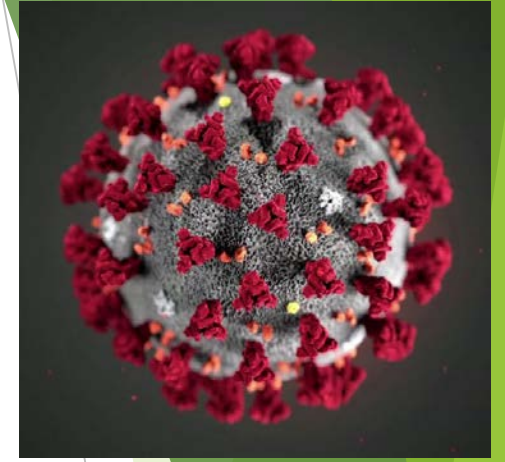


# COVID-19 Mandated Emergency Leaves: Employers with **Less Than** 500 Employees



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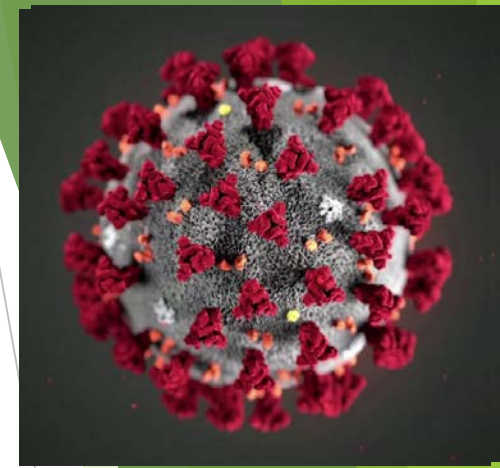
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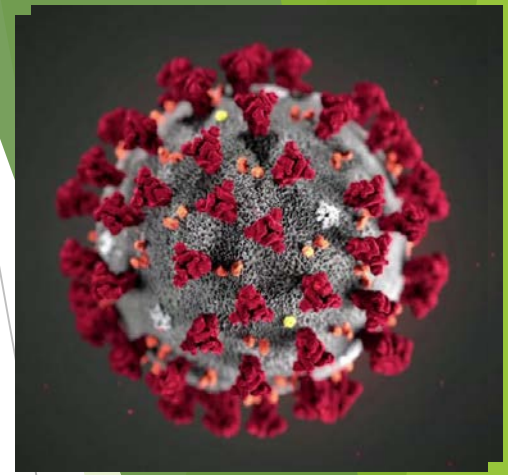


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# Disclaimer

- ▶ The material presented is designed and intended for general informational purposes only.
- ▶ It is not intended and it should not be construed or relied upon as legal advice.
- ▶ For specific information on recent developments, particular factual situations or the effect of a particular law, the opinion of qualified legal counsel should be sought.
- ▶ Consult with your own legal counsel before taking action or making changes.





# Families First Coronavirus Response Act



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# Timeline

## ▶ COVID-19 in US

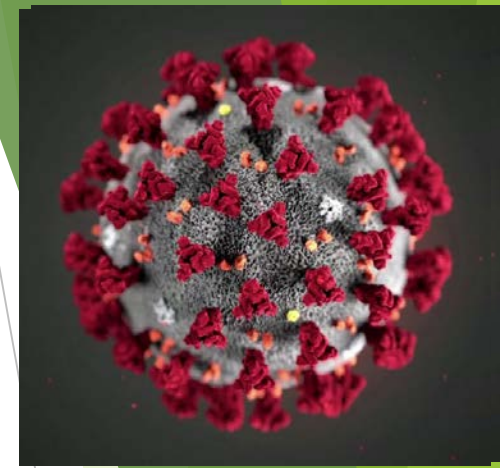
- 1/31/2020 DHHS declares nat'l public health emergency
- 3/9/2020 IA Gov issues Disaster Emergency Proclamation
- 3/11/2020 WHO declares global pandemic
- 3/13/2020 President declares nat'l emergency

## ▶ FFCRA

- 3/14/2020 House passes initial bill, but later revises it
- 3/18/2020 Senate passes revised bill
- 3/18/2020 Signed by President

## ▶ Regulatory Guidance

- 3/20/2020 IRS, Dep't of Treasury & DOL Jt Announcement
- 3/24/2020 DOL Q&A
- 3/24 DOL Field Assistance Bulletin No. 2020-1



# Our Focus

## Primarily

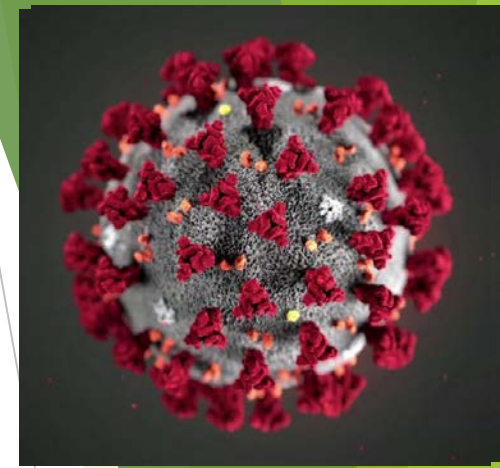
C. Emergency FMLA Expansion Act (EFMLA)

E. Emergency Paid Sick Leave Act (EPSL)

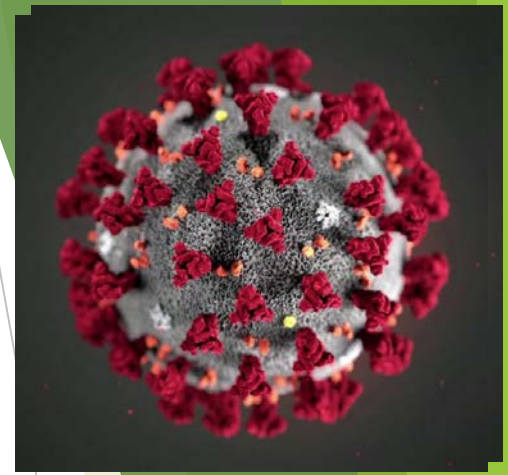
## Secondarily

D. Emergency Unemployment Insurance  
Stabilization and Access

G. Tax Credits for EPSL and EFMLA

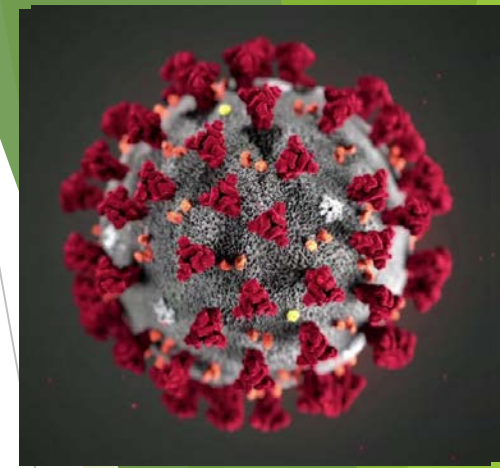


# Points Applicable to EPSL and EFMLA



# Covered Employers

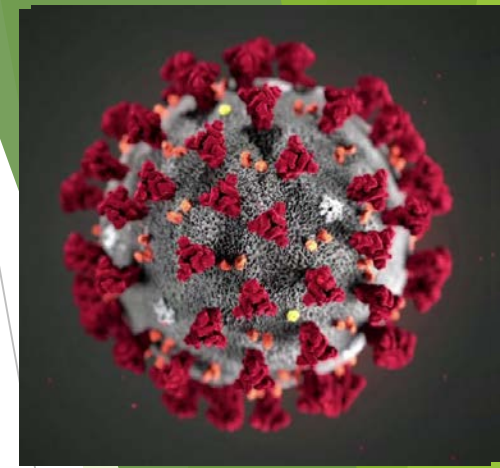
- ▶ Private companies with *fewer than 500* employees
- ▶ Public agencies with 1 or more employees
- ▶ Any other entity that is not a private entity, employing 1 or more persons



# Counting Employees

- ▶ When to Count
  - On the date the employee's leave is to be taken
- ▶ Who to Include in the Count
  - Active employees regardless of hours worked/scheduled
  - Employees on leave (paid or unpaid)
  - Temporary employees who are jointly employed by you and another employer (included in both employers' counts)
  - Day laborers supplied by temporary agencies where there is a continuing relationship (included in both employers' counts)
- ▶ Who to Exclude from the Count
  - True independent contractors
  - Employees who work outside the US or outside of any US territory or possession

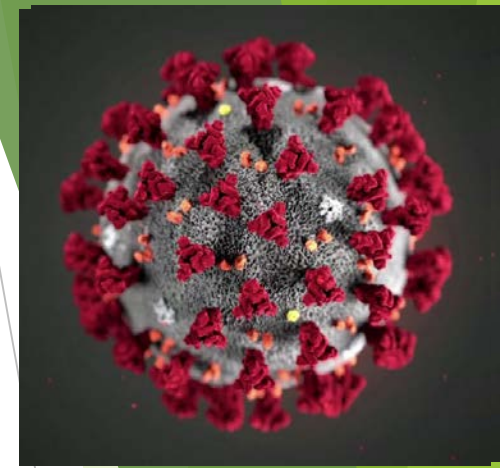
NOTE: These counting rules are different from regular FMLA, but they apply to EFMLA as well as EPSL





