



DOL to Revise FFCRA Leave Rules in Light of Court Decision

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The U.S. Department of Labor (DOL) plans to revise its rules for workers who need to take coronavirus-related paid leave under the Families First Coronavirus Response Act (FFCRA).

The DOL sent a final rule (<https://www.reginfo.gov/public/do/eoDetails?rid=131086>) to the White House for review on Sept. 3. Although the details have not been made available to the public, the changes follow a ruling by the U.S. District Court for the Southern District of New York striking down certain aspects of the department's current rules, including a requirement for employees to provide documentation before taking FFCRA leave.

We've rounded up resources and articles from *SHRM Online* and other trusted outlets on the news.

SHRM RESOURCE SPOTLIGHT

Coronavirus and COVID-19 (www.shrm.org/ResourcesAndTools/Pages/communicable-diseases.aspx)

Judge Strikes Down Several DOL Interpretations

On Aug. 3, Judge J. Paul Oetken found that the DOL's interpretation of FFCRA legislation unlawfully excluded too many health care workers from the act's paid-sick-leave and paid-family-leave mandates. Since the ruling, employers have been confused about which types of health care workers are eligible for COVID-19-related paid leave. Oetken also struck down a provision that allows employers to deny leave when they don't have work available, as well as provisions that require workers to provide documentation before taking leave and seek management approval before taking intermittent leave. The DOL's Wage and Hour Division has not issued a statement about Oetken's ruling, nor has the Justice Department said if it will appeal the decision.

(Bloomberg Law (<https://news.bloomberglaw.com/daily-labor-report/revised-virus-paid-leave-rule-moves-to-white-house-for-review>))

FFCRA's Paid Leave Options

FFCRA has two major provisions: the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). Under the EPSLA, employers with fewer than 500 employees and some public employers must pay sick leave of up to 80 hours, or roughly 10 days, to full-time employees who need to take leave for certain coronavirus-related reasons. Employees may be eligible for

an additional 10 weeks of family leave paid at two-thirds of their regular wages under the EFMLEA to care for a child whose school or place of care is closed or whose child care provider is unavailable because of COVID-19. The FFCRA does not have requirements for private-sector employers with 500 or more employees (<https://www.dol.gov/agencies/whd/ffcra/benefits-eligibility-webtool/employee>).

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-ffcra-documentation-requirement-rule-struck-down.aspx))

DOL Provides Clarity on FFCRA Child Care Leave

Working parents are facing myriad challenges as children resume their studies in alternative formats due to the continuing COVID-19 crisis. In what situations are employees eligible for child-care-related leave or unemployment benefits? The DOL tackled some frequently asked questions in its most recent guidance. Notably, the department said employees are not eligible for FFCRA leave or unemployment benefits if they made the choice to keep their children home.

(*SHRM Online* (www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/dol-provides-clarity-on-coronavirus-related-child-care-leave.aspx))

Local Laws May Provide Additional Leave

Employers and workers alike should check state and local laws for additional leave eligibility and requirements. For example, in California's Alameda County, workers in certain high-risk areas who test positive for COVID-19 and aren't receiving unemployment benefits or paid sick leave can collect a one-time \$1,250 stipend to self-quarantine (<https://sanfrancisco.cbslocal.com/2020/08/05/alameda-county-offering-1250-stipend-to-help-covid-19-patients-during-quarantine/>) for 14 days. "The county understands that sheltering in place while diagnosed with COVID-19 should not be a privilege to only those who can afford it," said Alameda County administrator Susan Muranishi.

(CNBC (<https://www.cnbc.com/2020/09/02/getting-paid-to-quarantine-during-the-covid-19-pandemic.html>))

Next Relief Package Still Pending

The Senate just returned from recess, and Majority Leader Mitch McConnell, R-Ky., said he will force a vote on a Republican-backed coronavirus relief package. The proposed legislation is expected to include liability protections for businesses, a federal supplement to unemployment benefits, more Paycheck Protection Program funding, and additional funds for COVID-19 testing and schools. Senate Minority Leader Chuck Schumer, D-N.Y., and U.S. House of Representatives Speaker Nancy Pelosi, D-Calif., said in a joint statement that the bill "doesn't come close to addressing the problems." Among other relief, Democrats want the next stimulus bill to include more aid for state and local governments.

(The Hill (<https://thehill.com/homenews/senate/515427-senate-to-vote-on-scaled-down-coronavirus-relief-package>))

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