



# THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

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- Signed into law **March 18, 2020**
  - Emergency Paid Sick Leave Act (EPSLA)
  - Emergency Family and Medical Leave Expansion Act (EFMLEA)
- Effective **April 1, 2020**
- Expires **December 31, 2020**
- Enforced by the U.S. Department of Labor Wage and Hour Division (WHD)

# FFCRA REQUIREMENTS

- Coverage
- Employee Eligibility
- Emergency Paid Sick Leave (EPSL) and Expanded Family and Medical Leave Act (EFMLA) benefits
- Number of Weeks and Hours of Leave Available
- Calculation of Pay

# FFCRA EMPLOYER COVERAGE

- Private Sector
  - Employers of fewer than 500 employees
  - Including not for profit employers
- Public Agencies
  - Regardless of the number of employees they employ

# FFCRA EMPLOYEE EXCLUSIONS

**Employers may exclude employees who are either:**

- Health Care Providers, or
- Emergency Responders

# FFCRA HEALTH CARE PROVIDER EXCLUSION

## **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 provider, any facility that performs laboratory or medical testing, pharmacy, OR any similar institution, employer, or entity.

# FFCRA EMERGENCY RESPONDER EXCLUSION

## **Emergency Responder is:**

- Anyone necessary for transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19.
- Includes 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.

# FFCRA EMPLOYER NOTICE REQUIREMENTS

- DOL poster must be conspicuously posted, may be distributed online, posted on employer website, directly mailed or e-mailed to employees
  - Does *not have* to be visible to job applicants
- Spanish and English FFCRA posters available at [www.dol.gov/agencies/whd](http://www.dol.gov/agencies/whd)
  - Translation *not required*



# EMERGENCY PAID SICK LEAVE (EPSL)

## **Benefit Basics:**

- Six qualifying COVID-19 related reasons for job-protected leave
- During leave, continuation of health insurance
- Entitlement to paid sick leave over a 2-week period
  - Full-time employees, based on their schedule, up to 80 hours
  - Part-time employees, hours based on their schedule

# EPSL QUALIFYING REASONS FOR LEAVE

## (REASONS 1–3)

An employee is entitled to take EPSL if the employee is unable to work or telework because the employee:

- 1) Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- 2) Has been advised by a health care provider to self-quarantine related to COVID-19,
- 3) Is experiencing COVID-19 symptoms and is seeking a medical diagnosis,

# EPSL QUALIFYING REASONS FOR LEAVE

## (REASONS 4-6)

(Continued) An employee is entitled to take EPSL if the employee is unable to work or telework because the employee:

- 4) Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19,
- 5) Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or**
- 6) Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services

# EPSL DURATION OF LEAVE

## **Two-week period:**

- Full-time employees may use up to 80 hours
- Part-time employees may use a number of hours equal to the number of hours they work, on average, over a 2-week period, up to 80 hours

# EPSL REQUIRED RATE OF PAY

The applicable rate of pay is the **highest applicable wage rate**, either the:

- Employee's regular rate of pay,
- FLSA minimum wage, or
- Highest applicable state or municipal minimum wage

# EPSL PAY CALCULATION FOR REASONS 1-3

- The employee is due **100%**the required rate of pay for leave hours taken because the employee:
  - Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
  - Has been advised by a health care provider to self-quarantine related to COVID-19, or
  - Is experiencing COVID-19 symptoms and is seeking a medical diagnosis
- Total EPSL pay capped at \$511 per day or \$5,110 in total for up to 80 hours

# EPSL PAY CALCULATION FOR REASONS 4-6

- The employee is due **two-thirds** the required rate of pay for leave hours taken because the employee:
  - Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19,
  - Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
  - Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services
- Total EPSL pay capped at \$200 per day or \$2,000 in total for up to 80 hours

