



Good afternoon,

The Department of Labor continues to issue important guidance related to the Families First Coronavirus Response Act (FFCRA). More specifically, they've addressed several sections of the Act that were not entirely clear when it was first signed into law. In today's FAQs we have highlighted a few of those specifics.

Q: What records do I need to keep when my employees take paid sick leave or expanded family and medical leave?

A: Private sector employers that provide paid sick leave and expanded family and medical leave under the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits. If you intend to claim a tax credit under the FFCRA for your payment of the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records.

If one of your employees takes expanded family and medical leave to care for his or her child because their school or place of care is closed or their childcare provider is unavailable due to COVID-19, you may also require your employee to provide you with documentation in support of such leave, to the extent permitted under the certification rules for conventional FMLA leave requests. For example, this could include a notice that has been published in a newspaper, posted on a government, school, or day care website, or an email from an employee or official of the school, place of care, or childcare provider.

For clients whose payroll is processed by LBMC Employment Partners, please contact your Payroll Specialist for the codes that should be used to report time that is taken under the two parts of the Act so that hours can be accurately tracked. Also, for our PEO clients, please reach out to your HR Manager for assistance if an employee requests leave under the expanded FMLA.

Q: Who qualifies as a "health care provider" and thus may be excluded by their employer from paid sick leave and/or expanded family and medical leave?

A: For the purposes of the FFCRA, a health care provider is anyone employed at any of the following:

1. Doctor's office
2. Hospital
3. Health care center
4. Clinic
5. Post-secondary educational institution offering health care instruction
6. Medical school
7. Local health department or agency
8. Nursing facility
9. Retirement facility

10. Nursing home
11. Home health care provider
12. Any facility that performs laboratory or medical testing
13. Pharmacy
14. Any entity that contracts with any of the above institutions, employers, or entities to provide services or to maintain the operation of the facility.
15. Any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19-related medical equipment, tests, drugs, vaccines, diagnostic vehicles or treatments.
16. Any individual determined to be a “health care provider” necessary for a state’s or territory’s response to COVID-19, as determined by the highest official of each such state or territory (including the District of Columbia).

Q: Who qualifies as an “emergency responder” and thus may be excluded by their employer from paid sick leave and/or expanded family and medical leave?

A: For the purposes of the FFCRA, an employee who is necessary for the provision of transport, care, health care, comfort and nutrition of patients, or whose services are otherwise needed to limit the spread of COVID-19. This definition includes, but is not limited to:

1. Military or national guard
2. Law enforcement officers
3. Correctional institution personnel
4. Firefighters
5. Emergency medical services personnel
6. Physicians, nurses, and public health personnel
7. Emergency medical technicians
8. Paramedics
9. Emergency management personnel
10. 911 operators
11. Public works personnel
12. Persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
13. Any individual determined to be an “emergency responder” necessary for a state’s or territory’s response to COVID-19, as determined by the highest official of each such state or territory (including the District of Columbia).