# Counting Employees - Related Companies

- ▶ Single Enterprise Factors (EPSL)
  - Companies perform related activities
  - Companies have a unified operation or common control (e.g., management, HR, P/R, accounting, IT, advertising)
  - Companies share a common business purpose
- ▶ Integrated Employer Factors (EFMLA)
  - Common Management, Directors, or Boards
  - Interrelation of Operations (common offices, recordkeeping, bank accounts, equipment)
  - Centralized control of Labor Relations
  - Common ownership and financial control



Be truthful and consider positions you have taken in the past  
for other purposes

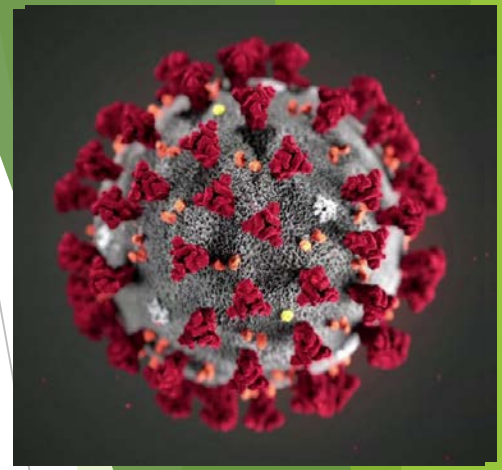


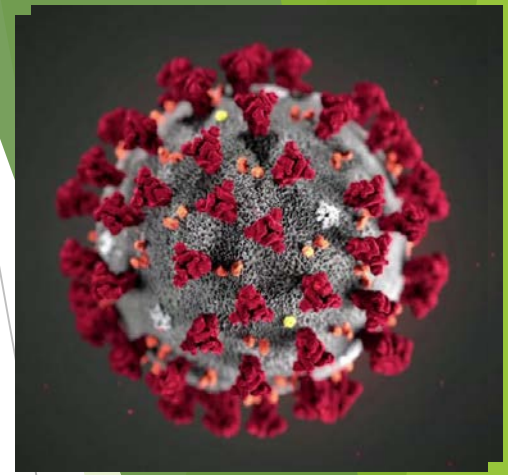
# Limited Time Only

## ► Effective Date

- Statute: “shall take effect not later than 15 days after the date of enactment”
- Presumption: 4/2/2020 (15 days after 3/18/2020)
- DOL 3/24/2020 Q&A:
  - ✓ **“effective on April 1, 2020”**
  - ✓ **No retroactivity**

## ► Ending Date = 12/31/2020





# Emergency Paid Sick Leave

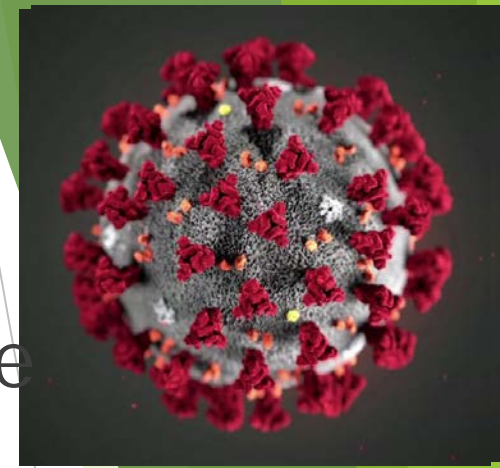


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# Eligibility for EPSL

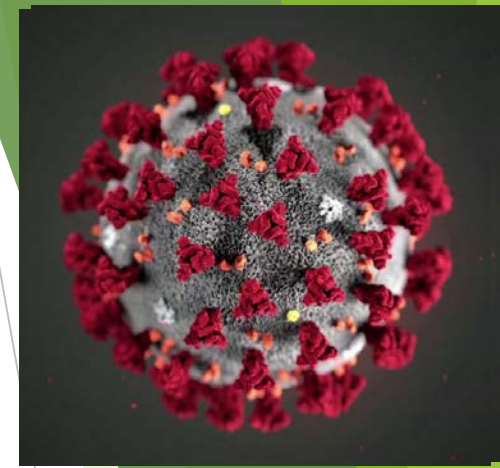
- ▶ All employees are immediately eligible on Day One of employment
- ▶ No need to work a certain number of months or hours over any previous time period



# Qualifying Reasons for Using EPSL

Common to all 6 of the qualifying reasons for using EPSL, and a predicate to each of them, is this requirement:

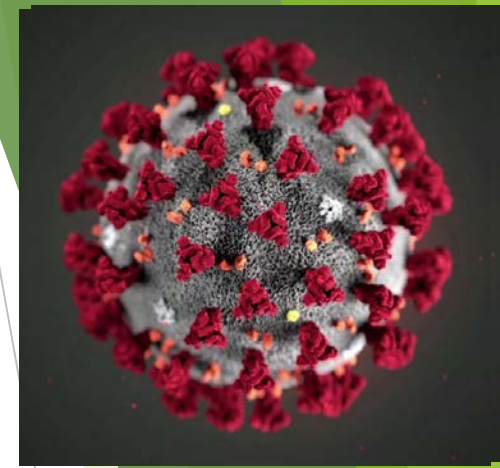
Employee is unable to work or telework due to  
(#1-#6)



# Qualifying Reasons for Using EPSL #1-#3

Employee is personally ill or restricted

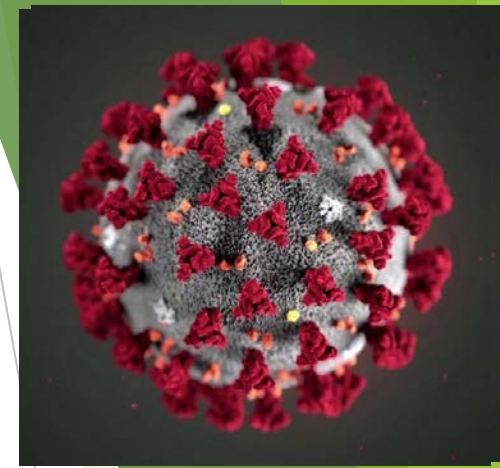
1. Employee is under government quarantine or isolation order related to COVID-19 (from 4/1/2020-12/31/2020)
2. Employee is self-quarantined due to COVID-19 concerns, as advised by a “health care provider” (from 4/1/2020-12/31/2020)
3. Employee is experiencing symptoms of COVID-19 (from 4/1/2020-12/31/2020) and is seeking a diagnosis



# Qualifying Reasons for Using EPSL #4-#6

Employee is caring for another person

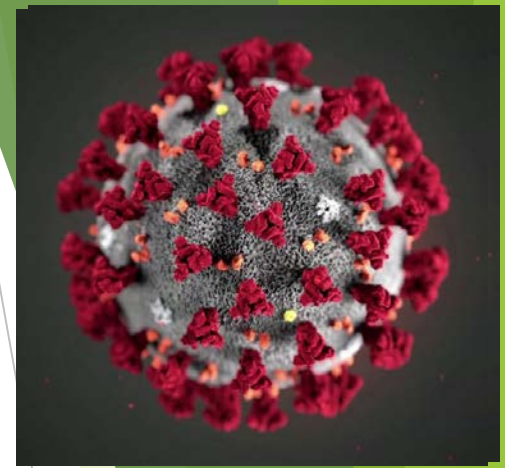
4. Employee is caring for an individual and the individual is experiencing #1 or #2 (from 4/1/2020-12/31/2020)
5. Employee is caring for a son or daughter under 18 y/o whose school was closed **due to COVID-19 precautions**, or whose child care provider is unavailable **due to COVID-19 precautions**, (from 4/1/2020-12/31/2020)
6. Employee is experiencing “any other substantial condition (from 4/1/2020-12/31/2020) specified by the Sec’y of DHHS in consultation with Sec’ys of Treasury & Labor



# Reminder for Employers at 50+

Don't forget Regular FMLA.

