency;
8. They became the primary breadwinner for a household because the head of the household has died due to COVID-19;
9. They had to quit their job as a direct result of COVID-19;

10. Their place of employment is closed as a direct result of the COVID-19 public health emergency; or
11. They meet any additional criteria established by the Secretary of Labor for unemployment assistance under the provision.<sup>27</sup>

PUA applies to workers—including those who are self-employed or classified as independent contractors—who have had their hours significantly reduced for any of the reasons above. PUA also applies to people who do not have sufficient work history during the last 18 months to qualify for standard UI benefits but who became unemployed or partially unemployed because of one of the COVID-19 related reasons above, including individuals who had a bona fide offer to start working on a specific day but could not start because of the pandemic.<sup>28</sup>

### WHO IS NOT COVERED?

Individuals are not covered if they can telework with pay, or if they are receiving paid sick leave or other paid leave benefits. However, under DOL guidance, individuals who receive paid leave benefits for less than their customary work week may still be eligible.<sup>29</sup> Workers must be authorized to work in the United States; people without such authorization are, unfortunately, not eligible for PUA.<sup>30</sup> New entrants to the workforce, like recent college graduates, are also not eligible for PUA.

### WHAT PROTECTIONS DID THE NEW LAWS CREATE?

Through PUA, workers who are unemployed or partially unemployed because of the COVID-19 pandemic, but traditionally ineligible for UI, will receive weekly compensation. The benefit will be equivalent to what workers would receive under their state's UI program, or 50 percent of the state's average benefit amount, whichever amount is greater. Workers are eligible for up to 39 weeks of benefits. The program runs from January 27, 2020 through December 31, 2020 and people can apply for relief retroactively. In order to incentivize quick relief, the federal government will fully reimburse states for the first week of UI and PUA benefits if states waive the typical one-week waiting period for these benefits.

## Pandemic Emergency Unemployment Compensation (PEUC)

### WHO IS COVERED?

Individuals who were receiving UI but exhausted their benefits after July 1, 2019.<sup>31</sup>

### WHO IS NOT COVERED?

It is important to note that, because PEUC simply extends the length of time that workers can receive traditional UI benefits, individuals who did not qualify for traditional UI when they lost their jobs are not eligible to receive PEUC. Under traditional UI programs, workers also need to show that they earned sufficient insured wages, set by each state, over a given base period, typically around 18 months, to be eligible. Workers who cannot meet this requirement, either because they recently joined the labor force or because they do not have sufficient qualifying wages, can apply for PUA instead. Because the traditional UI requirements apply, workers also must be searching for work in order to be eligible. However, the CARES Act directs states to provide flexibility in their work search requirements and cover individuals if they are unable to search for work because of COVID-19-related illness, quarantine, or movement restrictions.

### WHAT PROTECTIONS DID THE NEW LAWS CREATE?

The PEUC provision provides an additional 13 weeks of UI benefits, paid at the state's standard benefit rate, after individuals have exhausted their traditional benefits.

If states participate in PEUC or the other UI programs under the CARES Act, they cannot reduce the number of weeks that they provide UI benefits or alter how they calculate the average weekly benefit amount in a way that reduces benefits.

## Federal Pandemic Unemployment Compensation (FPUC)

### WHO IS COVERED?

All people who receive standard UI benefits, newly created PUA benefits, and extended PEUC benefits are eligible for the FPUC benefit.<sup>32</sup>

## WHAT PROTECTIONS DID THE NEW LAWS CREATE?

Individuals will receive \$600 per week, paid out on a weekly basis, in addition to UI, extended PEUC benefits, or PUA benefits. This includes workers receiving benefits who are partially unemployed.<sup>33</sup> FPUC payments begin on March 27, 2020 and extend through July 31, 2020. The benefit does not count as income for purposes of eligibility for Medicaid or CHIP, but it is considered income for other commonly used benefits like the Supplemental Nutrition Assistance Program (SNAP).<sup>34</sup>

