



Hoping everyone is safe and well on this Thursday. The U.S. Department of Labor (DOL) and Internal Revenue Service (IRS) have issued additional guidance on the specific documentation required for Families First Coronavirus Response Act (FFCRA) paid sick and Emergency Family and Medical Leave Act (EFMLA) leave. It is important that these are documented properly if you plan to claim the employer tax credits. We will also address the new guidance regarding employee's total leave entitlement in the event they take FFCRA paid sick leave in addition to EFMLA.

Q: What documentation should an eligible employer maintain to validate their eligibility in order to claim the tax credits for FFCRA paid sick or EFMLA leave?

A: The DOL has clarified that if an employer intends to claim these tax credits, they will need to retain "appropriate documentation". The IRS has issued guidance regarding what employees must provide to their employer to justify their need for leave.

Employers should retain a signed statement containing the following information:

- The employee's name
- The date(s) for which leave is requested
- The COVID-19 qualifying reason for leave
- A statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason

As mentioned in a previous FAQ, 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 appropriate EFMLA or paid sick leave forms.

Q: What documentation is the employee required to provide in addition to the above information?

A: Employees must provide certain certifications specific to the reason they are requesting FFCRA leave:

- **Government quarantine or isolation order** - the employee must provide the name of the government entity that issued the order
- **A health care provider advised the employee to self-quarantine** - the employee must provide the name of the health care provider
- **Care for someone else under quarantine** -the employee must provide either (1) the government entity that issued the quarantine or isolation order to which the individual is subject, or (2) the name of the health care provider who advised the individual to self-quarantine, whichever is applicable
- **Care for their child** - the employee must provide (1) the name of the child being cared for, (2) the name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19, and (3) a statement representing that no other suitable person is available to care for the child during the period of requested leave. For children

older than 14, a statement of special circumstances that require the employee to provide care must be provided.

Please note that an employer may not require documentation beyond what is provided for in the regulations. Therefore, an employee does not need to provide a doctor's note advising self-quarantine or official documentation that their child's school or daycare center is closed.

Q: Can my employee take both FFCRA paid sick leave and EFMLA? If so, how much leave are they entitled to?

A: Yes. It is possible that an employee could take up to 14 total weeks of leave under FFCRA – that is, 2 weeks (80 hours) of paid sick leave in addition to 12 weeks of EFMLA. This is because the Department of Labor has concluded that FFCRA paid sick is not a form of regular FMLA leave and therefore does not count toward an employee's regular 12 weeks of FMLA entitlement.