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Frequently Asked Questions (FAQ) About The Families First Coronavirus Response Act For Employees

The Families First Coronavirus Response Act (FFCRA), effective April 1, 2020, provides State employees with additional emergency paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. Please refer to the FFCRA Policy for additional information.

GENERAL QUESTIONS/APPLICABILITY

Is the Families First Coronavirus Response Act (FFCRA) – which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act – retroactive to April 1?

Yes. The FFCRA's paid leave provisions are effective from April 1, 2020 through December 31, 2020.

Who is eligible for emergency paid sick leave?

All employees, excluding health care providers and emergency responders as defined in the FFCRA Policy and as determined by each Executive Branch Agency in consultation with the Rhode Island Department of Health (RIDOH), are eligible for emergency paid sick leave for qualifying reasons. Health care providers and emergency responders who are otherwise excluded from all application of this policy are eligible for emergency paid sick leave (only) under some circumstances as defined in the FFCRA Policy.

My title does not exactly fit into the Policy's definitions of "health care provider" or "emergency responder," but the majority of my work is substantially similar to what is described in those categories. Am I excluded?

Your agency, in consultation with RIDOH, can make that determination if there is a question about an employee's title.

What are the qualifying reasons for discharging leave under the EFMLEA?

An employee qualifies for EFMLEA if the employee is unable to work or telework because 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. An employee may take leave under EFMLEA to care for his or her child only when the employee needs to, and actually is, caring for his or her child and there is not another suitable individual – such as a co-parent, co-guardian or the usual child care provider – available to provide the care the employee’s child needs.

May I use emergency paid sick leave and emergency family and medical leave together for any COVID-19-related reasons?

No, the EFMLEA applies only when you are on leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons. However, you can take paid sick leave under the Emergency Paid Sick Leave Act for other reasons as specified under the Act.

What documents do I need to complete and submit to get emergency paid sick leave or leave under the EFMLEA?

You must provide documentation in support of your paid sick leave or leave under the EFMLEA as specified in the Families First Coronavirus Response Act Policy. Please also note that all existing certification requirements under the Family and Medical Leave Act (FMLA) remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA.

Note: An employee can only discharge FFCRA time on his or her time sheet upon the receipt of all documentation and final approval from the Division of Human Resources Disability Management Unit (DMU).

Can the emergency paid sick leave and EFMLEA benefits be used retroactively for time before April 1, 2020?

No.

May I take emergency paid sick leave or leave under the EFMLEA if I am receiving workers’ compensation?

Employees who are on a leave of absence or receiving workers’ compensation wage replacement benefits because they are unable to work due to a work-related injury are not eligible for emergency paid sick leave or leave under the EFMLEA.

COMPENSATION

Is the new leave I am entitled to leave that I have already accrued, or above and beyond that?

The leave available through the federal law is above and beyond what you have already accrued in annual leave (sick, vacation, personal, etc.)

How do I fill out my time sheet if I want to start discharging my FFCRA time?

Before you can discharge any of this time on your time sheet, you must submit the FFCRA form and appropriate documentation to the Division of Human Resources Disability Management Unit (DMU) for approval. *Only once you are approved can you discharge this time on your time sheet.* But don’t worry:

approved leave can be retroactive to April 1, 2020 when the federal law went into effect. You will also be receiving more guidance on time sheets in a separate communication.

The Policy says that I must work 40 hours per week in order to be considered eligible FFCRA leave as a “full-time employee.” But I am considered a full-time employee by the State and I work 35 hours per week. To what leave benefits am I entitled to under the FFCRA Policy?

The U.S. Department of Labor defines “full-time employees” as employees who work 40 hours or more. If you are otherwise eligible for FFCRA leave and work fewer hours – 35 hours per week, for example – you would receive the benefit based on your normal work week schedule.

How are hours worked by a part-time employee counted for purposes of emergency paid sick leave or the EFMLEA?

A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. Therefore, hours of leave are calculated based on the number of hours the employee is normally scheduled to work. For example, employees who work 35 hours each week, would be entitled to leave for 70 hours in a two-week period.

As an employee, how much will I be paid while taking emergency paid sick leave or leave under the EFMLEA?

If you are taking **emergency paid sick** leave because you are unable to work or telework due to a need for leave because you (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, you will receive for each applicable hour your regular rate of pay. In these circumstances, you are entitled to a maximum of \$511 per day, or \$5,110 total over the entire two-week period.

If you are taking **emergency paid sick** leave because you are: (4) caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (5) caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (6) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, you will be paid at two-thirds (2/3) of your regular rate of pay, with a maximum of \$200 per day, or \$2,000 over the entire two-week period. An employee may elect to use accrued paid leave (sick, vacation, personal, etc.) to supplement pay under emergency paid sick leave for scenarios 4, 5, or 6 so that the employee receives the full amount of biweekly pay. Unless otherwise extended or modified, this provision applies only to leave taken between April 1, 2020 and December 31, 2020.

If you are taking leave under the **EFMLEA**, you may take emergency paid sick leave for the first 10 days of that leave period and be paid at two-thirds (2/3) of your regular rate of pay, with a maximum of \$200 per day, or \$2,000 over the entire two-week period, or you may substitute any accrued sick, vacation, personal leave, or other leave you have. For the remaining weeks requested (a maximum of 10), you will be paid at two-thirds (2/3) of your regular rate of pay, with a maximum of \$200 per day. An employee may elect to use accrued paid leave (sick, vacation, personal, etc.) to supplement pay under the Emergency Family and Medical Leave Act Expansion so that the employee receives the full amount of biweekly pay. Unless otherwise extended or modified, this provision applies only to leave taken between April 1, 2020 and December 31, 2020.