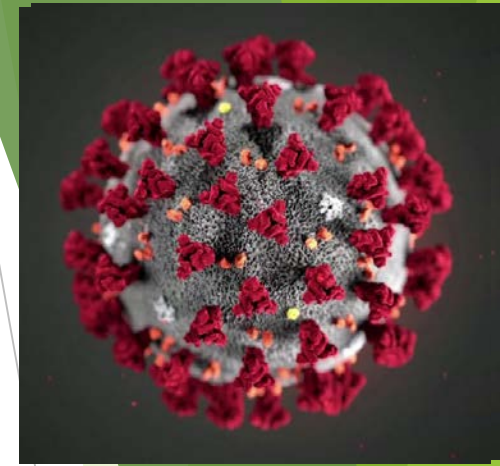
It may apply to an employee's absence under  
EPSL Qualifying Reasons #1-#4





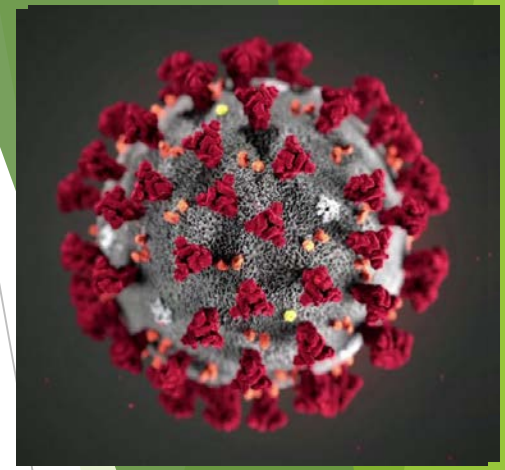
# Definitions

- ▶ Several terms used in these 6 qualifying reasons for using EPSL beg to be defined
- ▶ The EPSL it does not define these terms:
  - Government quarantine or isolation order
  - School (defined in EFMLA)
  - Child care provider (defined in EFMLA)
  - Unavailable
- ▶ Some Regular FMLA definitions were incorporated
  - Health Care Provider
  - Son or Daughter



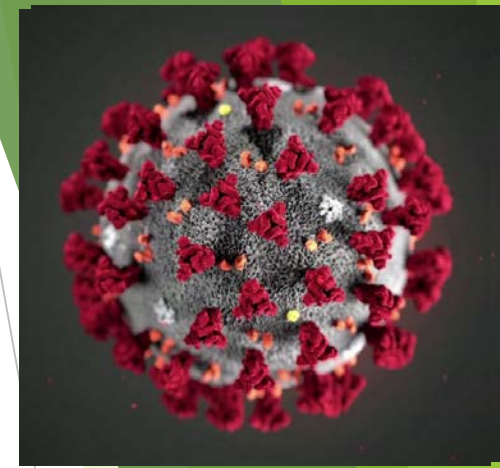
# Health Care Provider Under the Regular FMLA Statute Also Used for ESPL #2

- ▶ A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices, or
- ▶ Any other person determined by the Secretary to be “capable of providing health care services”



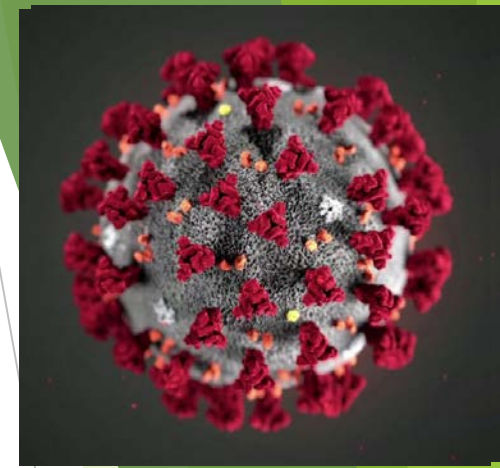
# Others “Capable of Providing Health Care Services” in the Regular FMLA Regulations

- ▶ Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist)
- ▶ Nurse practitioners, nurse midwives, clinical social workers and physician assistants
- ▶ Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts
- ▶ Any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits
- ▶ A health care provider listed above who practices in a country other than the U.S.



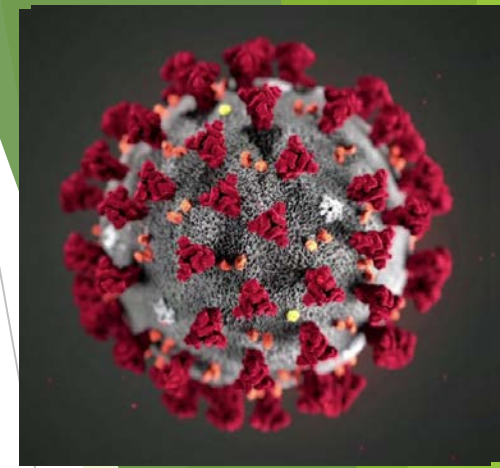
# Certification of Qualifying Reasons for Taking EPSL

- ▶ No provision allowing or prohibiting Employers from requesting certification for EPSL
- ▶ Likely could request it
- ▶ Be flexible
  - Doctor's notes and medical certifications will be difficult to get during a pandemic
  - School closings are public information
  - May require name(s) for Reason #4
  - May require proof of relationship for #5
  - May require copy of quarantine or isolation order for #1
  - May have to accept employee's word for some things



# How Much EPSL Can Employees Get

- ▶ Full Time Employees
  - 80 hours (generally, 10 working days)
- ▶ Part Time Employees with standard hours
  - Average hours worked over a 2-week period
- ▶ Part Time Employees with varying hours
  - Average hours scheduled per day over 6 months prior to use of EPSL (incl. paid time off)
  - If employee did not work entire previous 6 months, the reasonably expected average hours that would normally be scheduled per day as “*agreed*” at hire
  - *If no agreement, then average hours per day the employee was scheduled to work over the entire term of his employment*



# Calculating EPSL Pay - General Formula

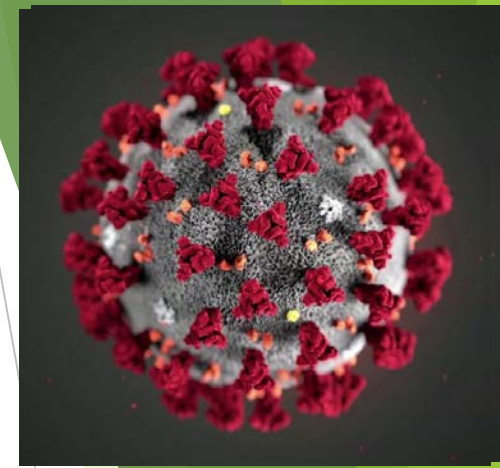
Number of hours employee would normally be scheduled to work during the EPSL period

X

The Greater of:

- Employee's "regular rate of pay," under FLSA  
<https://www.dol.gov/agencies/whd/fact-sheets/56a-regular-rate>
- Federal Minimum Wage (\$7.25/hour)
- State Minimum Wage (\$7.25/hour in IA)

None of these pay options captures an Exempt employee's pay rate. Assume: Use base salary converted to hourly rate?



# Calculating EPSL Pay - Reasons #1-#3

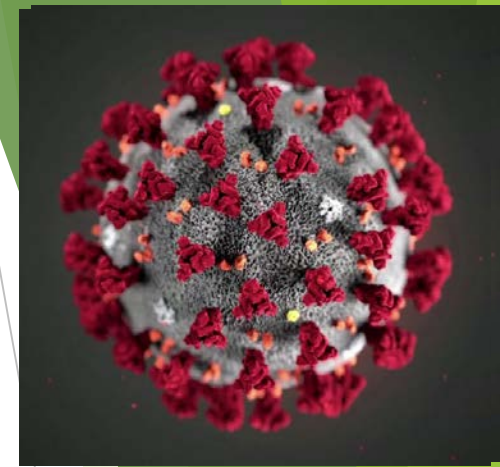
- ▶ 100% of the calculation, per the General Formula slide
- ▶ Subject to these maximums/caps

- \$511/day

Assuming 8 hrs/day, pay rates can be up to \$63.875/hour before EPSL pay must be reduced to fit under the daily pay cap

- \$5,110 in total

- ▶ If you want to be generous for employees who are paid above the caps, you can exceed the caps, but the tax credit will be limited to the capped amounts



# Calculating EPSL Pay - Reasons #4-#6

- ▶ 67% of the calculation, per the General Formula slide
- ▶ Subject to these maximums/caps

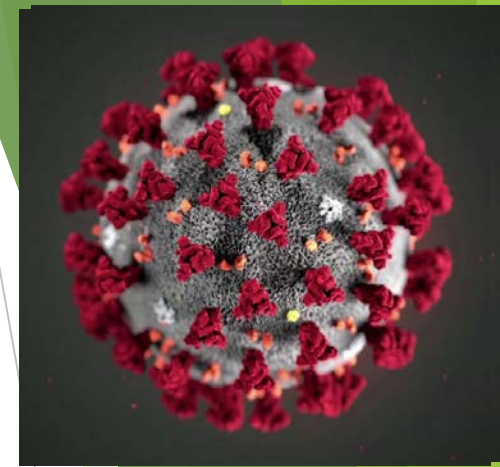
- \$200/day

Assuming 8 hrs/day, pay rates can be up to \$37.31/hr before EPSL pay must be reduced to fit under the daily pay cap

$$\$37.31/\text{hr} \times 67\% = \$25/\text{hr} \text{ (the cap)}$$

- \$2,000 in total

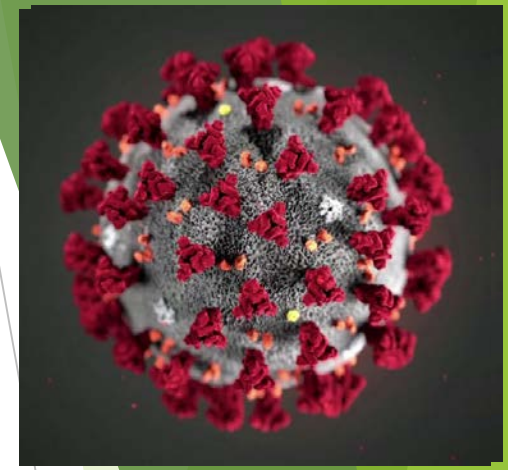
- ▶ Again, if you want to be generous and pay above the caps, you can exceed the caps, but the tax credit will be limited to the capped amounts





