

DOL Revises Regulations on the Families First Coronavirus Response Act

The Department of Labor (DOL) has issued revised regulations for paid sick leave and paid family leave provisions in Families First Coronavirus Response Act. The revisions seek to clarify when leave is available and when employees must get approval to take leave under the FFCRA. These revisions are in response to a court ruling from the Southern District of New York that invalidated parts of the Act. The revisions went into effect on September 16, 2020, after being published in the Federal Register.

The FFCRA

The FFCRA was signed into law on March 18, 2020, in response to the COVID-19 Pandemic. The Act requires local and state governments and employers with less than 500 employees to provide employees with emergency paid sick leave and emergency family and medical leave in addition to what they currently offer employees. The FFCRA went into effect on April 1. For more information on the FFCRA, read Technical Updates vol. 24, numbers 22, 23, and 24.

FFCRA Revisions

According to *DOL Issues Revised FFCRA Leave Rules* by Lisa Nagele-Piazza J.D., SHRM-SCP, the new revisions to the FFCRA encompass the following areas:

- Reaffirm that employees may take FFCRA leave only when work is actually available to them.
- Reaffirm that employees must have their employer's approval to take intermittent FFCRA leave.
- Revise the definition of "health care provider" to include "only employees who meet the definition of that term under the Family and Medical Leave Act regulations or who are employed to provide diagnostic services, preventative services,

treatment services or other services that are integrated with and necessary to the provision of patient care which, if not provided, would adversely impact patient care."

- Clarify that employees must provide employers with documentation as soon as possible supporting their need for FFCRA leave.
- Correct an inconsistency on when employees may be required to provide employers notice of their need to take expanded family and medical leave.

Colorado Healthy Families & Workplaces Act

The Healthy Families and Workplace Act (HFWA, https://leg.colorado.gov/sites/default/files/2020a_205_signed.pdf), signed into law by Governor Polis, extends FFCRA coverage to all employees in Colorado through December 31, 2020. Section 8-13.3-406(2) states,

On and after the effective date of this section through December 31, 2020, each employer in the state, regardless of size, shall provide paid sick leave in the amount and for the purposes provided in the federal "Emergency Paid Sick Leave Act" in the "Families First Corona Virus Response Act", pub. L. 116-127, to each employee who is not covered under the "Emergency Paid Sick Leave Act".

What This Means for Counties

Counties should review their FFCRA and HFWA policies to ensure that they are in compliance with the new rulings and educate employees about their rights and responsibilities when taking leave under the Act. For more information, contact CTSI at 303 861 0507. [ctsi](https://www.ctsi.org)