

WHAT DOCUMENTATION SHOULD EMPLOYEES PROVIDE EMPLOYERS IN ORDER TO OBTAIN FEDERAL COVID-19 LEAVE BENEFITS

Guidance issued by the United States Department of Labor (“DOL”) on April 1, 2020 has clarified what documentation an employee must provide when seeking paid benefits relating to COVID-19. When requesting paid sick leave or expanded family and medical leave, an employee must provide one’s employer either orally or in writing the following information:

- Name;
- The date(s) for which one is requesting leave;
- The reason for leave; and
- A statement that one is unable to work because of the above reason.
- If an employee requests leave because the employee is subject to a quarantine or isolation order or to care for an individual subject to such an order, the employee should additionally provide the name of the government entity that issued the order. If the employee requests leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice, the employee should additionally provide the name of the health care provider who gave advice.

If the employee requests leave to care for the employee’s child whose school or place of care is closed, or child care provider is unavailable, the employee must also provide:

- The name of the employee’s child;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement that no other suitable person is available to care for the employee’s child.
- In addition to the above information, the employee must also provide to the employer written documentation in support of the employees paid sick leave as specified in applicable IRS forms, instructions, and information.

Importantly, the above documentation obligations are in addition to all existing certification requirements under the FMLA if the employee is taking leave for one of the existing qualifying reasons under the FMLA. For example, if the employee is taking leave beyond the two weeks of emergency paid sick leave because the employee’s medical condition for COVID-19-related reasons rises to the level of a serious health condition, the employee must continue to provide medical certifications under the FMLA if required by the employer.

Finally, when in doubt whether to accept as sufficient documentation from an employee, better to err on the side of providing emergency leave benefits than run the risk of wrongfully denying benefits to a person who is entitled to them.

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If you need any assistance in understanding or addressing these issues, please contact the [Garfunkel Wild attorney](#) with whom you regularly work, or contact us at info@garfunkelwild.com.

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