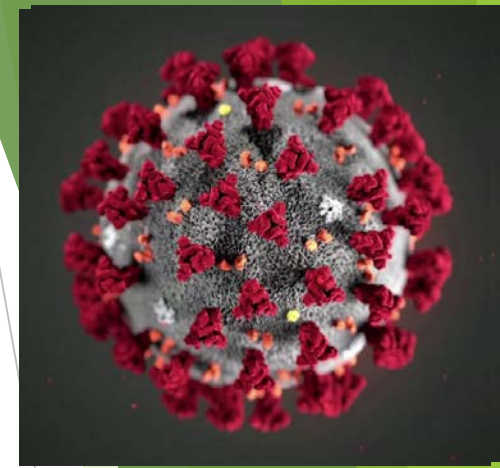
# Help on Calculating EPSL

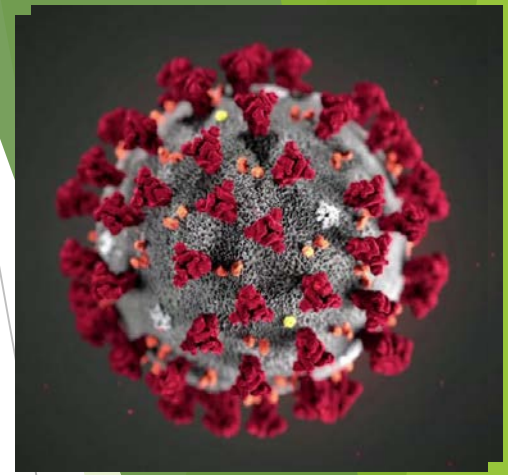
- ▶ DOL is required to issue “guidance” on these pay calculations withing 15 days after enactment.
- ▶ Has up to 4/2/2020 to get that out



# Other EPSL Rules

- ▶ EPSL does not diminish rights or benefits under other laws, a collective bargaining agreement, or existing employer policies
- ▶ Cannot require use of other paid leaves before using EPSL
- ▶ Cannot discipline, discharge, or discriminate against persons who take EPSL or who file a complaint or proceeding, or testify in such an action
- ▶ Can require reasonable notice procedures be followed in order to continue on EPSL
- ▶ EPSL ends with the employee's next scheduled workshift immediately following the termination of the reason for EPSL
- ▶ EPSL cannot be converted to cash in lieu of taking leave
- ▶ EPSL cannot be carried over
- ▶ Poster [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)





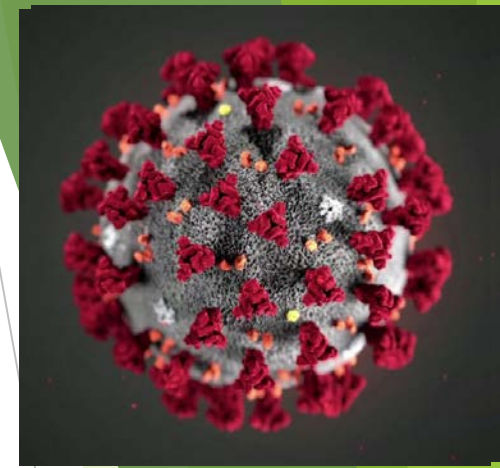
# Emergency FMLA Leave



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# EFMLA Amends FMLA

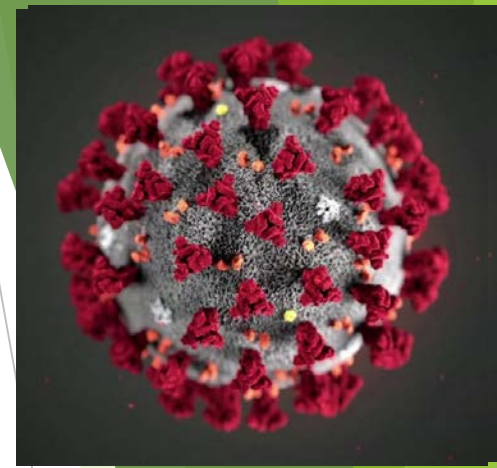
- ▶ The EFMLA Division of the FFCRA amends the existing law for Regular FMLA.
- ▶ Where the EFMLA does not speak, the FMLA will speak
- ▶ This is a problem for employers under 50 employees who are not familiar with FMLA



# Eligibility for EFMLA

- ▶ Employed at least 30 days on the date EFMLA leave is requested
- ▶ Time worked as a temp counts toward the 30 days
- ▶ Drastically shorter time to become eligible than under Regular FMLA

NOTE: Being eligible for EFMLA is different from having a qualifying reason to use EFMLA. This is a concept in Regular FMLA, and one FMLA-covered employer sometimes doesn't grasp

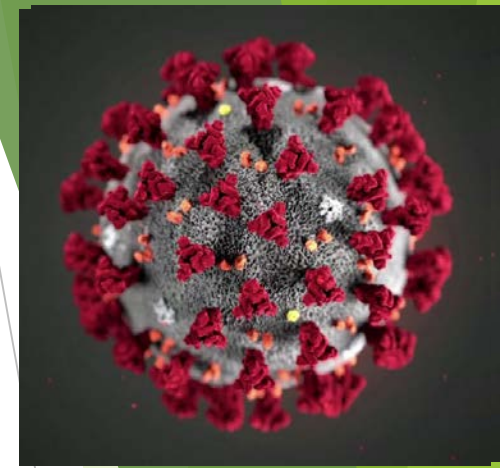


# Qualifying Reason for Using EFMLA

Employee is unable to work or telework due to a need for leave to care for son or daughter under 18 y/o if

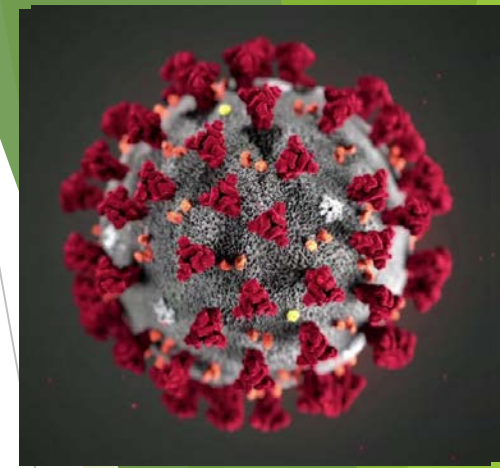
- ▶ School or place of care has been closed due to a **public health emergency** (from 4/1/2020-12/31/2020)
- ▶ Child care provider is unavailable due to a **public health emergency** (from 4/1/2020-12/31/2020)

NOTE: Almost identical to Reason #5 to use EPSL, except that says “due to COVID-19 precautions” and this one says “due to a public health emergency.” Does the difference matter?



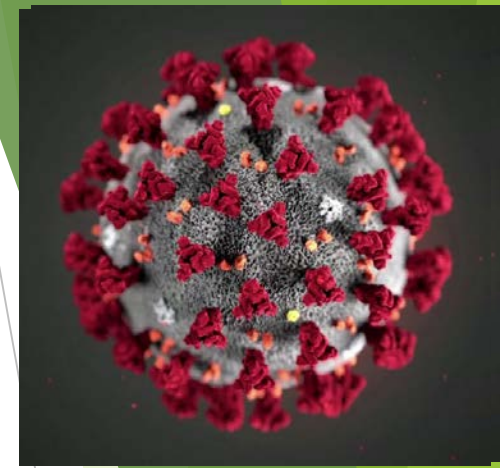
# Definitions for EFMLA

- ▶ **Public Health Emergency**  
COVID-19 emergency as declared by federal, state, or local authority
- ▶ **Son or daughter (regular FMLA definition)**  
Biological, adopted, foster, step, or legal ward, or a child of a person standing in loco parentis, who is under 18 y/o or over 18+ and incapable of self-care
- ▶ **School**  
Elementary or secondary school
- ▶ **Child Care provider**  
One who receives compensation for providing child care services on a regular basis



# How Much EFMLA Is Available for Use

Up to 12 weeks



## Unanswered Questions

- ▶ Is this in addition to Regular FMLA the employee may have taken before 4/1/2020?
- ▶ Is this in addition to Regular FMLA the employee may take between 4/1/2020-12/31/2020?
- ▶ If an employee is on Regular FMLA on 4/1/2020, and is also eligible for EFMLA on 4/1/2020, do we have to switch them to EFMLA?





