

United States Senate
WASHINGTON, DC 20510

April 3, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Scalia:

We write to you to express our deep concerns about guidance recently issued by the Department of Labor (DOL) which broadly expands exemptions to the Families First Coronavirus Response Act (FFCRA).

On March 18, 2020, Congress passed and the President swiftly signed FFCRA into law, understanding that the best way to combat the growing COVID-19 pandemic is to reduce public exposure to the virus. Emergency paid sick leave and paid family leave protections established by FFCRA ensure that millions of workers are not forced to decide between their next paycheck or their health and the health of their families and community.

As you are aware, health care providers on the frontlines battling COVID-19 not only face an increased risk of infection, but also risk spreading the virus to vulnerable populations. This is why we are confused and dismayed that DOL has taken additional steps to potentially strip the newly enacted paid family and sick leave protections from millions of health care workers through an overly broad interpretation of the exclusion included in the statute. On March 28, DOL issued new guidance on which workers are to be exempt, broadly interpreting statutory language of “emergency responder” and “health care provider” to include practically any worker in the healthcare supply chain¹. The DOL definition spans workers that do not even directly provide healthcare services, including individuals who happen to be employed by an institution or entity providing healthcare services. As a result, housekeepers, administrative staff, pharmacists, caregivers, and millions of other workers could be forced to work without the protections Congress intended—and did, in fact, provide to them under the law. The decision by DOL to attempt to expand exemptions to FFCRA not only undermines clear congressional intent, but is also a disservice to the millions of healthcare workers risking their own health to combat this pandemic.

Congress recognizes the urgent need to slow the spread of COVID-19, and understands that emergency paid leave is a critical component to reducing exposure to the virus. We urge DOL to reconsider its decision and to more narrowly define these terms.

Sincerely,



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator

¹ <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>