

Implementation of Federal Paid Sick Leave and Paid FMLA Leave re COVID-19 – Employee Scenarios

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LEAVE FOR CHILD-CARE

****Employees designated by their agency as a health care professional or emergency responder are ineligible to take leave for child-care purposes related to COVID-19**

Scenario 1 – LTE (employed for 30 days)

Employee is an LTE who has been employed for at least 30 days and is unable to work (including telework) due to a need to care for “son or daughter” because school is closed. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave or expanded FMLA is unavailable, the employee will be eligible for the following leave:

- Eligible for expanded FMLA – Up to 12 weeks. – May be taken intermittently
 - First 10 days unpaid under FMLA – can use other paid leave to cover this time
 - Federal Emergency Paid Sick Leave option available – Rate of pay is 2/3 normal rate with a cap of \$200 per day
 - After the first 10 days of FMLA unpaid – For up to an additional 10 weeks, employer is required to pay employee 2/3 normal rate of pay with a cap of \$200 per day.
 - This payment does not require or permit the employee to use leave
- After 12 weeks covered under FMLA
 - Employee would be eligible to use State paid admin leave at full rate of pay for any hours unused
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employee would only be eligible for Federal Emergency Paid Sick Leave and paid FMLA for a total of 12 weeks. The amount for all hours would be limited to 2/3 normal rate of pay subject to a cap of \$200 per day.

Scenario 2 – Permanent Employee (employed for 30 days)

Employee is a permanent employee who has been employed for at least 30 days and is unable to work (including telework) due to a need to care for “son or daughter” because school is closed. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave or expanded FMLA is unavailable, the employee will be eligible for the following leave:

- Eligible for expanded FMLA – 12 weeks. – May be taken intermittently
 - First 10 days unpaid under FMLA – can use other paid leave to cover this time
 - Federal Emergency Paid Sick Leave option available – Rate of pay is 2/3 normal rate with a cap of \$200 per day
 - Can use any available state leave, including sick leave at full rate of pay
 - Can’t require employee to use before Federal Emergency Paid Sick Leave but is permissible
 - Combination of Federal and State (not State paid admin leave)– Employees allowed to supplement the additional one-third of their pay by using their own available state leave, but not state paid admin leave
 - After the first 10 day unpaid – employer is required to pay employee 2/3 normal rate of pay
 - This payment does not require/permit the employee to use accrued leave balances
 - Employee is not allowed to supplement or substitute paid FMLA leave
- After 12 weeks covered under FMLA
 - Employee would be eligible to use available State Leave balances at full rate of pay
 - State paid admin leave (if not exhausted) at full rate of pay after State Leave is exhausted
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be

eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave, and paid FMLA for a total of 12 weeks. The amount for all hours under Federal pay would be limited to 2/3 normal rate of pay subject to a cap of \$200 per day.

Scenario 3 – Permanent employee (less than 30 days)

Employee is a new permanent employee who has **not** been employed for at 30 days and is unable to work (including telework) due to a need to care for “son or daughter” because school is closed. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave or expanded FMLA is unavailable, the employee will be eligible for the following leave:

- Initially ineligible for expanded FMLA.
 - Once the employee reaches 30 days, they will become eligible in the same manner as other permanent employees (see Scenario 2)
- Eligible to use following leave
 - Federal Emergency Paid Sick Leave option available – Rate of pay is 2/3 normal rate with a cap of \$200 per day
 - Can use any available state leave, including sick leave at full rate of pay
 - Can't require employee to use before Federal Emergency Paid Sick Leave but is permissible
 - Combination of Federal and State (not State paid admin leave)– Employees allowed to supplement the additional one-third of their pay by using their own available state leave, but not state paid admin leave
 - State paid admin leave option (if not exhausted) available at full rate of pay for employees who have exhausted Federal Emergency Paid Sick Leave and either have exhausted available state leave or are ineligible to use state leave
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave. Once employee reaches 30 days, they would become eligible for expanded FMLA for a total of 12 weeks. The amount for all hours under Federal pay would be limited to 2/3 normal rate of pay subject to a cap of \$200 per day.

LEAVE FOR SELF-QUARANTINE

Scenario 1 - LTE

Employee is an LTE, regardless of how long they have been employed and is unable to work (including telework) due to an order to self-quarantine related to COVID-19. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- State paid admin leave option (if not exhausted) available at full rate of pay once Federal Emergency Paid Sick Leave is exhausted
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employee would only be eligible for Federal Sick Leave with a cap of \$511 per day.

Scenario 2 – Permanent Employee

Employee is a permanent employee, regardless of how long they have been employed, and is unable to work (including telework) due to an order to self-quarantine related to COVID-19. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- Can use any available state leave, including sick leave at full rate of pay
 - Can't require employee to use before Federal Emergency Paid Sick Leave but is permissible
- Combination of Federal and State (not State paid admin leave) – Employees allowed to use both types within the same week, not to exceed total expected hours in the week (i.e. up to 40 between the two options, depending on the employee's schedule)
- State paid admin leave option (if not exhausted) available at full rate of pay for employees who have exhausted Federal Emergency Paid Sick Leave and either have exhausted available state leave or are ineligible to use state leave
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave. Federal Sick Leave has a cap of \$511 per day.

