



## March 26, 2020, DOL Guidance on the Sick and FMLA Leave Benefits Under the Families First Coronavirus Response Act

The Department of Labor posted a new round of questions and answers last night relating to the sick and FMLA leave under the Families First Coronavirus Response Act (“FFCRA”). [CLICK HERE](#) to see Q & A numbers 15-37.

Below is a summary of some of the key information in the guidance:

- Employee’s right to sick leave/FMLA under the FFCRA if the employer closes its worksite after April 1, 2020 – guidance suggests that **employee is not entitled to sick/FMLA leave under the FFCRA due to furlough or temporary layoff even if the reason for the furlough/layoff is because the employer was required to close pursuant to federal, state or local directive** (#24-27);
- Documentation necessary for employees to provide to employers and employers to maintain in relation to the emergency paid sick and FMLA leave under the FFCRA (#15, 16);
- What it means to be able/unable to telework and an employee’s right to sick/FMLA leave under the FFCRA in those circumstances (#17-19);
- Whether paid sick leave/FMLA can be taken intermittently – this guidance suggests that intermittent leave may only be taken by agreement between the employee and employer (#20-22);
- If an employer closes its worksite before April 1, 2020 (when the FFCRA goes into effect), the employee has no right to sick/FMLA leave (#23);
- Sick/FMLA leave under the FFCRA cannot be used to bridge the gap in an employee’s wages where an employee’s hours are reduced (#28);
- Supplementing sick/FMLA leave under the FFCRA (such as where the employee is paid two-thirds of wages) with other employer provided leave benefits (#31-33).

*If you have any questions about this Alert, or if you would like assistance in complying with the Act, please contact the author listed below or the Aronberg Goldgehn attorney with whom you work.*

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