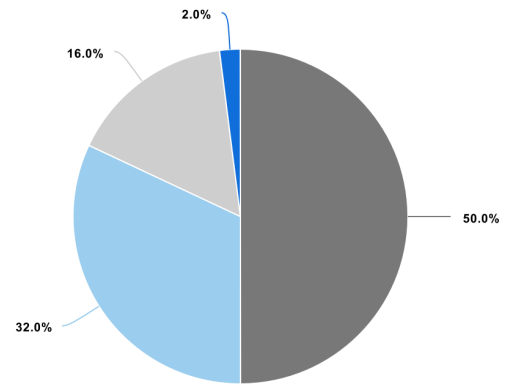


# Families First Coronavirus Impact Act Summary

## I. Nutrition Services

**\$250 million** appropriated for the Senior Nutrition program in the Administration for Community Living (ACL) to provide approximately 25 million additional home-delivered and pre-packaged meals to low-income seniors who are home-bound, who have disabilities, or who have multiple chronic illnesses. Meals are also available for caregivers of home-bound seniors. **\$160,000,000** is for Home-Delivered Nutrition Services, **\$80,000,000** is for Congregate Nutrition Services, and **\$10,000,000** is for Nutrition Services for Native Americans.



Administration for Community Living
  Home-Delivered Nutrition Services  
 Congregate Nutrition Services
  Nutrition Services for Native Americans

## II. Testing

### Text:

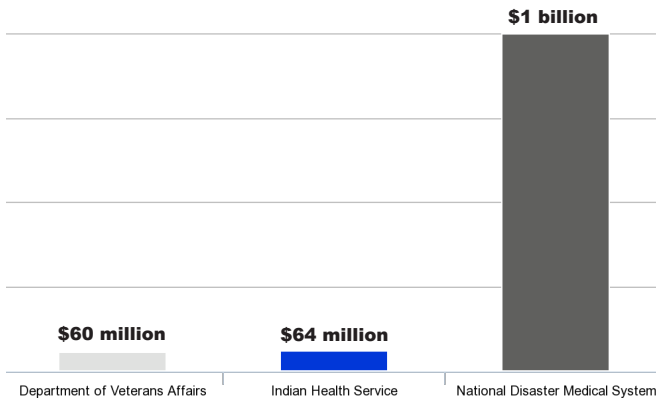
The Secretary of Health and Human Services shall cover, without the imposition of any cost sharing requirements, the cost of providing any COVID-19 related items and services as described in paragraph (1) of section 6001(a) (or the administration of such products) or visits described in paragraph (2) of such section furnished during any portion of the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. 320b-5(g)) beginning on or after the

date of the enactment of this Act to Indians (as defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) receiving health service through the Indian Health Service, including through an Urban Indian Organization, regardless of whether such items or services have been authorized under the purchased/referred care system funded by the Indian Health Service or is covered as a health service of the Indian Health Service.

### Explanation:

**\$60 million** is appropriate to the Department of Veterans Affairs for testing veterans, **\$64 million** to the Indian Health Service for testing members of Native American tribes,

and **\$1 billion** to the National Disaster Medical System for reimbursing testing costs for those without health insurance.



*Explanation cont.:*

The **Indian Health Service** will not impose cost-sharing for those receiving health services through the Indian Health Service, including an Urban Indian Organization, for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19, provided the diagnostic has received Emergency Use Authorization (EUA) under Section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act), or visits, including when provided outside of the Indian Health Service or tribal health care facility, during the emergency period.

