



Frequently Asked Questions:

What ALL Employers Need to Know About the New Leave Laws, and What You Can do to Get it off Your Plate



As a health care provider, we have been told we can choose to partially elect out, only covering staff that are COVID positive or caring for someone COVID positive? Is this how you understand the plan?

Yes, this can be done. Per the DOL FAQ, 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.



While my employees are under approved leave, can I ask for documentation once daycare has been secured?

Yes, you may continue to request documentation from the employees if you do it in a consistent, uniform manner. For example: you may require your employees to provide proof that the day care is still closed.



Can I also request proof of childcare searches?

While we do not have clear guidance on this question as the regulations do not address this, we would suggest instead that you have open and honest discussions with your employees. If you were to require documentation, you again would need to require it from everyone on the same type of leave.



Is an employee eligible for emergency paid leave because they are caring for an elderly parent whom they do not want to admit to a short- or long-term care facility (for example, after parent had hip replacement surgery)?

Potentially, if the physician has indicated that this person is more vulnerable and should not be placed in care outside of the house, the employee may be entitled to the EPSL. This employee should at the very least be offered traditional FMLA if the employer is subject to the FMLA regulations. As a reminder, the EPSL covers caring for an immediate family member if they are subject to a quarantine or isolation order, or has been advised to self-quarantine by a health care provider because of a belief that the individual has COVID-19, may have COVID-19 due to known exposure or symptoms, or the individual is particularly vulnerable to COVID-19.



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Families First Coronavirus Response Act FFCRA



Is there a limit on The Emergency Paid Sick Leave Act an employee can take?

Yes, 80 hours.



What are the COBRA Changes that went into effect March 1st, 2020?

Extended election period for COBRA continuation coverage; the new rule extends the election period to 60 days following the end of the outbreak period.

Extended period for COBRA premium payments; the standard 30 day COBRA premium payment grace period is extended to 30 days following the end of the outbreak period.

The new rule also extends the initial 45 day payment period by an additional 30 days following the end of the outbreak period.

COBRA Extension Example:

Example: Employee is terminated and loses active coverage under the health plan. Employee receives the COBRA election notice on June 1, 2020. Result: The standard 60-day COBRA election period is extended.

Now, assume the National Emergency ends June 30, 2020, and therefore the Outbreak Period ends August 29, 2020. The employee would have until 60 days after the end of the Outbreak Period (until October 28, 2020) to elect COBRA.

These changes can affect employees offered COBRA prior to March 1, 2020 also. Joe loses his job and is offered COBRA February 1, 2020 so on March 1, 2020 when the hold is put on COBRA Joe has only used 29 days of his allowed time to make a decision. The National Emergency is ended June 30, 2020/ 60 day outbreak period ends August 29, 2020. Joe still has 31 days in order to elect coverage (so Joe has until September 29th to elect COBRA).