# EFMLA Pay

First 2 weeks: Unpaid, or EPSL, or *employee can elect* to use other paid leaves if EPSL is used

Weeks 1-2

Weeks 3-12

EFMLA: Unpaid 2 wks

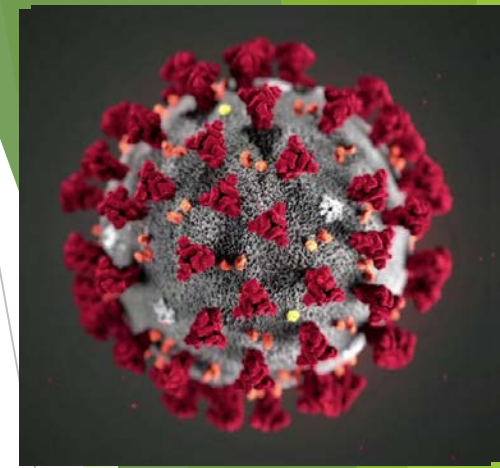
EFMLA: Paid at 67% for up to 10 weeks

EPSL: 67% for 80 hrs

Other Pd Leaves

Other Pd Leaves to Top-Off for the remaining 33% of Pay

Last 10 weeks: 67% of Pay



# Calculating EFMLA Pay for Weeks 3-12

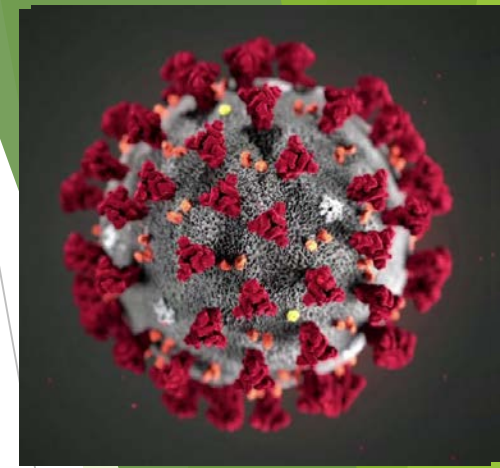
Number of hours employee would normally be scheduled to work during the EFMLA period

X

Employee's "regular rate of pay," under FLSA

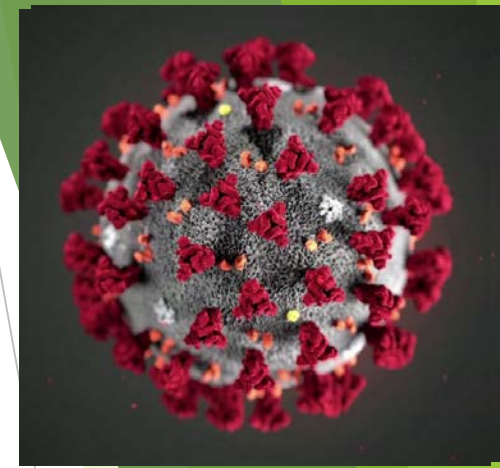
<https://www.dol.gov/agencies/whd/fact-sheets/56a-regular-rate>

NOTE: Again, this does not capture an Exempt employee's pay rate. Assume: Use base salary converted to hourly rate?



# Determining Hours for EFMLA Pay Calculations

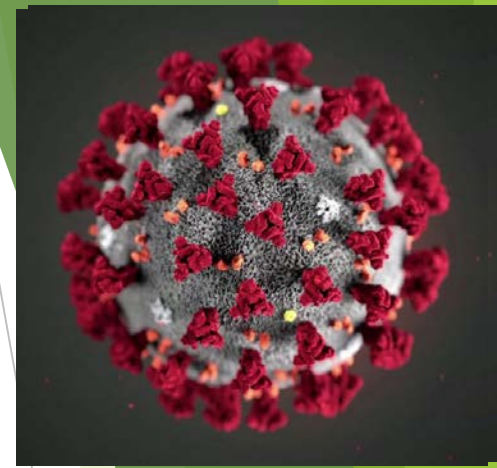
- ▶ Number of Hours the employee would otherwise be normally scheduled to work
- ▶ If hours vary with inability to determine work hours with certainty, then
  - ▶ The average hours scheduled per day over the 6 months just preceding the date EFMLA is to begin (include paid time off)
  - ▶ If the employee did not work for 6 months, then use the hours ~~the Employer reasonably expected~~ “*agreed*” the employee ~~to~~ *would* be normally scheduled to work, at hire
  - ▶ *If no agreement, then average hours per day the employee was scheduled to work over the entire term of his employment*



# EFMLA Maximums/Caps

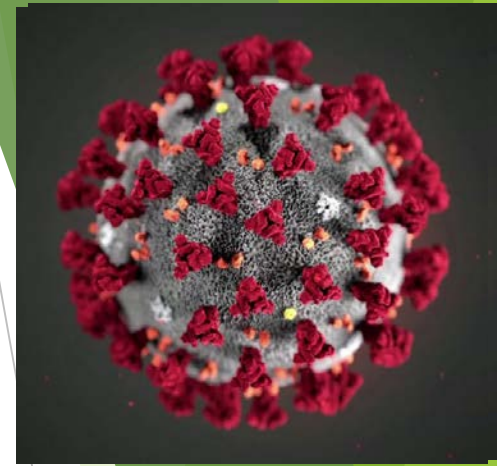
- ▶ \$200/day
  - Assuming 8 hrs/day, pay rates can be up to \$37.31 before EFMLA pay must be reduced to fit under the daily cap
  - If pay is reduce to fit under the cap, employees can top-off with a higher percentage of other paid leaves
- ▶ \$10,000 in aggregate over the 10 weeks of EFMLA during which pay is required

NOTE: If the employee gets 2 weeks of EPSL for Reason #5 and EFMLA for another 10 weeks, they can get a maximum of \$12,000



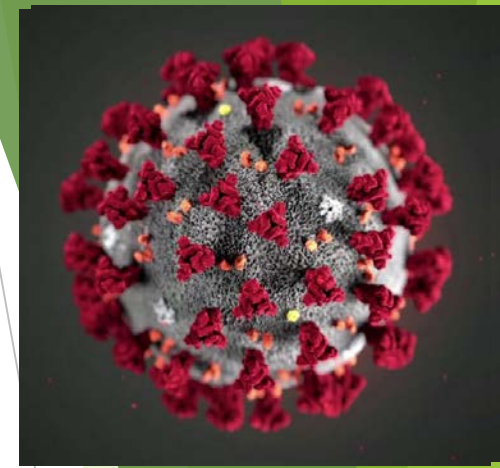
# How Can EFMLA Be Requested

- ▶ Employees must request EFMLA as far in advance of the start of it as practicable under the circumstances
- ▶ Given the circumstances, very little advance notice can be anticipated
  - In Iowa, schools are already closed when EFMLA rights begin on April 1, 2020
  - Currently, Gov. Reynolds has recommended schools stay closed through April 13



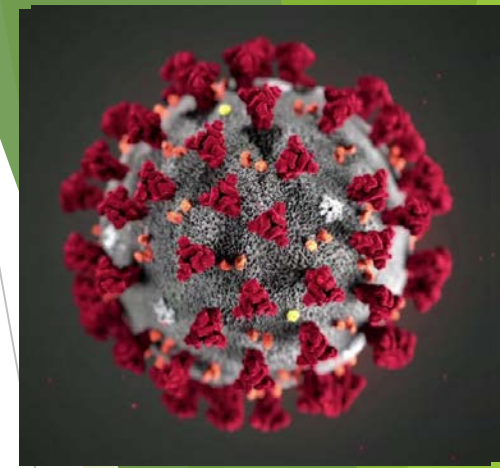
# How Can EFMLA Be Used

- ▶ Regular FMLA can be used in 3 ways
  1. Single continuous block of time
  2. On a reduced work schedule
  3. Intermittently, as needed and whenever needed
- ▶ EFMLA is silent about how it can be used
- ▶ When EFMLA does not speak, Regular FMLA does



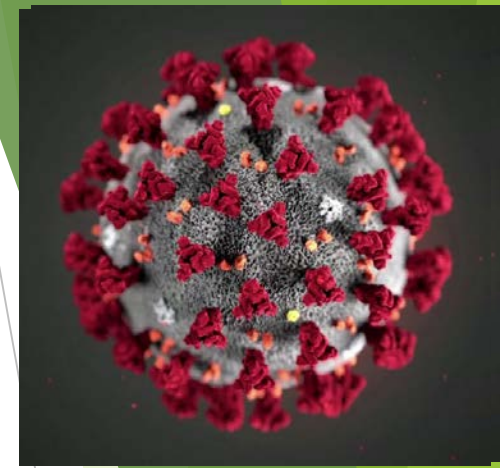
# Parental Sharing (a/k/a spousal sharing)

- ▶ If both parents work for the same employer, Regular FMLA for a sick child allows each parent their own 12 weeks of FMLA leave
- ▶ An Employer may require the parents to share a total of 12 weeks of Regular FMLA if both parents work for the same employer and the time off is to bond with a new child within the first year of life or placement
- ▶ EFMLA is silent about parental sharing
- ▶ When EFMLA does not speak, Regular FMLA does—but what is FMLA saying here?



