**Two notes of clarification from the most recent Department of Labor regulations:**

**Definition of “Health Care Provider.”**

For the purposes of employees who may be exempted from leave, the DOL clarified that this does not only encompass those who actually provide clinical or medical services. Rather, the term includes “anyone employed at any doctor’s office, hospital, health care center, clinic, post- secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity.” This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

**Small Business Exemption**. Employers with under 50 employees can be exempt from providing paid leave under Families First due to their child’s school or caregiver being closed/unavailable when it “would jeopardize the viability of the business as a going concern.” One of the following must be met:

(i) The leave would result in the small business’s expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;

(ii) The absence of the employee(s) would entail a substantial risk to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities; or

(iii) There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee(s), and these labor or services are needed for the small business to operate at a minimal capacity.

To elect this “small business” exemption, the employer must document its determination of one of the above factors and retain the records in its files. Regardless of whether a small employer chooses to exempt one or more employees, the employer is still required to post the required notice.