Families First Coronavirus Response Act: Questions and Answers

As provided under the legislation, the U.S. Department of Labor will be issuing implementing regulations. Additionally, as warranted, the Department will continue to provide compliance assistance to employers and employees on their responsibilities and rights under the FFCRA.

Definitions


“Expanded family and medical leave” – means paid leave under the Emergency Family and Medical Leave Expansion Act.

Questions & Answers By Category

Expand All

› Definitions

› Eligibility

› Coverage
For more information related to federal employers and employees, please consult the Office of Personnel Management’s COVID-19 guidance portal, linked here.

54. **What do I do if my public sector employer, who I believe to be covered, refuses to provide me paid sick leave or expanded family and medical leave?**

If you believe that your public sector employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act or expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act, the Department encourages you to raise your concerns with your employer in an attempt to resolve them. Regardless whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you paid sick leave or expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit [www.dol.gov/agencies/whd](http://www.dol.gov/agencies/whd). Your call will be directed to the nearest WHD office for assistance to have your questions answered or to file a complaint.

In some cases, you may also be able to file a lawsuit against your employer directly without contacting WHD. Some State and local employees may not be able to pursue direct lawsuits because their employers are immune from such lawsuits. For additional information, see the WHD website at: [https://www.wagehour.dol.gov](https://www.wagehour.dol.gov) and/or call WHD’s toll free information and help line available 8am–5pm in your time zone, 1-866-4-US-WAGE (1-866-487-9243).

For more information related to federal employers and employees, please consult the Office of Personnel Management’s COVID-19 guidance portal, linked here.

55. **Who is a “health care provider” for purposes of determining individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave?**

The term “health care provider,” as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave, means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

56. **Who is a “health care provider” who may be excluded by their employer from paid sick leave and/or expanded family and medical leave?**

[Updated to reflect the Department’s revised regulations which are effective as of the date of publication in the Federal Register.]
For the purposes of defining the set of employees who may be excluded from taking paid sick leave or expanded family and medical leave by their employer under the FFCRA, a health care provider includes two groups.

This first group is anyone who is a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

The second group is any other person who is employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care. This group includes employees who provide direct diagnostic, preventive, treatment, or other patient care services, such as nurses, nurse assistants, and medical technicians. It also includes employees who directly assist or are supervised by a direct provider of diagnostic, preventive, treatment, or other patient care services. Finally, employees who do not provide direct health care services to a patient but are otherwise integrated into and necessary to the provision those services—for example, a laboratory technician who processes medical test results to aid in the diagnosis and treatment of a health condition—are health care providers.

A person is not a health care provider merely because his or her employer provides health care services or because he or she provides a service that affects the provision of health care services. For example, IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers are not health care providers, even if they work at a hospital of a similar health care facility.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the FFCRA. For example, an employer may decide to exempt these employees from leave for caring for a family member, but choose to provide them paid sick leave in the case of their own COVID-19 illness.

57. **Who is an emergency responder?**

For the purposes of Employees who may be excluded from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, an emergency responder is anyone necessary for the provision of transport, care,
[1] If you are a Federal employee, you are eligible to take paid sick leave under the Emergency Paid Sick Leave Act. But only some Federal employees are eligible to take expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act. Your eligibility will depend on whether you are covered under Title I or Title II of the Family Medical Leave Act. Federal employees should consult with their agency regarding their eligibility for expanded family and medical leave. For more information related to federal employers and employees, please consult the Office of Personnel Management’s COVID-19 guidance portal, linked here.

[2] If you are a Federal employee, the State or local minimum wage would be used to calculate the wages owed to you only if the Federal agency that employs you has broad authority to set your compensation and has decided to use the State or local minimum wage. For more information related to federal employers and employees, please consult the Office of Personnel Management’s COVID-19 guidance portal, linked here.