# Benefit Continuation

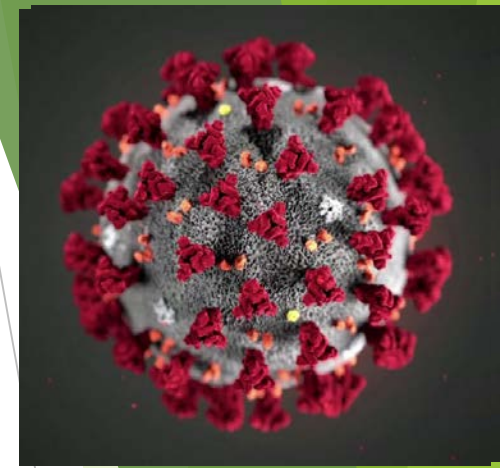
- ▶ Under Regular FMLA, benefits must be continued, as usual, but paid leave accruals may stop if they stop for other/similar kinds of leaves
- ▶ EFMLA is silent on this
- ▶ When EFMLA does not speak, Regular FMLA does





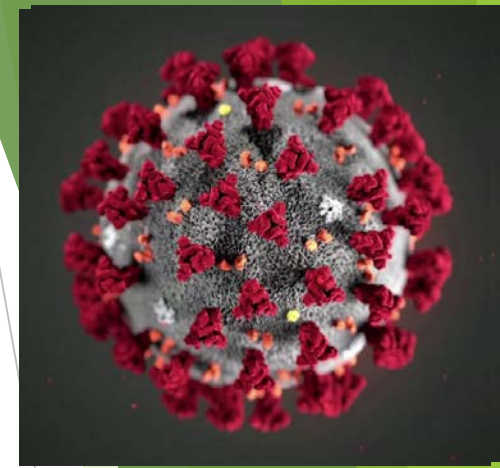
# Discipline/Termination

- ▶ Under Regular FMLA, employees cannot be discipline or terminated for FMLA absences (excused from regular absenteeism programs)
- ▶ EFMLA is silent on this
- ▶ When EFMLA does not speak, Regular FMLA does

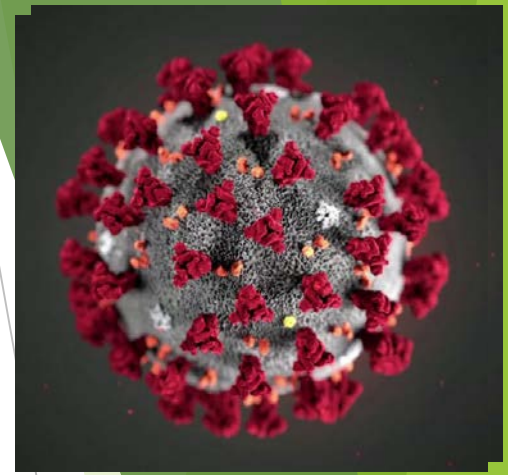


# Job Restoration

- ▶ Under Regular FMLA, employees who return when or before they use up all of their FMLA, are entitled to be restored to their previous job, or an equivalent job
  - However, employees on FMLA have no greater right to continued employment or job restoration than they would have had if they had not been on FMLA leave
- ▶ EFMLA provides an exception to job restoration for the smallest of employers (those under 25 employees), and it has strings attached (discussed later), but it is otherwise silent
- ▶ When EFMLA does not speak, Regular FMLA does

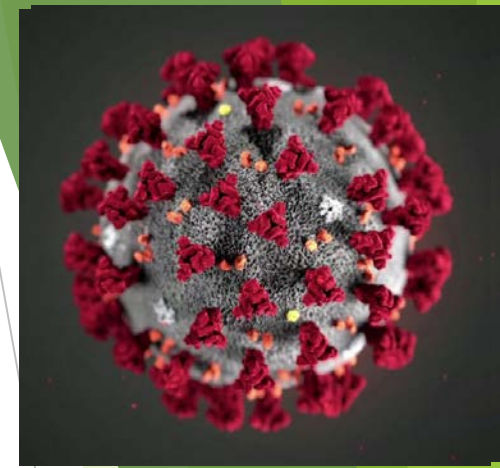


# Exclusions, Exemptions, Exceptions, and Enforcement (Oh My!)



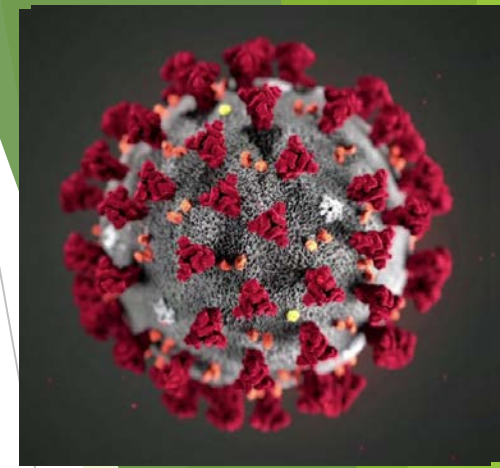
# EPSL & EFMLA Exclusions - Employer Choice

- ▶ Employees who are “first responders”
  - No definition provided or referred to
- ▶ Employees who are “health care providers”
  - Refers to Regular FMLA definition of HCPs
  - Exclusion does not apply to entire workforce of an employer who provides health care services
  - Must evaluate each employee to see they qualify as a HCP under Regular FMLA definition



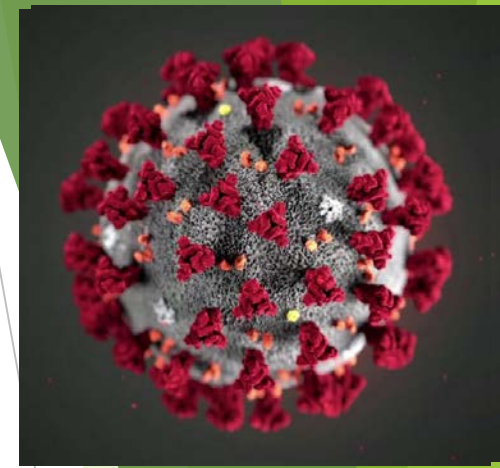
# Health Care Provider Under the Regular FMLA Statute

- ▶ A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices, or
- ▶ Any other person determined by the Secretary to be capable of providing health care services



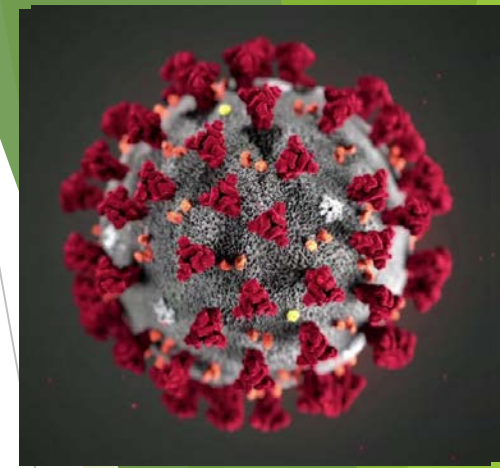
# Others “Capable of Providing Health Care Services” in the Regular FMLA Regulations

- ▶ Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X ray to exist)
- ▶ Nurse practitioners, nurse midwives, clinical social workers and physician assistants
- ▶ Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts
- ▶ Any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits
- ▶ A health care provider listed above who practices in a country other than the U.S.



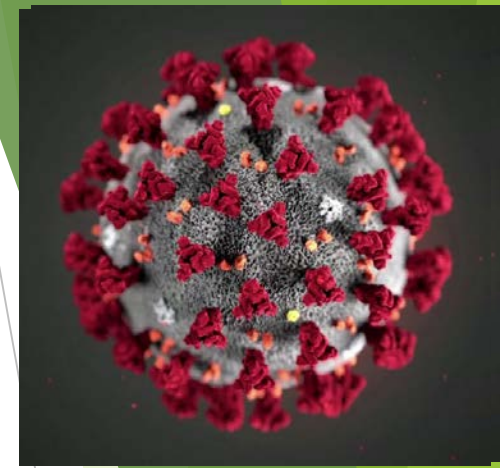
# EPSL and EFMLA Exemption

- ▶ A total exemption from EPSL and EFMLA requirements is provided for
  - Businesses with less than 50 employees
  - Conditions
    - ✓ For good cause, and
    - ✓ Imposition of FFCRA would “jeopardize the viability of the business as a going concern”
- ▶ DOL to issue guidance



# EFMLA Job Restoration Exception

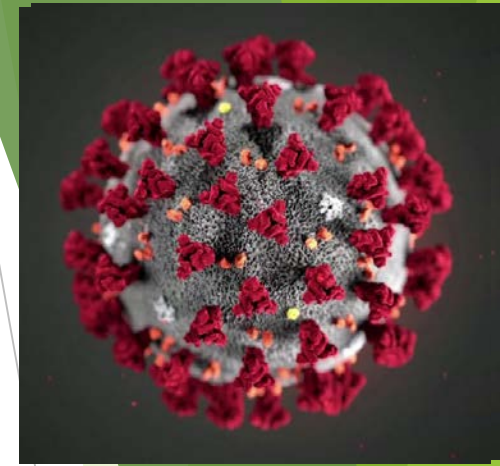
- ▶ Restoration to the previous job may be denied if all of these conditions are met
  1. Employer employs 1-24 employees (less than 25)
  2. Employee was using EFMLA and had not gone exceeded EFMLA leave rights
  3. Employee's job no longer exists *because of* COVID-19 conditions occurring during the period of EFMLA leave
  4. Employer made *reasonable* efforts to restore the employee to an *equivalent* position, but failed
  5. Employer made reasonable efforts to contact the employee during a "contact period" when an equivalent position became available
- ▶ Contact Period is 1 year beginning on the earlier of either
  - The date when the EFMLA qualifying reason ended, or
  - 12 weeks after the date when the employee's EFMLA began