## Notification Requirements for Traditional UI

The FFCRA includes provisions to ensure employees know how to access UI benefits.<sup>35</sup> For states to receive additional UI funding, they must require employers to notify individuals about UI benefits. The notifications can be based on model notification language from the Secretary of Labor but must reference that UI is available in response to COVID-19 and include any guidance that the state has developed to explain the state's policies. States must also ensure that applications for UI and application assistance are available in at least two of the following ways: in-person, by phone, or online. States also must notify applicants when they receive UI applications and process them. If an application cannot be processed, the state must provide information to the applicant about why the application was not processed and what steps they can take to ensure it is processed successfully.

Years of underinvestment and an unprecedented number of people without work have combined to completely overwhelm state UI systems. Reports of individuals unable to successfully complete phone or online applications—or even begin the process—are all too common. Attorneys can help workers apply for UI and the expanded benefits under the CARES Act by helping to make sure workers have any documentation needed to assert their rights to benefits. If someone is denied UI, they can appeal the denial. Every state has an independent UI appeal process, and many will grant workers hearings to present evidence. Attorneys can help ensure that individuals receive the UI benefits they are entitled to by assisting workers with the appeal process and representing workers at hearings.

## Direct Assistance Payments

One headline-grabbing provision of the CARES Act was the creation of “recovery rebates.”<sup>36</sup> The IRS has renamed them “Economic Impact Payments.”

### WHO IS ELIGIBLE?

Most adults making less than \$75,000 a year are eligible to receive a direct payment of \$1,200 (\$2,400 for a couple with an income less than \$150,000 a year who file taxes jointly). Families are eligible for an additional \$500 payment for each child under the age of 17.

The payments begin to phase out for individuals making more than \$75,000 and married couples making more than \$150,000 combined. The phase-out works as follows: the payment will be reduced by \$5 for every \$100 of income earned over the \$75,000 threshold. The phase-out will be “complete” at incomes of \$99,000 for individuals, \$146,500 for a head of household with one child, \$198,000 for joint filers with no children, and \$218,000 for a joint-filer family with two children. Income determinations for the payments are made based on 2019 tax filings. If an individual has not yet filed 2019 taxes, the calculations will be made using 2018 tax returns.

People with \$0 of income are still eligible for the direct payments, including individuals who file tax returns solely to claim the Earned Income Tax Credit or the Child Tax Credit, or receive Supplemental Security Income (SSI), Social Security or Railroad Retirement benefits.

### WHO IS NOT ELIGIBLE?

Adults who are claimed as dependents for tax purposes by someone else (like family members with disabilities) are not eligible. Nor are dependent children aged 17 and over. Every member of a household must have a Social Security Number, with limited exceptions, so workers without a valid SSN and workers who file taxes using an Individual Tax Identification Number—and their children—are ineligible.

In addition, except for SSI, Social Security and Railroad Retirement beneficiaries, and some veterans (who do not need to file a tax return and will get their rebates without further action unless they are claiming children), people who do not file a tax return in at least one of the tax years 2018, 2019, or 2020 will not receive a rebate unless they fill out a [simplified IRS form](#) online.

## HOW IS THIS SUPPORT ACCESSED?

For many people, no action is necessary to receive the recovery rebate. If an individual or couple filed 2018 or 2019 tax returns and used direct deposit to receive their refunds, the IRS will use that information to make direct deposits of the recovery rebate. SSI, Social Security and Railroad Retirement beneficiaries, and some veterans (who typically do not need to file a tax return) will not need to file a return for the purpose of receiving the payment *unless* they are claiming rebates for dependent children.

For people who did not provide direct deposit information on their 2018 or 2019 tax returns, the IRS has developed an [online portal](#) for individuals to provide their banking information so they can receive a direct deposit instead of waiting for a check to be mailed.

