

COVID-19: Qualifying Reasons for Leave

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date (April 1, 2020) through December 31, 2020 and apply to employers with fewer than 500 employees. No employer credits under the Act will be collectible by companies for leave given until the effective date. Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

Employers will receive a refundable tax credit against the employer portion of Social Security taxes for 100 percent of the qualified sick leave and family leave wages paid each quarter under the policies.



Qualifying Reasons

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to work remotely) due to a need for leave because the employee:

- 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;**
- 2. has been advised by a health care provider to self-quarantine related to COVID-19;**
- 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;**
- 4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);**
- 5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or**
- 6. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.**

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

See the next page for a listing of potential scenarios and how Short-Term Disability, the Family and Medical Leave Act, the Emergency Family and Medical Leave Expansion Act, and the Emergency Paid Sick Leave Act may apply.

| Scenario | Qualifying Reason | Short-Term Disability Plan (if available) | Family and Medical Leave Act (FMLA) | Emergency Family and Medical Leave Expansion Act (EFMLEA) | Emergency Paid Sick Leave Act (EPSLA)** |
|---|-------------------|---|---|--|--|
| Employee is awaiting or undergoing testing related to COVID-19 and unable to work | #3 | Unlikely if fully insured, but check with carrier to confirm, if self-funded, may be possible if all employees are treated consistently | No | No | Up to 80 hours (pro-rated for part-time employees) to FFCRA maximums |
| Employee is ill with COVID-19 and unable to work | #2 | Yes, if physician orders to stay home from work | Yes, if physician orders employee to stay home and employer is subject to FMLA and employee meets FMLA requirements | No | Up to 80 hours (pro-rated for part-time employees) to FFCRA maximums |
| Employee is caring for family member who is severely ill with COVID-19 or who has been advised by physician to self-quarantine and unable to work | #4 | No | Yes, if family member is ill and employer is subject to FMLA and employee meets FMLA requirements No, if family member has been advised to self-quarantine | No | Two-thirds of pay up to 80 hours (pro-rated for part-time employees) to FFCRA maximums Includes caring for an individual (e.g. immediate family member, roommate, or a similar person) with whom the relationship creates an expectation the employee would care for them |
| Employee was exposed and quarantined by a physician | #2 | If Business is Open: Unlikely if fully insured, but check with carrier to confirm, if self-funded, may be possible if all employees are treated consistently If Business is Closed: No | No | No | If Business is Open: Up to 80 hours (pro-rated for part-time employees) to FFCRA maximums If Business is Closed: No |
| Schools/child care providers are closed because of COVID-19 and employee has no child care and is unable to work | #5 | No | No | Yes*, if employee has been employed for at least 30 calendar days, up to 12 weeks of EFMLEA to FFCRA maximums. (Eligibility for EFMLEA depends on how much FMLA already taken, a total of 12 weeks for both) Only those Federal employees covered by Title I of the FMLA are potentially eligible | Two-thirds of pay up to 80 hours (pro-rated for part-time employees) to FFCRA maximums* |
| Employee has compromised immune system and is advised to self-quarantine by a physician | #2 | Unlikely if fully insured, but check with carrier to confirm, if self-funded, may be possible if all employees are treated consistently | No | No | Up to 80 hours (pro-rated for part-time employees) to FFCRA maximums |
| Employee is afraid of gathering in a group and refuses to go to work | N/A | No | No | No | No |
| Employer must shut down due to a Federal, State or local quarantine or isolation order, and employee cannot work remotely | #1 | No | No | No | No |
| Employer must shut down due to a Federal, State or local quarantine or isolation order, and employee can work remotely but is unable to work due to a COVID-19 reason | #1 | No | No | Yes*, if COVID-19 reason #5 and employee has been employed for at least 30 calendar days, up to 12 weeks of EFMLEA to FFCRA maximums. (Eligibility for EFMLEA depends on how much FMLA already taken, a total of 12 weeks for both) | Up to 80 hours (pro-rated for part-time employees) to FFCRA maximums If COVID-19 reason #4-6, two-thirds of pay up to 80 hours (pro-rated for part-time employees) to FFCRA maximums |
| Employer reduces available hours due to slow or low business | N/A | No | No | No | No |

*Employers with fewer than 50 employees may be exempt if specific criteria are met.

**Employers may exclude employees who are health care providers or emergency responders from taking paid sick leave.