Leave provisions

The Families First Coronavirus Response Act leave expired on Dec. 31. While the American Rescue Plan did not reinstitute the requirement for employers to provide leave, it does create an incentive to provide this leave. It extended the tax credits for qualifying family leave and sick leave wages that an employer chooses to pay between April 1 and September 30. Helpfully for Education Minnesota members, these tax credits are now available to public sector employers. This gives bargaining units a better opportunity to negotiate the resumption of FFCRA-style benefits because districts will now be reimbursed for them.

The tax credit is only available to employers who uniformly provide leave to all employees, without discriminating against certain categories of workers. This means that districts may negotiate making such benefits available to bargaining units, but will have to offer them to all employees if it offers them to one group.

The ARP also modifies FFCRA in a few other ways. The modifications are effective on April 1. As noted, these modifications are only applicable if an employer chooses to provide FFCRA leave and claim the tax credits to offset the costs of providing such leave.

- The ARP allows employers to claim tax credit for emergency Family and Medical Leave Act leave for any of the six reasons provided in the FFCRA and adds two additional reasons. Under ARP, employers will also receive tax credits for providing leave to employees who are: (i) obtaining an immunization related to COVID-19 or recovering from any injury, disability, illness or condition related to such immunization; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19, when such employee has been exposed to COVID-19 or the employer has requested such test or diagnosis.
- ARP resets the beginning date for counting paid sick leave (March 31, 2021). Employees who previously took 10 days of emergency paid sick leave under the FFCRA can be offered an additional 10 days of leave.
- The Act increases the total number of days of tax-credit eligible paid family leave from 10 weeks (50 days) to 12 weeks (60 days).

How this might help you or your colleagues: Although the additional FFCRA leave is not required of employers as it was in 2020, the fact that school districts can now receive tax credits for leave days granted may make them more willing to provide additional leave days for employees who have a qualifying reason to be absent. Talk with your local to discuss the possibility of your district making additional paid COVID leave days.

Unemployment

ARP extends unemployment benefits until Sept. 6 and provides an additional $300 Federal Pandemic Unemployment Compensation weekly benefit between the weeks of March 14and Sept. 6.

It also extends the Pandemic Emergency Unemployment Compensation for those who exhaust state benefits from 24 weeks to 53 weeks. Presently, eligible recipients of unemployment benefits can now receive up to 79 weeks of benefits (including the 13 weeks of benefits from the March 2020 CARES Act and the 24 weeks added by the December 2020 Consolidated Appropriations Act).

Although workers do need to show that they are looking for suitable work while on unemployment, the Biden administration has taken the position that "workers have a federally guaranteed right to refuse employment that will jeopardize their health and if they do so, they will still qualify for unemployment insurance." This stance is reflected in a federal executive order, and Minnesota's unemployment executive order directs the Minnesota Department of Employment and Economic Development to interpret Minnesota's unemployment law broadly in order to effectuate its purpose. Ideally, Minnesota will follow a broader standard in their criteria so more individuals may qualify for these extended ARP unemployment benefits in some states.

How this might help you or other educators: Educators who are subject to non-renewals, unrequested leaves of absence or layoffs at the end of this school year will see a greater benefit and for a longer period of time if they are actively looking but unable to find suitable employment. Visit https://www.uimn.org/ for more information on applying for benefits.

COBRA

ARP addresses a gaping hole in the prior relief packages, in that it addresses continuation of health insurance coverage. Starting on April 1, and running through September 30, ARP will subsidize 100 percent of the cost of premiums for COBRA continuation coverage for an employee or dependent who is a COBRA qualified beneficiary (or will become one) due to an involuntary termination of employment or a reduction of hours. This subsidy will also apply to anyone who is already on COBRA as of April 1, or who is still in their 18-month window to elect COBRA (even if they did not elect it previously).

It will not, however, extend to anyone who quits voluntarily. Additionally, the subsidy will terminate if the individual becomes eligible to enroll in another group health plan (other than excepted benefits coverage), a flexible spending arrangement, a qualified small employer health reimbursement arrangement or Medicare.

The employer must provide subsidized COBRA coverage and pay the COBRA premium cost. ARP provides that the employer may recover the cost of the coverage by claiming a credit against its quarterly Medicare payroll tax liability.

How this might help you or your colleagues: This makes COBRA a more affordable option if you are laid off and have a gap in insurance coverage before beginning another job. Follow the COBRA application instructions you receive in your employer's COBRA notice to apply for these benefits.