# EXPANDED FAMILY AND MEDICAL LEAVE ACT (EFMLA)

## **Benefit Basics:**

- Only for employee to care for his or her son or daughter whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons
- Up to 12 workweeks of job-protected leave with continuation of health insurance
- Initial 2 weeks unpaid
- Remaining 10 weeks paid at two-thirds the employee's regular rate of pay



# EFMLA ELIGIBLE EMPLOYEES

All employees, including full-time and part-time County employees, are eligible for EFMLA benefits if they have been employed by the County **for at least 30 calendar days.**

- These benefits are available to full- and part-time regular, contractual, and temporary County employees

Reminder: The County **may** exclude employees who are either:

- Health Care Providers, or
- Emergency Responders

# EFMLA QUALIFYING REASON FOR LEAVE

**There is only one qualifying reason for leave under the EFMLA:**

Employee leave to care for his or her child whose school or childcare provider is closed or unavailable for reasons related to COVID-19.

# EFMLA UNPAID AND PAID LEAVE PERIODS

- Initial two weeks of EFMLA leave is “unpaid”
  - Employee may choose to use EPSL, or accrued County paid leave, at the same time as unpaid EFMLA leave
- Up to 10 weeks paid leave available
  - Hours of leave are paid at two-thirds the employee’s regular rate of pay
  - Employer does not have to pay more than \$200 a day or \$10,000 total under EFMLA

# EFMLA INTERACTION WITH THE FMLA

- The EFMLA temporarily provides a new leave reason for family and medical leave, *not more weeks*
  - An employee who has already used 12 weeks of leave under the FMLA is not able to use EFMLA leave
  - For example, if an employee wants to take leave on April 1, 2020, an employee would need to have been employed by the County as of March 2, 2020.
- The FFCRA does not change the eligibility requirements or rules of the traditional federal FMLA or the County's FML policy.

# FFCRA BENEFITS AT A GLANCE

Reason Why Employee is Unable to Work/Telework	Payroll Code	Eligible Benefits	Maximum Benefits Paid
1. The employee is quarantined pursuant to a Federal, State, or local government order.	Sick Family First 2023	Up to two weeks (80 hours) of emergency paid sick leave (EPSL).	An employee's regular pay, up to a maximum of \$511 per day, or a \$5,110 total over the 2-week period.
2. The employee has been advised by a health care provider to self-quarantine related to COVID-19.	Sick Family First 2023	Up to two weeks (80 hours) of EPSL.	An employee's regular pay, up to a maximum of \$511 per day, or a \$5,110 total over the 2-week period.
3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.	Sick Family First 2023	Up to two weeks (80 hours) of EPSL.	An employee's regular pay, up to a maximum of \$511 per day, or a \$5,110 total over the 2-week period.
4. The employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2).	Sick Family First 2023	Up to two weeks (80 hours) of EPSL.	2/3 of an employee's regular pay, up to a maximum of \$200 per day, or a \$2,000 total over the 2-week period.
5. The employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.	Sick Family First 2023	Up to two weeks (80 hours) of EPSL.	2/3 of an employee's regular pay, up to a maximum of \$200 per day, or a \$2,000 total over the 2-week period.
6. The employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.		<p>Full-time employees are eligible for up to 12 weeks of expanded family medical leave act (EFMLA) benefits (two weeks of EPSL followed by up to 10 weeks of paid EFMLA) at 40 hours a week.</p> <p>Part-time employees are eligible for EFMLA for the number of hours they were normally scheduled to work over that period.</p>	2/3 of an employee's regular pay, up to a maximum of \$200 per day, or a \$12,000 total over the 12-week period

# FFCRA RESOURCES

- Families First Coronavirus Response Act: Employee Paid Leave Rights  
*Also available in Spanish*
- Families First Coronavirus Response Act: Employer Paid Leave Requirements  
*Also available in Spanish*
- Families First Coronavirus Response Act: Questions and Answers
- Employee Rights Poster for The Families First Coronavirus Response Act (FFCRA) *Also available in Spanish*