

## insights

TYPES NOT MAPPED YET April 02, 2020 | TTR not mapped yet | James L. Fogle

# Follow Up: Impact of Families First Coronavirus Response Act - Who is considered a “health care provider” or “emergency responder”?

Previously, [we discussed the impact](#) of the Families First Coronavirus Response Act on medical practices and health care providers. Specifically, the Act establishes new emergency medical leave and sick leave benefits for certain employees but allows medical practices and other health care entities to exclude any employees who are “health care providers” or “emergency responders” from the new emergency provisions.

In follow-up guidance, the Department of Labor (“DOL”) [recently clarified](#) the definition of “health care provider.” The DOL explained the following:

- A health care provider is anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy or any similar institution, employer or entity. This includes any permanent or temporary institution, facility, location or site where medical services are provided that are similar to such institutions.
- This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles or treatments.
- This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state’s or territory’s or the District of Columbia’s response to COVID-19.

Additionally, the DOL provided clarification regarding the definition of “emergency responder” stating the following:

- An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19.
- This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
- This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state’s or territory’s or the District of Columbia’s response to COVID-19.

Thus, medical practices and other health care entities may exclude both “health care providers” and “emergency responders” from the implementation of the new emergency medical and sick leave benefits. We still encourage employers to be alert to additional changes and interpretations that may be released.



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