

Families First Coronavirus Response Act

LEAVE TYPES

Overview

The Families First Coronavirus Response Act (FFCRA) was enacted to support employees affected by COVID-19 and is in effect from 04/01/20 - 12/31/20. Below are the requirements for utilizing the to new leave options. To apply, click [here](#) and navigate to FFCRA.

Emergency Paid Sick Leave

Eligible Employees:

All employees, regardless of length of employment

Emergency Paid Leave Circumstances:

Employee is unable to work from the office or from home due to employee:

- Being subjected to a federal, state or local quarantine or isolation order
- Has been advised by health care provider to self-quarantine
- Is experiencing symptoms of COVID-19 and is seeking a diagnosis
- Is caring for an individual who is quarantined
- Is caring for a son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 precautions
- Is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services

Emergency Paid Sick Leave pay

80 hours

- Employee's own sickness - Regular rate of pay (capped at \$511 per day and \$5,110 aggregate)
- Care of another person – 2/3 of pay (capped at \$200 per day and \$10,000 aggregate)

Emergency Family Medical Leave

Eligible Employees

Any employee employed for at least 30 calendar days

Expanded Emergency FMLA Events

- Employees who must care for a minor child because of a COVID-19 related school or daycare closure and is unable to work from home
- Employees who become ill from COVID-19
- Employees who are caring for family members who have COVID-19

Emergency FMLA pay

- First 10 days unpaid (may supplement with Emergency Paid Sick Leave or any other paid leave available)
- 10 Weeks paid up to 2/3 of pay (capped at \$200 per day and \$10,000 aggregate)

Job Restoration

- FMLA protects employee's job
- If the employee's position no longer exists upon return due to operations changes caused by a public health emergency, the employer must attempt to place the employee in an equivalent position over a one-year period.

HR ADMINISTRATION

Families First Coronavirus Response Act EMERGENCY PAID SICK LEAVE Q&A

Q: How is Emergency Paid Sick Leave Calculated

A: Full-time employees will receive an additional eighty (80) hours of paid sick leave. The amount of sick leave provided to part time employees and other temporary employees will be calculated based on the average number of hours worked in a two (2) week period. If the part time or temporary employee's hours vary then the average can be taken over a six (6) month period.

The payment amount for the sick leave benefit will be the employee's regular rate of pay but is capped at \$511 per day (\$5,110 per employee total), or 2/3 of the employee's regular rate of pay capped at \$200 per day (\$2,000 per employee total). The higher cap applies if you are caring for yourself, and the lower cap applies if the employee is caring for someone else.

Q: If an employee uses the full amount of the Emergency Paid Sick Leave, can the employee use their other accrued leave to extend their leave period?

A: Yes. Employees can choose when to use the new Emergency Paid Sick Leave. For example, an employee who chooses to exhaust this leave first, may then use ordinary sick leave accrued under the State's leave program in order to cover an absence. Alternatively, some employees may wish to use their already accrued sick leave under the State's leave program first since there are no monetary caps on the accrued sick leave. Agency human resources staff should be prepared to discuss appropriate leave options with their employees depending on the employees' specific circumstances and continue to follow their standard policies regarding the utilization of other paid leaves.

Q: Can an employee use already accrued sick leave to supplement Emergency Paid Sick Leave if they reach the monetary cap?

A: Yes. Employees can use already accrued sick leave to supplement the Emergency Paid Sick Leave to receive their total rate of pay if they reach the monetary cap based on the reason for the leave.

Q: If the Emergency Paid Sick Leave is not used by an employee, will the employee be able to receive a cash payment for any unused Emergency Paid Sick Leave?

A: No. The new Emergency Paid Sick Leave will not have a cash value, so employees will not be able to convert the leave to cash. Any unused leave at the end of the 2020 calendar year will expire and no longer be available for use.

HR ADMINISTRATION

Families First Coronavirus Response Act EMERGENCY PAID SICK LEAVE Q&A

Q: Can an employee use Emergency Paid Sick Leave to cover the disability waiting period or supplement disability pay?

A: Yes. If the employee otherwise meets the eligibility criteria, they can use Emergency Paid Sick Leave to cover the waiting period or supplement during disability, but the rate of pay for the Emergency Paid Sick Leave is still subject to the monetary caps discussed above.

Q: If the Emergency Paid Sick Leave was not used by an employee, will they be able to carry the hours over into the next calendar year?

A: No. If the Emergency Paid Sick Leave is not used by an employee, the leave will not carry over into the next year. The Act expires on December 31, 2020 and any remaining leave will no longer be available for use.

Q: If a school year employee works extra hours during the summer and take off work due to COVID-19, will the employee be eligible for Emergency Paid Sick Leave?

A: No. Extra summer hours are not eligible to be paid through Emergency Paid Sick Leave.

HR ADMINISTRATION

Families First Coronavirus Response Act EMERGENCY FMLA Q&A

Q: How much FMLA leave are employees entitled to under the new qualifying event?

A. Eligible employees are entitled to a total of twelve (12) weeks of leave for the qualifying event

Q: If an employee has already used some or all their 12-weeks under FMLA, is the FMLA expansion an additional 12-weeks?

A: No. The Act does not expand an eligible employee's FMLA leave entitlement to greater than 12 workweeks during any 12-month period regardless of the number of qualifying events an employee may have. If an employee has otherwise exhausted their 12 weeks of FMLA leave, they are not entitled to an additional 12 weeks of leave for the new qualifying event.

Q: For employees using FMLA due to the new qualifying event, can they use that leave on an intermittent basis?

A: Generally, yes. The Act allows an employer and an employee to agree to use the expanded FMLA leave on an intermittent basis so long as the employee works with the employer to establish a schedule that could combine intermittent leave usage, work, and/or teleworking. For example, an employee may have access to childcare two days a week but may need to use leave for the remainder of the week.

Q: Are the twelve (12) weeks of leave for the new qualifying event paid or unpaid?

A: The first ten (10) days of FMLA leave will be unpaid. After the first ten (10) days, any FMLA leave used for the new qualifying event must be paid. Employees are entitled to pay at 2/3 their regular rate, up to \$200 per day (for a total of no more than \$10,000 per employee). (Please note: separate calculations are necessary for part time employees and employees with varying weekly schedules.)

Q: Can the Employer require employees to use their accrued leave concurrently with their unpaid FMLA leave?

A: No. The Employer cannot require an employee to run accrued leave concurrently as they normally would with other qualifying events under the FMLA. However, the employee may choose to supplement the first unpaid ten (10) days with their existing leave benefits.

HR ADMINISTRATION

Families First Coronavirus Response Act EMERGENCY FMLA Q&A

Q: If any employee is receiving paid leave under the expanded FMLA, can they use other accrued leave to supplement to 100% of their pay?

A: Yes. Employees can use already accrued leave to supplement their pay under the expanded FMLA if they reach the monetary cap.

Q: Can an Employee use Emergency Paid Sick Leave to cover the first ten (10) unpaid days of FMLA leave taken pursuant to the expansion?

A: Yes. If an employee has a qualifying event under the FMLA expansion (i.e. the employee is unable to work because they need to care for a dependent whose childcare is closed or otherwise unavailable), then they would also qualify for Emergency Paid Sick Leave.