

PUBLICATION

Updated IRS Guidance: FFCRA Benefits Available under ARPA Regarding Paid Leave for Vaccination-Related Reasons

Authors: Donna M. Glover

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As we discussed here, the American Rescue Plan Act of 2021 (ARPA) provided that employers could again voluntarily extend Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLEA) provisions of the Families First Coronavirus Response Act (FFCRA) to employees and receive those tax credits. Under ARPA, the extension runs through September 30, 2021, and the ARPA further modified the benefits that employees may receive if covered employers decided to voluntarily extend the benefits as of April 1, 2021. On July 29, 2021, the IRS provided updates on vaccine-related benefits that extend to family members of employees.

The FFCRA allowed employees to receive paid leave benefits for six qualifying reasons. The ARPA added additional qualifying reasons, as follows:

- The *employee* is obtaining a COVID-19 vaccination;
- The *employee* is recovering from an injury, disability, illness or condition related to a COVID-19 vaccination; or
- The *employee* is seeking or awaiting the results of a COVID-19 test or diagnosis because either the employee has been exposed to COVID-19 or the employer requested the test or diagnosis.

Under the ARPA, employees may use either EPSL or EFMLEA for any of the original or new qualifying reasons.

Recent Updates for Vaccine-Related Benefits

On July 29, 2021, the IRS updated its frequently asked questions (FAQs) on the paid leave credits under the ARPA. The updates explain that covered employers can claim the credits for providing leave to employees to accompany a *family or household member or certain other individuals* to obtain vaccinations relating to COVID-19 or to care for a family or household member or certain other individuals recovering from the vaccine.

Specifically, the IRS updated [FAQs No. 8 and No. 9](#), which now provide that an employee may receive paid EPSL or EFMLEA benefits and an employer can receive the tax credit if "the employee is accompanying an individual to obtain the COVID-19 vaccine or caring for an individual who is recovering from conditions related to obtaining the vaccine." Under the FFCRA, as extended by the ARPA, generally an "individual" is an immediate family member, someone who regularly resides in the employee's home, and/or and a person with whom the employee has a relationship that creates an expectation that the employee will provide care relating to obtaining the vaccine or adverse vaccination reactions.

The IRS FAQs do not expressly state that access to the paid benefits and tax credits for these vaccination reasons are retroactive to April 1, 2021, the ARPA's effective date. Employers, however, should seek counsel on this "new" paid benefit leave reason and prepare for employees to ask for paid leave for accompanying an individual to obtain a vaccine or caring for an individual "recovering from conditions" related to the vaccine.

If you have any questions about these benefits, please contact [Donna Glover](#) or any member of Baker Donelson's [Labor & Employment Team](#).