### III. FMLA Amendments

#### FMLA Expansion Act

- Provides up to 12 weeks of job-protected leave – 10 of which are paid up to a cap for employees who have a ‘qualifying need related to a public health emergency.’”
- Cap is \$200/day and \$10,000 in aggregate.
- Must have been employed for at least 30 days (much lower than under pre-expansion FMLA)
- For employees who are unable to work or telework to take care of employee’s son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to public health emergency.
- First 10 days of public health emergency leave may be unpaid.
- After first 10 days of public health emergency leave, employer must provide paid leave in amount that is not less than two thirds of employee’s regular rate of pay based on number of hours employee would otherwise be scheduled to work
- Narrow exception on reinstatement requirement for employers with less than 25 employees.
- Department of Labor has authority to exempt small businesses with fewer than 50 employees from the public health emergency leave requirements when they would jeopardize the viability of the business as a going concern. Details should be made clearer in DOL regs.
- An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from these requirements. This is a strange exemption to me, but presumably it is to ensure the presence of essential worker in public health emergency situations.



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## Emergency Paid Sick Leave Act

- Requires employers with fewer than 500 employees to provide up to 10 days of paid sick leave at the employee's regular rate of pay to quarantine or seek treatment related to COVID-19.
- The provisions limit pay to two-thirds of the employee's regular rate of pay when the leave is to care for a family member or child. Apparently, the reason that the FMLA Expansion Act permits the first 10 days of leave to be unpaid, is due to the sick pay benefits pursuant to the Emergency Pay Act.
- Employer must provide paid sick time for any of the following reasons ("Sick Time Leave Reasons"):
  - Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
  - Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
  - Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
  - Employee is caring for an individual who is subject to an order as described in the first bullet above or has been advised as described in the second bullet above.
  - Employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
  - Employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor. An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this reason.
- Full-time employees must be granted 80 hours of paid sick time. Part-time employees must be granted a number of hours equal to the number of hours that such employee works, on average, over a two week period.
- Rate of pay for sick time shall be not less than the greater of the following:
  - (1) the employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act (the "FLSA"),
  - (2) the minimum wage rate in effect under section 6(a)(1) of the FLSA, and
  - (3) the minimum wage rate in effect for such employee in the applicable State or locality, whichever is greater, in which the employee is employed. However, with respect to any sick time to care for a family member or child, the employee's required compensation only has to be two-thirds of the amount previously described.
- Cap on mandated pay is:
  - \$511/day and \$5110 in aggregate if leave is needed because of employee's own health or need to quarantine
  - \$200/day or \$2000 in aggregate when leave is due to employee's need to care for family member, child out of school, or other substantially similar condition.
- Paid sick time must be granted in addition to any pre-existing paid leave benefits. Employer may not alter its existing paid leave policy to avoid this provision.
- Paid sick time must be made immediately available for impacted employee, regardless of the length of such employee's employment. Moreover, the employer cannot require that any employee first exhaust other paid leave benefits.
- Paid sick leave shall not carry over from one year to the next.



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- Employers must post a notice of the paid sick time requirements. The Secretary of Labor will draft a model notice that can be used.
  - Anti-discrimination/retaliation provisions:
    - [I] It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who—(1) takes leave in accordance with this Emergency Pay Act; and (2) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Emergency Pay Act (including a proceeding that seeks enforcement of this Emergency Pay Act), or has testified or is about to testify in any such proceeding.
  - An employer who violates the Emergency Pay Sick Leave Act will be considered to have failed to pay minimum wages in violation of the FLSA and subject to the penalties in the FLSA.
  - Department of Labor has the authority to exempt small businesses with fewer than 50 employees from the public health emergency leave requirements when the imposition of such requirements would jeopardize the viability of the business as a going concern, it is unclear precisely how this may be applied.

#### IV. Tax Credits for Paid Sick and Paid Family and Medical Leave

- The FFCRA provides employers certain tax credits with respect to payments required under the new law.
- The paid sick time payroll tax credit can be claimed on a quarterly basis, equal to 100 percent of the amount of sick leave wages paid.
- For wages paid during a FMLA public health emergency leave, a separate payroll tax provision allows a 100 percent credit against the employer's share of the payroll tax for each employee, limited to \$200 per day (\$10,000 per employee total).
- Credits are refundable if it exceeds the amount the employer owes in payroll tax.

