

Frequently Asked Questions and Answers (as of April 7, 2020)

Supplement to Notice 20-11, Paid Sick Leave Benefits Under the Federal Families First Coronavirus Response Act of 2020

Effective April 1, 2020, the federal Families First Coronavirus Response Act (FFCRA) was passed to implement public health emergency leave to assist employees and working families facing concerns arising out of the COVID-19. The new law provides all employees (Merit and Contract) paid sick leave benefits which can be used April 1 through December 31, 2020. Commission Notice 20-11 covers the Act, qualified benefits, and how to request leave under the new law. This FAQ is intended to address commonly asked questions.

The FFCRA provides two categories for which sick leave is available:

- **Emergency Paid Sick Leave Act (EPSLA)** (see #6 and #8 for more details and reasons this leave may be taken):
 - Employees are eligible for a combined total of up to two weeks for qualified reasons.
 - The leave is paid at the employee's regular rate of pay or 2/3rd the regular rate of pay, depending on the qualifying reason.
- **Emergency Paid Family and Medical Leave Expansion Act (EFMLA)** (see #9 for more details and reasons this leave may be taken):
 - After employees have exhausted leave under the EPSL, they are eligible for up to an additional 10 weeks of paid sick leave for certain conditions related to the care of a child in response to COVID-19 (see information on the following pages).
 - This sick leave is paid at 2/3rd of an employee's regular rate of pay, subject to maximum daily payment.

All leave taken under the FFCRA runs concurrently with any Family Medical Leave Act (FMLA) leave periods.

Frequently Asked Questions:

1. Who is eligible to receive paid sick leave under the FFCRA?

All full-time and part-time employees are eligible to apply for paid sick leave under the FFCRA as follows:

- Merit System Employees: Both probationary and career employees may apply for benefits.
- Contract Employees: Contract employees who are hired by agency policy (Practice 2-16, Contract Employment Manual) in the following categories:
 - Seasonal/Intermittent employees,
 - Temporary employees, and
 - Term employees.

Note: Employees applying for leave under the EFMLA must have been employed with the Commission for at least 30 calendar days.

2. What is meant by full time and part time employment?

Full time: Employees who are regularly scheduled to work 40 hours/week.

Part time: Employees who are regularly scheduled to work fewer than 40 hours per week.

3. How long must I be employed with the agency before I can use the paid sick leave benefits under the FFCRA?

The length of employment before becoming eligible for the paid sick leave benefits are as follows:

- Emergency Paid Sick Act (EPSLA): Employees are eligible for emergency paid sick leave under EPLSA regardless of length of employment.
- Emergency Paid Family and Medical Leave Expansion Act (EFMLA): Employees must be employed for at least 30 days prior to their leave request.

4. I am normally approved for teleworking; however, there are hours I cannot work due to COVID-19. Am I eligible for paid sick leave benefits under the FFCRA?

The FFCRA allows employees who cannot work/telework to receive benefits under the ESPL and EFMLA. Employees can receive paid sick leave for those regularly scheduled hours that cannot be worked during normal telework days due to reasons under the EPSLA and EFMLA.

5. How do I apply for either EPSLA or EFMLA?

To apply, the employee must complete and submit the *Request for Paid Leave Under Families First Act Form* to the Health and Benefits Office (benefits@mncppc.org), along with any supporting documentation.

The request form can be found within Notice 20-11, Paid Sick Leave Benefits Under the Federal Families First Coronavirus Response Act (FFCRA) of 2020, on the Insite landing page, and on the main M-NCPPC.org webpage under the COVID-19 information section.

6. When can I start receiving paid sick leave under the EPSLA and EFMLA ?

The FFCRA's paid leave provisions are effective on April 1, 2020. Therefore, employees may request leave benefits to be applied anytime between April 1, 2020, through December 31, 2020. The leave is not retroactive before April 1.

