

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Overview

On March 18, 2020, President Trump signed into law the Families First Coronavirus Response Act (FFCRA or Act) which authorizes certain types of leave for Federal employees in response to the ongoing COVID-19 public health emergency.

FFCRA requires U.S. Customs and Border Protection (CBP) to provide Emergency Paid Sick Leave to employees unable to work, in addition to any other paid leave entitlements, for specified reasons related to COVID-19¹. These provisions will apply from April 1, 2020 through December 31, 2020.

CBP employees are entitled to take leave related to COVID-19 if the employee is unable to work, including telework, in any of the following six specific situations:

Employee is:

1. subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. experiencing COVID – 19 symptoms and is seeking a medical diagnosis;
4. caring for an individual subject to an order described in (1) self-quarantine or (2) health care directed;
5. caring for a child whose school or place of care is closed (or provider unavailable) due to COVID – 19 reasons; or
6. experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Eligibility

CBP employees are eligible for up to two weeks (80 hours for a full time employee, or a part-time employee's two-week equivalent number of hours) of fully or partially paid sick leave for any of the six enumerated COVID – 19 related reasons when employees are unable to work, including telework.

CBP employees who remain telework-ready are not normally eligible for leave under these provisions because they remain "able to work," which would be the case even for employees subject to quarantine orders or who are self-quarantining upon the advice of a health care provider. However, an employee who was telework authorized only for those periods of time when not engaged in childcare could take partial periods of leave under this provision (for example, teleworking half of the workday when not caring for children and taking leave for the other half of the workday when engaged in childcare).

¹ The legislation also provided for expanded family and medical leave under the Family and Medical Leave Act (FMLA) but only for private sector employees and certain Federal employees covered under Title I of the FMLA. CBP employees are not covered under Title I of FMLA and are therefore ineligible for the expanded leave provisions. An employee under an intergovernmental detail (e.g, from the government of Washington, DC) might be eligible; please consult with HRM for guidance in this situation.

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Documentation Requirements

Implementing regulations issued by the Department of Labor (DOL) require employees to provide documentation in support of Emergency Paid Sick Leave to the approving supervisory official. This documentation must include a signed statement (email from a valid address is acceptable) containing: (1) the employee's name, (2) the date(s) for which leave is requested, (3) the COVID – 19 qualifying reason for leave, and (4) a statement representing that the employee is unable work (on site or remotely) because of the COVID-19 qualifying reason.

Additionally, the documentation must contain the following information, as appropriate based on the qualifying situation:

- For employees subject to a quarantine or isolation order – the name of the government entity that issued the quarantine or isolation order;
- For employees advised to self-quarantine – the name of the health care provider who advised the employee to self-quarantine;
- To care for an individual subject to quarantine, isolation order, or self-quarantine – the name of the government entity that issued the quarantine or isolation order to which the individual is subject or the name of the health care provider who advised the individual to self-quarantine; and
- To care for a child – the name of the child being cared for, the name of the school, place of care, or child care provider that closed or became unavailable due to COVID – 19 reasons, and a statement that no other suitable person is available to care for the child during the period of requested leave.

Rates of Pay

Eligible CBP employees unable to work will be provided up to two weeks (80 hours for a full time employee, or a part-time employee's two-week equivalent number of hours) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or federal minimum wage, paid at the below percentages.

- One hundred percent (100% of pay) for qualifying reasons #1-3 above, up to \$511 daily and \$5,110 total; and
- Two-thirds of pay (2/3) for qualifying reasons #4-6 above, up to \$200 daily and \$2,000 total.

The additional sick leave allowed under this law has no cash value, in the event an employee separates from Federal service. Additionally, it cannot be carried over to the following calendar year and will expire on December 31, 2020.