LEAVE FOR SYMPTOMS OF COVID-19 AND SEEKING MEDICAL DIAGNOSIS

****Note – This situation also covers employees experiencing flu-like symptoms who are sent home or told not to report. Employees who have left work or called in for other types of illness (e.g., migraine, gastrointestinal; sinuses, etc.) are required to follow normal call-in and leave procedures***

Scenario 1 - LTE

Employee is an LTE, regardless of how long they have been employed and is unable to work (including telework) due to experiencing symptoms of COVID-19 and seeking a medical diagnosis. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- State paid admin leave option (if not exhausted) available at full rate of pay once Federal Emergency Paid Sick Leave is exhausted
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employee would only be eligible for Federal Emergency Paid Sick Leave with a cap of \$511 per day.

Scenario 2 – Permanent Employee

Employee is a permanent employee, regardless of how long they have been employed, and is unable to work (including telework) due to experiencing symptoms of COVID-19 and seeking a medical diagnosis. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- Can use any available state leave, including sick leave at full rate of pay
 - Can't require employee to use before Federal Emergency Paid Sick Leave but is permissible
- Combination of Federal and State (not State paid admin leave) – Employees allowed to use both types within the same week, not to exceed total expected hours in the week (i.e. up to 40 between the two options, depending on the employee's schedule).
- State paid admin leave option (if not exhausted) available at full rate of pay for employees who have exhausted Federal Emergency Paid Sick Leave and either have exhausted available state leave or are ineligible to use state leave
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave. Federal Sick Leave has a cap of \$511 per day.

LEAVE TO CARE FOR INDIVIDUAL ORDERED TO SELF-QUARANTINE

****Employees designated by their agency as a health care professional or emergency responder are ineligible to take leave for care of others related to COVID-19**

Scenario 1 - LTE

Employee is an LTE, regardless of how long they have been employed and is unable to work (including telework) due to need to care for an individual who has been ordered to self-quarantine related to COVID-19. Assuming the State paid admin leave program remains in place, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Rate of pay is 2/3 normal rate with a cap of \$200 per day
- State paid admin leave option (if not exhausted) available at full rate of pay once Federal Emergency Paid Sick Leave is exhausted
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employee would only be eligible for Federal Emergency Paid Sick Leave. The amount for all hours would be limited to 2/3 normal rate of pay subject to a cap of \$200 per day.

Scenario 2 – Permanent Employee

Employee is a permanent employee, regardless of how long they have been employed, and is unable to work (including telework) due to need to care for an individual who has been ordered to self-quarantine related to COVID-19. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
 - May be covered under standard FMLA rules – Would be unpaid unless leave is used
- Federal Emergency Paid Sick Leave option available – Rate of pay is 2/3 normal rate with a cap of \$200 per day
- Can use any earned and available state leave, including sick leave at full rate of pay
 - Can't require employee to use before Federal Sick Leave but is permissible
- Combination of Federal and State (not State paid admin leave)– Employees allowed to supplement the additional one-third of their pay by using their own available state leave, but not State paid admin leave.
- State paid admin leave option (if not exhausted) available at full rate of pay for employees who have exhausted Federal Emergency Paid Sick Leave and either have exhausted available state leave or are ineligible to use state leave
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave. The amount for all hours under Federal Emergency Paid Sick Leave pay would be limited to 2/3 normal rate of pay subject to a cap of \$200 per day.

LEAVE FOR NON-ESSENTIAL STAFF UNABLE TO TELEWORK (UNDER SAFER AT HOME ORDER)

Scenario 1 - LTE

Employee is an LTE, regardless of how long they have been employed and is unable to work (including telework) due to the Governor's Safer at Home order related to COVID-19. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- State paid admin leave option (if not exhausted) available at full rate of pay once Federal Emergency Paid Sick Leave is exhausted
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employee would only be eligible for Federal Emergency Paid Sick Leave with a cap of \$511 per day.

Scenario 2 – Permanent Employee

Employee is a permanent employee, regardless of how long they have been employed, and is unable to work (including telework) due to the Governor's Safer at Home order related to COVID-19. Assuming the State paid admin leave program is modified to cover only situations where the Federal Emergency Paid Sick Leave is unavailable, the employee will be eligible for the following leave:

- Ineligible for expanded FMLA.
- Federal Emergency Paid Sick Leave option available – Normal rate of pay with a cap of \$511 per day
- Can use any available state leave, including sick leave at full rate of pay
 - Can't require employee to use before Federal Emergency Paid Sick Leave but is permissible
- Combination of Federal and State (not State paid admin leave) – Employees allowed to use both types within the same week, not to exceed total expected hours in the week (i.e. up to 40 between the two options, depending on the employee's schedule)
- State paid admin leave option (if not exhausted) available at full rate of pay for employees who have exhausted Federal Emergency Paid Sick Leave and either have exhausted available state leave or are ineligible to use state leave
- **Note:** If State paid admin leave option is suspended, discontinued or not available after Federal Emergency Paid Sick Leave is exhausted, employees who have not earned 6 months of continuous service would initially only be eligible for State Sick Leave earned, Personal Holiday, Comp time, Legal Holiday earned, and Federal Emergency Paid Sick Leave. Federal Emergency Paid Sick Leave has a cap of \$511 per day.