



FAQs Discuss Expiration of Paid Sick and Family Leave Requirements

The Department of Labor has issued additional FAQs regarding the expiration of the requirement that employers provide paid sick and family leave under the Families First Coronavirus Response Act (“FFCRA”).

Law

The FFCRA required employers to provide paid sick leave and paid family leave to certain employees affected by the coronavirus. However, the provision expired on December 31, 2020.

Employers are entitled to a refundable payroll tax credit equal to 100% of qualified paid sick and family leave wages for each calendar quarter, up to specified amounts. The credit is increased by the employer’s “qualified health plan expenses” that are allocable to the leave wages for which the credit is allowed. Qualified health plan expenses means amounts paid or incurred by an employer to provide and maintain a group health plan.

For more details regarding the FFCRA, see our [Alert of 4/1/20](#) and [subsequent publications](#).

FAQs


The new FAQs affirm that an employer is not required to provide its employees with FFCRA leave after December 31, 2020, but may voluntarily decide to provide such leave after that date.


The FAQs then note that the Consolidated Appropriations Act of 2021 extended employer tax credits for paid sick leave and expanded family and medical leave voluntarily provided to employees until March 31, 2021. However, the Act did not extend an eligible employee’s entitlement to FFCRA leave beyond December 31, 2020.

The FAQs also note that, while the paid leave requirement ended on December 31, if an employer failed to make legally required payments, an employee may file a complaint with the Department of Labor within two years of the last action the employee believes to be in violation of the FFCRA. The employee may also have a private right of action for alleged violations.

The FAQs can be found at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>


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