



# DOCUMENTATION REQUIRED FOR FFCRA LEAVE

Benefits, inc.

**COVID-19**

Update

The U.S. Department of Labor (DOL) issued temporary regulations for the Families First Coronavirus Response Act (FFCRA) on April 1st, which confirmed that employees must give notice to their employers of the need to take leave and must provide supporting documentation for requests for paid sick leave and emergency family and medical leave. The IRS also provided guidance on the needed documentation.

The DOL regulations explain that for paid sick leave or expanded family and medical leave, an employer may require employees to follow reasonable notice procedures as soon as practical. That can be after the first workday or portion of a workday for which an employee receives paid sick leave in order to continue to receive such leave, the DOL stated in the preamble to the regulations.

The DOL said the employee must provide a **signed statement** containing:



- The employee's name.
- The date(s) for which leave is requested.
- The coronavirus-qualifying reason for leave.
- A statement that the employee can't work or telework because of this reason.

In addition, an employee must provide the **name of the government entity** that issued the quarantine or isolation order to which the employee is subject, if that is the reason for paid sick leave, according to the DOL.

An employee seeking leave because he or she is self-quarantined must provide the **name of the health care provider** making the quarantine recommendation. Someone caring for a person who is quarantined must provide either the government entity that issued the quarantine or isolation order or the name of the health care provider who advised the individual to self-quarantine.

The DOL said an individual requesting expanded family and medical leave must provide:



- 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 coronavirus reasons.
- A statement representing that no other suitable person is available to care for the child during the period of requested leave.

The normal FMLA certification rules apply to an employee's own serious health condition related to the coronavirus and to the employee's need to care for a spouse, son, daughter or parent with a serious health condition.

If an employee fails to give proper notice, the employer should give him or her notice of the failure and an opportunity to provide the required documentation prior to denying the request for leave, the regulations state.

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The IRS issued guidance stating that eligible employers claiming tax credits for qualified leave wages "must retain records and documentation related to and supporting each employee's leave to substantiate the claims for the credits." Such employers also must retain:

- Form 941, Employer's Quarterly Federal Tax Return.
- Form 7200, Advance of Employer Credits Due to COVID-19.
- Any other applicable filings made to the IRS requesting the credit.



Question 44 in the IRS guidance outlines the information an eligible employer must both receive from an employee and maintain to substantiate eligibility for sick-leave or family-leave credits.

The employee must provide:

- His or her name.
- The date(s) for which leave is requested.
- A statement of the reason the employee is requesting leave and written support for such reason.
- A statement that the employee is unable to work, including telework, for such reason.

In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the government entity ordering the quarantine or the name of the health care professional advising self-quarantine. If the person subject to quarantine is not the employee, that person's name and relation to the employee shall be provided.

If a school closes or a child care provider is unavailable, the statement from the employee should include:



- The name and age of the child or children.
- The name of the school or place of care that has closed or is unavailable.
- A representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave.
- With the care of a child older than 14 during daylight hours, a statement that special circumstances exist requiring the employee to provide care.



Question 45 provides further guidance about additional documentation that employers claiming tax credits must maintain, including:

- Documentation to show how the employer determined the amount of qualified sick- and family-leave wages paid to employees, including records of work, telework, qualified sick leave and qualified family leave.
- Documentation to show how the employer determined the amount of qualified health plan expenses that it allocated to wages.