7. How much leave am I entitled to under the EPSLA?

As explained on page 2 of Notice 20-11, the EPSLA permits employees to receive up to a combined total of 2 workweeks regardless of the number of qualifying reasons. The number of hours of actual sick leave that may be granted depends on the employee's regular work schedule as follows:

- Full-time employees (regularly scheduled to work 40 hours/workweek): Are eligible for up to 80 hours (two weeks at 40 hours/workweek) of paid sick leave.
- Part-time employees (regularly scheduled to work less than 40 hours/workweek): Are entitled to a prorated amount of paid sick leave based on the average number of hours worked over a two-week pay period. For the purposes of this calculation, the agency will look at the prior two week pay period as confirmed by the employee's supervisor to the Health and Benefits Office. Therefore, a part-time employee who works an average of 60 hours over a two week pay period, would be eligible for 60 hours.

8. How much do I get paid for the sick leave under the EPSLA?

The leave is paid at the employee's regular rate of pay or 2/3rd the regular rate of pay, depending on the qualifying reason as follows:

A. Employee's own condition: Regular hourly rate for all sick leave related to this reason.

If an employee is unable to work or telework due to their own COVID-19 related symptoms and is seeking medical diagnosis /quarantine/ isolation, each hour of sick leave under the EPSLA will be paid at the employee's regular hourly rate.

B. If an employee is unable to work/telework because of care for another individual, he/she will receive 2/3rd the employee's regular rate of pay for each hour of sick leave taken. Total payments are limited to \$200 per day or \$2,000 for all 80 hours for this qualifying reason.

Each hour of sick leave will be paid at 66.67% of the employee's hourly rate when leave is taken for any of the following reasons:

1. Care for an individual due to a federal/state/local government quarantine or isolation order related to COVID-19;
2. Care for an individual who has been advised by a healthcare provider to self-quarantine for reasons related to COVID-19; or
3. Care for a child whose school or place of care is closed, or whose childcare provider is unavailable for reasons related to COVID-19.

C. If an employee is unable to work or telework because he/she is experiencing any other substantially similar condition specified by the U.S. Secretary of Health and Human Services (HHS): Employees are eligible to receive 2/3rd of the employee's regular rate of pay for each hour of sick leave taken. (**Note:** HHS has not specified any conditions as of the date of issuance of these FAQs)

9. How much leave am I entitled to under EFMLA?

If an employee has exhausted the paid sick leave available under Emergency Paid Sick Leave (above) and remains unable to work or telework for reasons listed below, an additional combined 10 workweeks of paid sick leave may be available.

Reasons for which leave can be taken: This sick leave is available to employees who have a bona fide need to take leave when:

- Their child's school or place of care is closed for reasons related to COVID-19, or
- Their child's childcare provider is unavailable for reasons related to COVID-19.

To take advantage of this leave, the employee must have been employed with the Commission for at least 30 calendar days. The 10 workweeks under the EFMLA is a combined total for all eligible reasons. The leave is paid leave at 2/3 of the employee's regular rate of pay for each hour of sick leave taken.

Total payments are limited to \$200 per day or \$10,000 for full ten workweeks of leave under the EFMLA.

10. Can I take paid sick leave under the EPSLA or EFMLA on an intermittent basis or am I required to take it all at once?

Employees covered within the qualifying reasons may request leave to be used intermittently. A schedule must be worked out between the employee and his/her respective supervisor.

11. Do I need to exhaust any of my accrued leave balances before I can use any of the EPSL or EFMLA programs?

No. Employees are not required to exhaust any accrued leave balances before taking any of the emergency paid sick leave or expanded family leave.

12. If I work a compressed workweek, how much leave am I entitled to?

The total number of sick leave hours available under the EPSLA is capped at 80 for full-time employees. For example, a full-time employee who is scheduled to work 50 hours in week 1, and 30 hours in week 2, the total amount of paid sick leave remains 80 hours. The employee and supervisor should complete the timecard based on the employee's normally scheduled hours.

The total number of sick leave hours available under the EFMLA is capped at 400 (10 weeks x 40 hours) for full-time employees.

13. One of the qualifying reasons under EFMLA is a "childcare provider is unavailable for reasons related to COVID-19. What does that mean?

A childcare provider can mean a nursery, daycare or other caregivers. If the childcare provider becomes unavailable to provide care due to closures or other COVID-19 concerns, this would qualify.

