



Updated Regulations to the FFCRA on Employee Information and Intermittent Leave

The Department of Labor (DOL) has provided additional guidance to the Family First Coronavirus Response Act (FFCRA) paid leave statute.

The DOL stuck by its assertion that intermittent leave is allowed under the FFCRA only if the employer consents. This interpretation comes despite a Federal Judge recently ruling that the DOL's intermittent leave regulation was overbroad. The ruling allowed employers to limit intermittent leave when the employee poses a threat of spreading COVID-19 in the workplace, but held the DOL's regulation went too far in not allowing employees to take FFCRA leave intermittently for reasons that do not pose a risk of infection. The DOL added a fuller explanation for its intermittent leave stance.

The DOL also sought to "clarify" several issues regarding how workers must notify employers that they will use FFCRA leave. When requesting paid sick leave or expanded family and medical leave, an employee must provide an employer the following information as soon as possible:

- Name;
- The date(s) for which you request leave;
- The reason for leave; and
- A statement that you are unable to work because of the above reason.

If an employee requests leave to self-quarantine based on the advice of a health care provider, the employer may require the employee to provide the name of the health care provider who gave advice.

The DOL provided that an employer may require an employee requesting leave for COVID-19 diagnosis related symptoms, to identify his or her symptoms and a date for a COVID-19 test or doctor's appointment. An employer may not, however, require the employee to provide further documentation that the employee sought a diagnosis or treatment from a health care provider in order for the employee to use paid sick leave for COVID-19 related symptoms. The DOL provides that minimal documentation required to take this leave is intentional so that employees with COVID-19 symptoms may take leave and slow the spread of COVID-19.

If you request leave to care for your child whose school or place of care is closed, or child care provider is unavailable, you must provide [additional information](#).

We will continue to keep you posted as the DOL continues to provide new details related to the implementation of the FFCRA.

For more information please contact [Tony Stergio](#).