For people who would not otherwise need to file a tax return, the IRS has developed an online [form](#) that will enable them to receive the rebate. People can also claim the rebates when they file their 2020 tax returns (although they will not receive the rebate until 2021).

The rebate is not considered income under tax laws, meaning it will not count in determining income eligibility for public benefits programs.<sup>37</sup> Unfortunately, some people have had their payments taken by banks for private debts, or for past due child support.

## Additional Protections & Supports

### Eviction Moratorium and Rental Assistance<sup>38</sup>

- The CARES Act established a 120-day moratorium on evictions for most renters who receive federal housing assistance. The “covered properties” under the moratorium include housing programs under the Violence Against Women Act (VAWA), housing programs under the rural housing voucher program, and properties that are financed through a federally backed mortgage loan or a federally backed multifamily mortgage loan. VAWA covered housing programs include public housing<sup>39</sup> and the Section 8 Housing Choice Voucher program.<sup>40</sup> The law does not currently include a mechanism by which people can enforce this right, and the Department of Housing and Urban Development has not yet issued guidance.

### Mortgages Foreclosure Moratorium<sup>41</sup>

- Under the CARES Act, people with federally-backed mortgages received temporary forbearance on foreclosure. Single-family mortgages are eligible for a 60-day foreclosure moratorium and multi-family housing owners are eligible for 180 days of forbearance, which they may request by “submitting a request to the borrower’s servicer” and “affirming that the borrower is experiencing a financial hardship during the COVID-19 emergency.”<sup>42</sup> Both types of homeowners may request a longer forbearance. People may apply for mortgage forbearance, regardless of preexisting mortgage nonpayment or delinquency, by submitting a request to their mortgage servicer and affirming that they are experiencing financial hardship under the COVID-19 emergency.<sup>43</sup> Additional regulations on enforcement are still needed from the Department of Housing and Urban Development.

### Federal Student Loan Relief

- Regular payments for federally held student loans—meaning loans held by the Department of Education under parts B and D of Title IV of the Higher Education Act of 1965—are suspended through September 30, 2020. Interest will not accrue on those loans beginning March 13, 2020 and running through the end of the suspension period. Borrowers who choose to make payments during the “zero interest period” will have the payment applied to loan principal once any outstanding interest—that accrued prior to March 13—has been paid. Payments made during this period may be refunded.<sup>44</sup> Individuals who are on income-driven repayment plans, but who experience a change in income during the pandemic—for example, someone who is laid off or has a significant reduction in hours—can update their plan and resume payments at the new income level after the forbearance period has ended.<sup>45</sup>

Many of our friends and partner organizations have been working on rapid response efforts to the coronavirus and developing resources and guides you may find useful. We are including links to several of them below, but there are many additional resources available. If you have questions or would like additional resources on a specific topic, please reach out to the team at the National Women’s Law Center. Equipped with this information, we encourage those who are able to provide help and support for people in need of assistance in accessing these new protections.

- Center for Law and Social Policy (CLASP), [Enforcing Sick Days](#)
- Family Values @ Work, [Workers’ Rights Factsheet: Coronavirus Paid Sick Days, Emergency Paid Leave, and Unemployment Insurance](#)
- Katz, Marshall & Banks, LLP, [Coronavirus Questions and Answers: What Do Employees Need to Know](#) (March 2020)
- National Employment Law Project, [Immigrant Workers’ Eligibility for Unemployment Insurance](#) (March 2020)
- National Employment Law Project, [Unemployment Insurance Provisions in the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) (March 2020)
- National Immigration Law Center, [Frequently Asked Questions: Immigrant Workers’ Rights and COVID-19](#) (April 2020)
- National Immigration Law Center, [Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities](#) (April 2020)

1 Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116-127 § 5101 et seq. (2020), <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>.

2 Under the Department of Labor regulations, an individual must be someone with which the employee has a “personal relationship” such as an immediate family member, a person who lives in the employee’s home, or someone with whom there is an expectation of care. Paid Leave Under the Families First Coronavirus Response Act, 85 Fed. Reg. 19326, 19349 (proposed Apr. 6, 2020) (to be codified at 29 C.F.R. pt. 826), <https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act>.