14. Can I supplement my own accrued leave in the event the qualifying reason makes me eligible for only partial pay (2/3rd my hourly rate)?

Employees can choose to take their own accrued leave or request leave benefits under the FFCRA for each hour of absence. They cannot choose both.

15. How long do I have to wait to receive approval of benefits under EPSLA or EFMLA?

Once the Health and Benefits Office has received a completed request form, along with any necessary supporting documentation, approval or denial of leave shall be received within 3 business days.

16. What notice is provided to the employee/supervisor for coding time approved under the EPSLA or EFMLA?

Health and Benefits will send a notice of approval or denial to the employee and an e-mail to the his/her supervisor advising approval or denial of request. The supervisor will receive the pay code from the Health and Benefits Office to enter on behalf of the employee on the timecard/sheet.

17. How will I receive my payment when taking EPSLA or EFMLA?

All payments will be made through the employee's regular paycheck.

18. In the situation where my official work location is closed, can I apply for both the paid sick leave benefits under the FFCRA and unemployment benefits?

For questions regarding the application for unemployment, employees should contact the Division of Unemployment Insurance, Maryland Department of Labor (see question #22 for contact information). Generally,

unemployment is only available for time when an employee is not receiving any wage reimbursement, including leave programs such as the ESLA or EFMLA.

19. What information should I include when submitting supporting documentation of school/daycare closure?

Specific examples of appropriate documentation are covered in the application form (*Request for Paid Leave Under the Families First Coronavirus Response Act*) which accompanies Commission Notice 20-11. Some examples of supporting documentation for a school/daycare closure can include federal/state/local directives or orders of closure, newspaper clippings on closure, a letter from the provider, etc.

20. Does helping my child complete schoolwork while their school/daycare is closed qualify for benefits under the FFCRA (EPLSA and EFMLA)?

Care for a child who is out of school falls under the FFCRA. Employees may request up to two workweeks under the EPLSA and 10 workweeks under the EFMLA.

21. If I am only receiving the 2/3rd pay rate, can I still apply for unemployment?

For questions regarding application for unemployment please contact the Division of Unemployment Insurance, Maryland Department of Labor by visiting <https://www.dllr.state.md.us/employment/unemployment.shtml> or calling a Claim Center at 410-949-0022.

22. Do employees continue to accrue leave while on EPSLA and EFMLA?

Yes, any hours in pay status during the employees regularly scheduled work hours are included for purposes of leave calculations.

FAQs for Supervisors/Facility Managers

1. Who has the responsibility for reviewing an employee's request for paid sick leave under the FFCRA?

All benefits under the FFCRA will be centrally reviewed by the Commission's Health and Benefits Office. The employee and his/her supervisor will be notified of the decision and proper pay codes. The supervisor will ensure that the timecard reflects the paid sick leave only for the period approved by the Health and Benefits Office. The Health & Benefits Office can be reached at 301-454-1694 or Benefits@mncppc.org.

2. An employee has requested benefits under the FFCRA prior to April 1, 2020. Can the agency permit payment of paid sick leave before this request?

No. All benefits under the FFCRA are only available starting April 1, 2020 and continuing through December 31, 2020.

3. An employee is on leave under either EPSLA or EFMLA and has not completed their timecard. Can I complete the timecard for my employee?

Yes. The supervisor may complete the timecard for an employee who is on a leave of absence and unable to complete their own timecard.

The supervisor may enter paid sick leave available under the EPSLA or the EFMLA only for the hours designated by the Health and Benefits Office. The Health and Benefits Office will provide the proper pay codes in their approval.

4. An employee has requested to take leave under either EPSLA or EFMLA on an intermittent basis. Is the agency required to approve this request?

The FFCRA permits leave to be taken intermittently. An employee, who can only work/telework for a portion of his/her scheduled work hours, may request leave for the scheduled hours that cannot be worked.

5. In the situation where an employee's official work location is closed, can the employee apply for paid sick leave benefits under the FFCRA?

Paid sick leave benefits can only be used for specified reasons under the EPSLA or EFMLA. If the agency declares a full closure of a facility, then emergency closing compensation rules apply. Presently, the agency has not declared closings of any facilities.