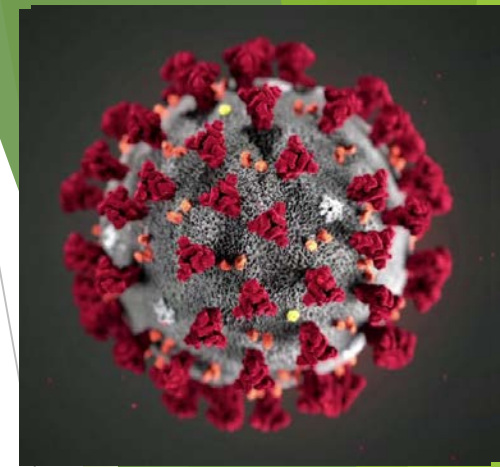
# Enforcement - EPSL

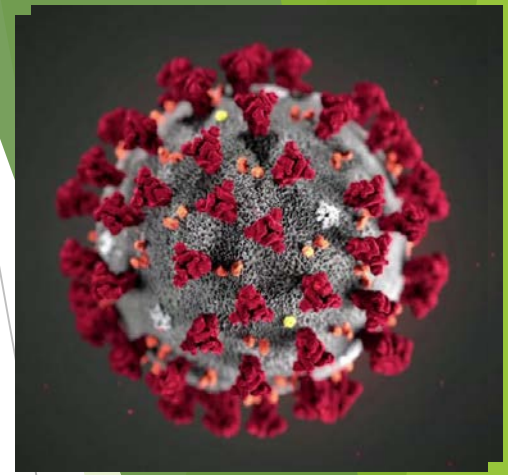
- ▶ Violation is considered a “failure to pay minimum wage” and a violation of FLSA
  - How that applies to Exempt employees not subject to minimum wage provisions is unclear
  - Another indication EPSL may have been intended for only Non-Exempt employees
- ▶ Regular FLSA penalties apply
  - Lost pay
  - Liquidated damages of 1X lost pay
  - Employee’s attorneys’ fees and costs of litigation
  - (You also pay your own costs of defense and attorney’s fees)
- ▶ DOL will not enforce the EPSL for 30 days from enactment, or through April 17



# Enforcement - EFMLA

- ▶ Regular FMLA causes of action
  - Interference with EFMLA rights
  - Discrimination/Retaliation for requesting or using EFMLA
- ▶ Regular FMLA penalties
  - Injunctions
  - Actual monetary losses
  - Lost wages and benefits
  - Liquidated Damages at 1X lost wages and benefits
  - Employee's costs of litigation and attorneys' fees
  - (You also pay your own costs of defense and attorney's fees)
- ▶ DOL will not enforce the EPSL for 30 days from enactment, or through April 17
- ▶ **Exception: Employers not covered by Regular FMLA are not subject to private lawsuits for violating EFMLA. Assume you are subject to administrative action by DOL, however.**



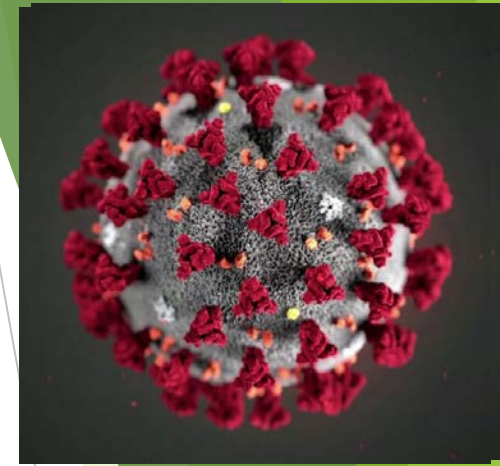


# Tax Credits



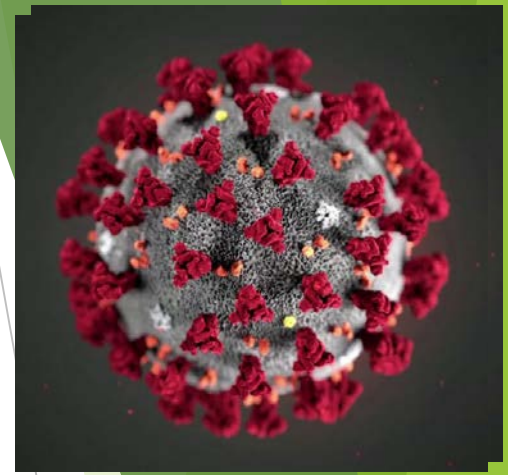
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# Employer Tax Credits



- ▶ Dollar-for-dollar tax credit on EPSL and EFMLA payments
  - Statute: Tax Credits are taken against Employer's share of FICA payments
  - IRS Guidance: Tax Credits are taken against any portion of 941 Federal Tax Withholding payment (federal income tax, and employer and employee shares of FICA)
  - Begin on the date set by IRS, ends on 12.31.2020
- ▶ Tax credit also available for Employer's qualified health care expenses that can be allocated to EPSL and EFMLA payments (and costs to maintain health insurance coverage during EPSL and EFMLA leaves)
- ▶ Employers may choose not to take tax credits





# Job Loss and Unemployment Enhancements in FFCRA

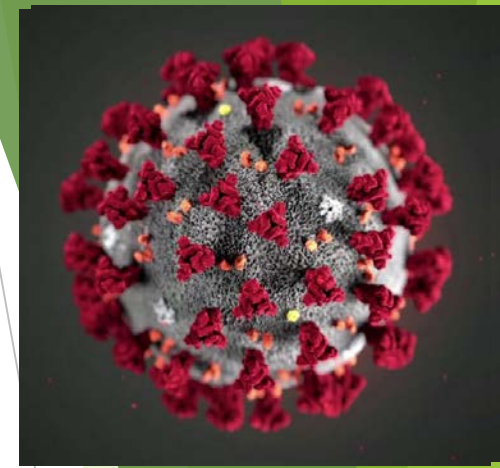


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# Job Loss and Emergency Paid Leaves

- ▶ If employees' hours are reduced, or they are laid off, or RIF'd before 4/1/2020, do they have any EPSL or EFMLA rights?
- ▶ If employees work reduced hours on or after 4/1/2020, do they still have EPLS or EFMLA rights?



# Terminology Matters

- ▶ Furlough

Requiring employees to work fewer hours or take unpaid time off on a temporary basis. *Can consider IWD's Voluntary Shared Work Program for 20%-50% reductions in hours:*

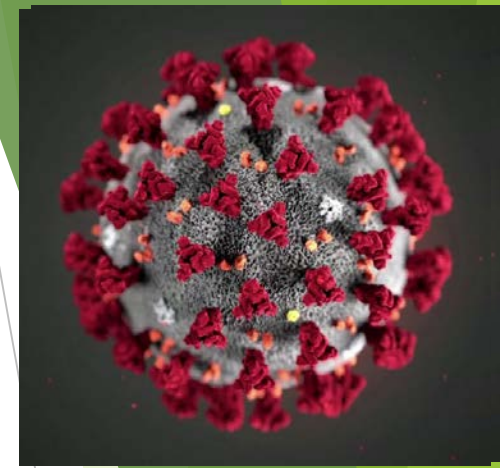
<https://www.iowaworkforcedevelopment.gov/voluntary-shared-work-program>

- ▶ Layoff

Temporarily taking some employees off payroll because of a lack of work, or lack of funds to pay, with the intention of recalling the employee later when circumstances change (which is expected)

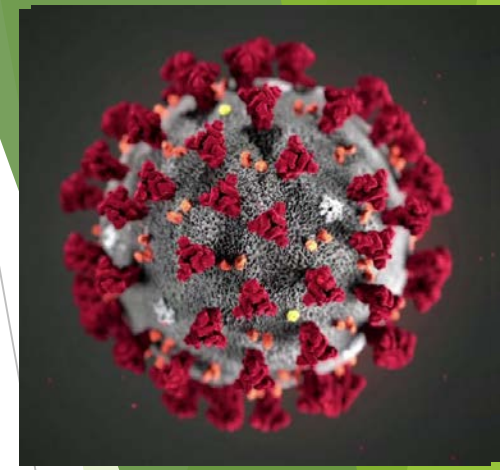
- ▶ Reduction in Force (RIF) or Termination

Job is eliminated with no intention of replacing it; an expected permanent reduction in headcount