3 There have not yet been additional conditions identified under reason #6.

4 Rate of pay is calculated according to section 7(e) of the Fair Labor Standards Act, 29 U.S.C. 207(e). FFCRA § 5110.

5 The emergency paid sick leave provision expressly adopted the definition of son or daughter from the FMLA. For more detail, see the description under the Emergency Paid Family Leave section.

6 FFCRA § 5111.

7 85 Fed. Reg. 19352.

8 85 Fed. Reg. 19351-52. New York sued the Department of Labor to challenge these regulations on April 14. The complaint is available at [https://ag.ny.gov/sites/default/files/ny\\_v\\_us\\_dol\\_complaint.pdf](https://ag.ny.gov/sites/default/files/ny_v_us_dol_complaint.pdf).

9 85 Fed. Reg. 19355.

10 Model notice is available at: [https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf).

11 85 Fed. Reg. 19356.

12 29 U.S.C. 206.

13 85 Fed. Reg. 19357.

14 29 U.S.C. 216.

15 29 U.S.C. § 255(a).

16 85 Fed. Reg. 19330.

17 *Id.* at 19356 and 29 C.F.R. § 825.14-15. An employer may deny job restoration to key “eligible employees,” as defined under 29 C.F.R. § 825.217, “if such denial is necessary to prevent substantial and grievous economic injury to the operations of the Employer.” 85 Fed. Reg. 19356.

18 85 Fed. Reg. 19356.

19 *Id.*

20 *Id.* at 19355.

21 *Id.* at 19357.

22 29 CFR § 825.400.

23 *Id.* This means that people who work for an employer with fewer than 50 employees do not have a private right of action to enforce the emergency FMLA expansion.

24 29 CFR § 825.400.

25 85 Fed. Reg. 19357.

26 Center on Budget and Policy Priorities, Policy Basics: Unemployment Insurance (Apr. 1, 2020), <https://www.cbpp.org/research/economy/policy-basics-unemployment-insurance>.

27 Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No: 116-136, § 2107 (2020), <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf>.

28 U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 16-20, Attachment 1, Pandemic Unemployment Assistance (PUA) Implementation and Operating Instructions, at I-3 (2020), [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_16-20\\_Attachment\\_1.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Attachment_1.pdf).

29 *Id.*

30 Because UI is an earned benefit and not a public benefit, accessing UI should not negatively affect the assessment of whether a visa applicant is likely to become a public charge under the Department of Homeland Security’s “public charge” rule.

31 CARES Act § 2107.

32 *Id.* at § 2104.

33 U.S. Dep’t of Labor, Unemployment Insurance Program Letter No. 15-20, Attachment I, Implementing and Operating Instructions for the Federal Pandemic Unemployment Compensation (FPUC) Program, at I-1, I-5 (2020), [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_15-20.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_15-20.pdf)

34 *Id.* at I-3.

35 FFCRA § 4102.

36 *Id.*

37 House Committee on Ways & Means, 2020 Rebates: Most Frequently Asked Questions 4 (Apr. 16, 2020), [https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/2020.04.16%20CARES%20Act%20Rebates%20FAQ\\_rev%20FINAL.pdf](https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/2020.04.16%20CARES%20Act%20Rebates%20FAQ_rev%20FINAL.pdf).

38 CARES Act § 4024.

39 42 U.S.C. § 1437d.

40 42 U.S.C. § 1437f.

41 *Id.* at §§ 4022, 4023.

42 *Id.*

43 *Id.* at §§ 4022.

44 U.S. Dep’t of Educ., Federal Student Aid, Coronavirus and Forbearance Info for Students, Borrowers, and Parents, <https://studentaid.gov/announcements-events/coronavirus#borrower-questions>.

45 *Id.*