

6 FFCRA Updates Employers Need to Know

The Families First Coronavirus Response Act (FFCRA) was implemented beginning April 1, 2020 and is valid through December 31, 2020. This act should help safeguard employees and employers from the negative economic impacts resulting from COVID-19. The Department of Labor (DOL) will oversee enforcement of the FFCRA.

And, as the enforcer of this act, the DOL recently released updates to help clarify several of the FFCRA's provisions for employers. In this article, we will detail what these updates are and what they mean for both employees and employers. So, keep reading to learn all the recent updates to the FFCRA.

Additionally, if you want more information about the FFCRA, or any COVID-19 related news, check out our [COVID-19 Resource Center](#).

FFCRA Updates You Need to Know

Below are the six essential updates to the FFCRA that every employer needs to know.

Payroll Tax Credits for Employers

The IRS, in conjunction with the DOL and the Treasury Department, said that thousands of employers, providing coronavirus-related paid leave under the FFCRA, have immediate access to two new refundable payroll tax credits. These two credits ensure small and midsize businesses can receive 100 percent reimbursement for the cost of providing their workers:

- Up to 80 hours of COVID-19 related paid sick leave, as well as,
- Expanded paid childcare leave when employees' children's schools are closed, or childcare providers are unavailable

It's important to note that health insurance costs are included in the credit. Plus, self-employed individuals will receive an equivalent credit. And all employers taking advantage of this credit will face no payroll tax liability. An immediate dollar-for-dollar tax offset against payroll taxes will be provided. In the case of refunds for employers, the IRS will send the refund as quickly as possible.



There is a way for employers to take immediate advantage of paid leave credits. To do so, businesses can retain and access funds they would otherwise pay to the IRS in payroll taxes. If those amounts aren't sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS. You can get this expedited advance by submitting a streamlined claim form.

[Access The Olson Group's comprehensive COVID-19 Resource Center.](#)

Updates on Expanded FMLA Leave

An employee may elect to use – or an employer may require an employee use – leave such as vacation or personal leave concurrently with expanded family and medical leave. Additionally, the DOL set the unpaid period for emergency FMLA leave at two weeks, rather than ten days. Still, for most who work a typical Monday – Friday schedule, two weeks is equivalent to 10 days.

Updates on Emergency Paid Sick Leave

The updated rules require employers to retain all documentation of FFCRA emergency paid leave requests. This documentation should include requests for both emergency paid sick leave and expanded FMLA, for four years. Note, this includes documentation for both emergency PSL and expanded FMLA leave. And employers must maintain this documentation whether the leave is granted or denied.

Additionally, the updates outlined which employees may utilize the FFCRA's emergency paid sick leave. According to the updates, employees may only take this paid leave to care for another, when that employee has a close personal relationship with the person. This person must be an immediate family member, roommate, or similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if they self-quarantined or were quarantined.



This individual must also meet one of two attributes:

1. Is subject to a federal, state, or local quarantine or isolation order; or
2. Has been advised by a healthcare provider to self-quarantine on a belief they have COVID-19, may have COVID-19, or is particularly vulnerable to COVID-19.

Telework and Taking Expanded FMLA Leave

It was previously established that the FFCRA's emergency FMLA paid leave may only be taken if an employee is unable to work or telework due to a need to care for a child under 18, because that child's school or place of care or the child's care provider is unavailable due to the effects of COVID-19.

In the recent updates the DOL defined what exactly counts as telework. The DOL defines telework as "no less work than if it were performed at an employer's worksite." Employees teleworking for COVID-19 related reasons must record and be compensated for all hours worked, including overtime.

But employers don't have to compensate employees for unreported, COVID-19 related telework. Unless the employer knew or should have known about such telework. This definition of telework is vital because it matters for employees wanting to apply for the emergency paid sick leave included in the FFCRA.



An employee subject to a quarantine or isolation order may not take paid sick leave when their employer doesn't have work for them. That is because the employee would be unable to work even if they were not required to comply with the quarantine or isolation order, per the DOL. Still, such an employee may be eligible for state unemployment insurance.

Further Exemptions for Certain Health Care Providers

As part of the FFCRA updates, the DOL further defined the scope of the exemption for specific healthcare and emergency providers. The DOL said it will adopt one of two separate definitions of the term “health care provider” for the following purposes:

- For the “limited purpose” of identifying employees who an employer may exclude from both buckets of the FFCRA’s paid leave, DOL will adopt a “broader” definition of healthcare provider that includes any individual capable of providing services necessary to combat COVID-19. This broader definition includes medical professionals; those responsible for keeping healthcare facilities supplied and operational; and workers involved in the research, development and production of equipment, drugs, vaccines and similar items needed to combat the disease.
- For other purposes of FFCRA, such as identifying healthcare providers who may advise an employee to self-quarantine for COVID-19 related reasons, a narrower definition of the term will be used. This narrower definition includes “medical professionals who are capable of diagnosing serious health conditions in light of the FMLA’s requirement for such healthcare providers to issue certifications regarding the nature and probable duration of serious health conditions.”

No Retroactive Credit

The updates also clarified that employees cannot use paid sick leave or expanded FMLA leave retroactively. In other words, employers don’t need to pay for unpaid or partially paid leave taken before April 1, 2020. Additionally, employers that voluntarily provided paid leave prior to April 1 must still offer the entirety of the FFCRA paid sick leave, and emergency FMLA leave to which these employees are entitled. Moreover, these employers must provide this paid leave, regardless of whether such employees took additional paid leave voluntarily offered by the employer.

The Wrap

The COVID-19 pandemic, and the recent legislation passed to help employees and employers cope with it, are ever-changing. So, make sure you keep checking in with The Olson Group. We’ll help you stay up-to-date on all COVID-19 related changes, including FFCRA updates.

And, if you have any questions about COVID-19, the FFCRA, or anything employee benefits related, [contact The Olson Group](#), today!