# FFCRA Xtra Cushion for Unemployment

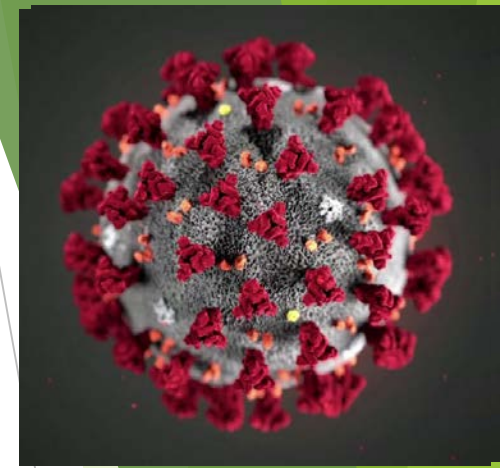
- ▶ Federal government grants available to states for UI claims due to COVID-19
- ▶ Half of that can be used to cover administrative costs
- ▶ To get money, State must
  - Have a 10% increase in UI claims
  - Commit to maintain & strengthen access to its UI system
  - Demonstrate easing eligibility requirements & access, such as:
    - ✓ Waive the waiting week to get first UI comp payment
    - ✓ Waive work search requirements to maintain UI comp payments
    - ✓ Don't charge employers' accounts





# Paid Leave and UI Comp Benefits

- ▶ Paid Leave before UI Comp Benefits
  - Must use paid leave before loss of employment, **OR**
  - Must pay out accrued unused paid leaves (per your policies),
  - Unless on the VSW program offered by IWD
- ▶ Why
  - UI is not a substitute or replacement for paid leave the employer is able to fund before loss of employment
  - UI is an income source of 'last resort'
  - IWD must preserve the Trust Fund for as long as possible
  - Using paid leave keeps employees on benefits
  - UI averages less than 50% of pay while paid leave is 100% of pay (and some emergency leaves are 67% of pay)
- ▶ Delays start of UI
  - Using paid leave extends separation date and start of UI
  - Paying for unused paid leave delays the start of UI



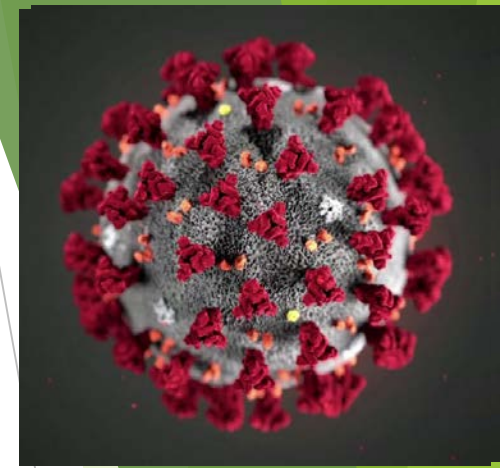
# Iowa Workforce Development

## ► Process

- Employers notify employees if employment loss is due to COVID-19
- Claimants check on application: "You are filing due to a temporary layoff as a result of COVID-19 (coronavirus)"
- IWD will notify Employers of such claims
- First payment expected in 7-10 days

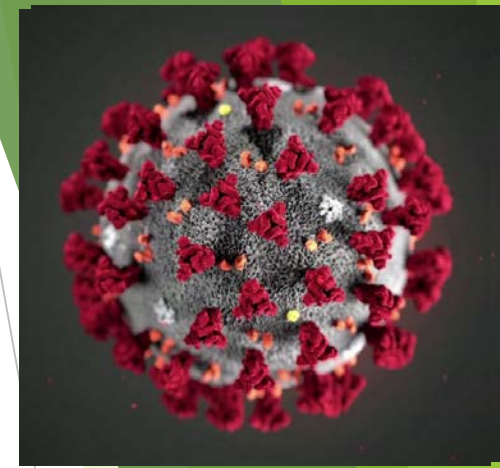
## ► Special Rules/Handling

- Fact Finding interviews waived
- IWD will not judge or investigate validity of the claim for benefits due to COVID-19 (Employers must protest if the claim is untrue)
- Job Search requirements are waived
- Still must report weekly, including any wages earned
- Employer accounts not charged; paid from UI general fund\*



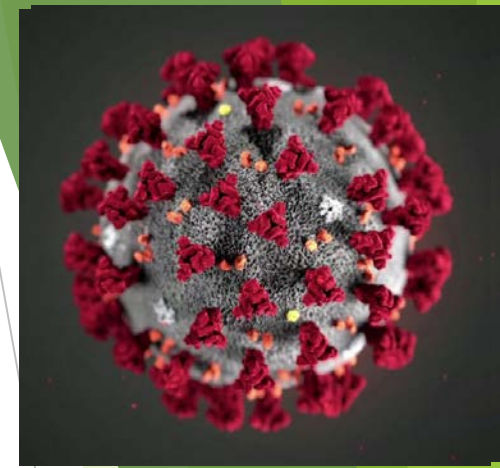
# Benefit Continuation

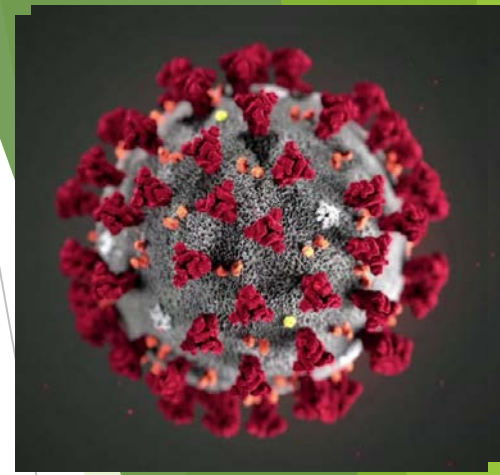
- ▶ While on EPSL (and first 80 hours/2 weeks of EFMLA)
  - Benefits continued as normal
  - Get tax credit here (but probably not needed)
- ▶ While on last 10 weeks of EFMLA
  - Must continue benefits as if still working (same as for Regular FMLA)
  - Not a qualifying event that triggers COBRA or 509B
  - Employee must timely pay his/her share of premiums
  - Get tax credit here
- ▶ COBRA or 509B Notice of Health Benefit Continuation for loss of employment (qualifying events)
  - Furlough (reduction in hours)
  - Lay Off (temporarily off payroll; subject to recall)
  - Reduction in Force or Other Permanent Termination



# IOWA'S WARN ACT

- ▶ Requires employers with 25 or more employees (excluding part-time employees) to provide notice of **business closings** and **mass layoffs** or face penalties for failing to do so
- ▶ Required Notice: Must provide at least 30 days' written notice prior to the effective date of any mass layoff or business closing.
- ▶ Notice Recipients: The notice must be provided to all affected employees, or their representatives, and the Department of Workforce Development (DWD).
- ▶ Exceptions that may apply to COVID-19: (1) unforeseen circumstances; and (2) natural disaster.
  - ▶ Still required to provide a statement of explanation for reducing the notice period in addition to the notice requirements in the law





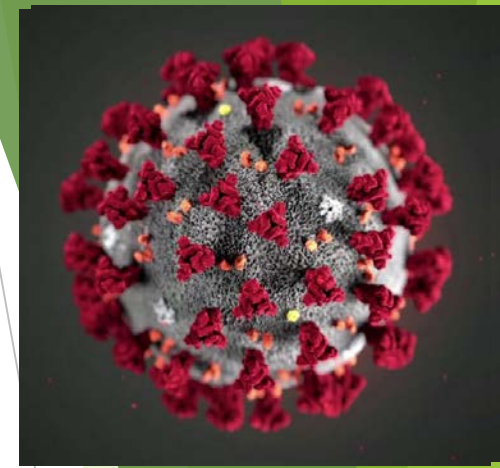
# Employer To-Do List



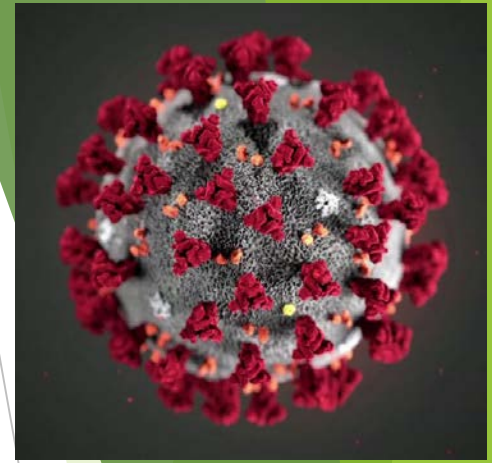
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# To-Do

- ▶ Get and Stay Informed on at least a daily basis
- ▶ Get Payroll (accounting) and HR together to track paid leaves and make it easy to take tax credits
- ▶ Get new Policies and Forms
  - EPSL Policy
  - EFMLA Policy
  - EPSL/EFMLA Request Form
- ▶ Get Information out to Employees - Poster, Policies, Forms
- ▶ Get your Tax Credits
- ▶ Get Help if you are lost, confused, or have questions



# Thank You!



Jill R. Jensen-Welch



Six Feet of  
Separation



Melissa A. Schilling



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