You will not receive more than \$200 per day or \$12,000 for the 12 weeks that include **both** emergency paid sick leave and EFMLEA when you are on leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

May I take 80 hours of emergency paid sick leave for my self-quarantine and then an additional amount of emergency paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

No, you may take up to two weeks — or 10 days — (80 hours for a full-time 40-hour work week employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period – this includes employees who are scheduled to work 35 hours per week as they are considered to be part-time under the FFCRA) of emergency paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive emergency paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

If I am home with my child because his or her school or place of care is closed, or a child care provider is unavailable, do I get emergency paid sick leave, EFMLEA, or both? How do they interact?

You may be eligible for both types of leave, but only for a total of 12 weeks of paid leave. You may take both emergency paid sick leave and leave under the EFMLEA to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first 10 days of leave under the EFMLEA, which are otherwise unpaid under the EFMLEA unless you elect to use existing accrued leave (sick, vacation, personal).

Is all leave under the FMLA now paid leave?

No. Regular FMLA rules still apply. Under the expanded leave, the first 10 days of leave discharged under EFMLEA are unpaid (unless you supplant with emergency paid sick leave or accrued time). Any EFMLEA leave discharged beyond that is paid in accordance with the FFCRA policy.

Are the weeks provided under the EFMLEA in addition to the 12 weeks an employee may receive under the standard FMLA?

No, the FFCRA does not extend an employee's total FMLA entitlement to more than 12 weeks in a one-year period. Rather, it provides a new qualifying reason for FMLA leave (i.e., to care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons).

TELEWORKING AND INTERMITTENT USE OF LEAVE

When am I able to telework under the FFCRA?

Telework is work for which normal wages must be paid and is not compensated under the paid leave provisions of the FFCRA. Teleworking remains an option available to eligible employees. If you are interested in teleworking, please contact your supervisor about filling out and submitting the Teleworking Request Form and Teleworking Agreement. If you are approved for teleworking, directors and supervisors will assist you to enable teleworking if you do not have a state-issued device. The Division of Information Technology (DoIT) stands ready to ramp up enabling services; priority will be given based on need and available resources.

What does it mean to be unable to work, including telework, for COVID-19-related reasons?

You are unable to work if your agency has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either under normal circumstances at your normal worksite or through telework. If you and your supervisor agree that you will work your normal number of hours, but outside your normally scheduled hours (for instance, early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

May I take my emergency paid sick leave or leave under the EFMLEA intermittently while teleworking?

If you are teleworking and become unable to telework your normal schedule of hours due to a need for leave because of COVID-19-related reasons, and the agency and you agree, you may take such leave in full-day increments.

May I take emergency paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?

Emergency paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking emergency paid sick leave for one or more of these qualifying reasons, you must continue to take emergency paid sick leave each day until you either (1) use the full amount of emergency paid sick leave, or (2) no longer have a qualifying reason for taking emergency paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such emergency paid sick leave as necessary to keep you from spreading the virus to others.

In contrast, if you and your agency agree, you may take emergency paid sick leave intermittently in full-days increments if you are taking emergency paid sick leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19-related reasons. For example, you may take emergency paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

May I take leave under the EFMLEA intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19-related reasons, if I am not teleworking?

Yes, but only with your agency's permission and in full-day increments. Intermittent leave under the EFMLEA is permitted only when your agency and you agree upon such a schedule. For example, if your agency and you agree, you may take EFMLEA on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because your child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of your leave.

OTHER QUESTIONS

If I elect to take emergency paid sick leave or leave under the EFMLEA, will my health coverage be continued? If I remain on leave beyond the maximum period under the EFMLEA, do I have a right to keep my health coverage?

If you are granted emergency paid sick leave or leave under the EFMLEA, you are entitled to maintain the health coverage that you've elected on the same terms as if you continued to work. You must continue to make any normal contributions to the cost of your health coverage.

If you do not return to work at the end of your emergency paid sick leave and/or EFMLEA, you must contact the Office of Employee Benefits at 401-574-8530 for information pertaining to your health coverage and other benefits.

May I take leave under the regular FMLA over the next 12 months if I use some or all of my leave under the EFMLEA?

It depends. You may take a total of 12 weeks of leave during a 12-month period under the FMLA, including the EFMLEA.

If you take some, but not all 12 weeks of your leave under the EFMLEA by December 31, 2020, you may take the remaining portion of FMLA leave for a serious medical condition, as long as the total time taken does not exceed [12 weeks in the 12-month period](#). Please note that EFMLEA is available only until December 31, 2020; after that, you may only take FMLA leave.

(For example: Assume you take four weeks of leave under the EFMLEA in April 2020 to care for your child whose school is closed due to a COVID-19 related reason. These four weeks count against your entitlement to 12 weeks of FMLA leave in a 12-month period. If you are eligible for pre-existing FMLA leave and need to take such leave in August 2020 because you need surgery, you would be entitled to take up to eight weeks of FMLA leave.)

If I take leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under State or local law, or my employer's policy?

No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal, State, or local law; an applicable collective bargaining agreement; or your existing leave accruals.

Does my supervisor have to approve my discharge of FFCRA time?

The Division of Human Resources DMU will approve or deny time requested per the FFCRA policy.

I would like to discharge emergency paid sick leave or EFMLEA time immediately, and believe I am eligible. What do I do next?

Fill out the FFCRA fillable form and submit the form to your [Human Resources Disability Management Unit Representative](#).