

COVID-19 FAQ

5. Are organizations with less than 50 employees subjected to the emergency paid sick or family leave requirements of the Families First Coronavirus Response Act (“FFCRA”) ?

Date Added: 03/31/20

Answer: Prior to the new law, small employers were not required under federal law to provide any type of paid sick leave. (A few states do require certain employer to provide limited paid leave). But now the FFCRA requires certain employers – including those with less than 50 employees except as noted below – to provide their employees with emergency paid sick or family leave for specified reasons related to COVID-19. The Department of Labor’s (DOL) Wage and Hour Division administers and enforces the new law’s paid leave requirements. These provisions will apply from the effective date of April 2, 2020 through December 31, 2020.

Generally, the Act provides that covered employers must provide to all employees:

- Two weeks (up to 80 hours) of paid sick time at the employee’s regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- Two weeks (up to 80 hours) of paid sick time at two-thirds the employee’s regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor.

NOTE: Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or childcare unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

The final language in the law permit Employers of Health Care Providers or Emergency Responders to exclude such employees from eligibility for the paid leave provided under the Act, if they wish to do so.

See DOL Fact Sheets at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>