

## Families First Coronavirus Response Act

### CDFW Frequently Asked Questions

*Updated November 30, 2020*

#### **Emergency Paid Sick Leave**

- 1. Under the EPSLA, employees are entitled to two-weeks of emergency paid sick leave for sick leave related to COVID-19. Can this be used in hourly increments?**

Emergency Paid Sick leave can be used intermittently for employees who are (1) teleworking or (2) for those who are unable to telework and must care for a child due to school closure or closure of day care provider.

Emergency Paid Sick leave cannot be used intermittently by an employee who works in the office and is exposed to the virus either due to their own illness or the illness of someone residing with them, as the purpose of the leave is to prevent the spread of the virus.

- 2. Can an employee who is already teleworking request the 80 hours of leave for child care (reason 5)? Can employees telework partial days and use EPSLA to supplement to full days?**

Yes. If an employee is unable to telework *due to a lack of childcare*, he or she may request the 80 hours of Emergency Paid Sick Leave. The employee may use those hours intermittently and telework either partial days or part time during the week. For example, the employee may telework 3 full days a week, and use 2 full days of Emergency Paid Leave per week. Likewise, they may also telework 3 hours a day and use Emergency Paid Leave for the remaining 5 hours.

- 3. Do employees need to disclose they are COVID-19 positive to be eligible for Emergency Paid Sick Leave?**

Departments may require a doctor's note as long as it complies with the Memorandum of Understanding (MOU). However, CalHR also recommends looking at what the county requires. For example, Los Angeles County Public Health has very clear instructions for anyone who has been exposed or has the virus to self-isolate and/or quarantine

**4. Can an employee use Emergency Paid Sick Leave if they have decided to self-quarantine as a precaution?**

No. The employee would need to have received an order to quarantine or self-isolate from a local public health department, state, or federal authority, or their personal physician in order to be eligible to receive the Emergency Paid Sick Leave.

**5. Can any employee use Emergency Paid Sick Leave if they are caring for a child whose school or place of care is closed due to COVID-19 related reasons?**

Yes, employees who are unable to work or unable to telework due to this reason are eligible.

**6. Reason 6 for Emergency Paid Sick Leave is “Experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services”. What is the process for vetting other similar conditions and what approval is needed?**

This will be vetted by the U.S. Department of Health and Human Services and direction will be provided to employers when other substantially similar conditions are identified. At this time, July 2020, no substantially similar conditions have been identified and relayed to employers.

**7. Can an employee use EPSLA if they are awaiting a COVID-19 Test Result?**

Yes, employees may use EPSLA as they are awaiting a test result.

**8. If an employee is sick and reports that they got a COVID test, do we have to have evidence that the test is negative before they return to the workplace (if not teleworking)?**

No. Please follow the following guidelines for returning to work: the employee who tests positive for COVID-19 should stay away from work until at least 1 day (24 hours) has passed since recovery, defined as resolution of fever without the use of fever-reducing medications and improvement in symptoms (e.g., cough, shortness of breath); and, at least 10 days have passed since symptoms first appeared.

**9. If an employee is sick or reports they were exposed to or tested positive for Covid-19, can I ask the employee for a doctor’s note or test results for Covid-19?**

No, you cannot ask an employee about for or about any medical information. You will need to rely on information volunteered by the employee.

**10. What if an employee reports they have been exposed to someone who tested positive for Covid-19?**

Supervisors must provide the reported information to your human resources office to determine if any action is needed and handle any further communication with the employee. Relevant information in assessing employee risk includes: 1) whether employee had exposure to someone with COVID-19 (testing confirmed or pending), 2) environment and proximity in which exposure occurred, and 3) length of time of exposure. Someone who spent 15 minutes or more within 6 feet of an individual with COVID-19 is considered a close contact (regardless of whether face coverings are worn) and should remain at home for 14 days post-exposure. CDC guidance for recommended precautions based on potential exposures to COVID-19 is available from: CDC Public Recommendations for Community Related Exposure.

The employee should contact their supervisor/manager to discuss all viable options for telework or leave availability. Employees who have tested positive for COVID-19 or are caring for a family member who has tested positive for COVID-19 may be eligible for two weeks of EPSLA under the Families First Coronavirus Response Act. Employees should remain at home and work with their Human Resources office to determine if they meet eligibility.

An employee who had close contact to a confirmed case, does not have COVID-19 symptoms and is awaiting test results, should be quarantined at home for 14 days after the last known close contact. The employee should contact their supervisor/manager to discuss all viable options for telework or leave availability.

**11. What if an employee confirms to have COVID-19 or is experiencing symptoms?**

Employees should notify their supervisor immediately if they are confirmed or experiencing symptoms of COVID-19. Employees that are confirmed COVID-19 positive or are experiencing COVID-19 symptoms and subject to quarantine or self-monitoring as issued from a local public health department or a health care provider, will be provided with Emergency Paid Sick Leave. Employees that have not received confirmation of positive COVID-19 test results from a medical professional, but do not feel well and have chosen to self-isolate, are required to use their own leave credits.

## **Tracking, Reporting, and Approving Time**

### **1. Who is responsible for calculating and tracking Emergency Sick Leave hours? Supervisors or HRB?**

Supervisors will be responsible for tracking all used Emergency Sick Leave hours for their employees. Permanent/full time employees receive 80 hours.

Non-Permanent/non-full time employees (i.e. hourly employees, PI's, fractional employees) must have their Emergency Sick Leave entitlement hours calculated by an Senior Personnel Specialist (SR PS). Supervisors should contact SR PS based on the last name of employee as follows:

A-G, Janice Moses;

H-O, Trina Moya;

P-Z, Nicole Gustafson.

Once the supervisor receives the calculated prorated leave, the supervisor will be responsible for tracking the leave ensuring the employee does not claim more their daily entitlement hours or go over their maximum entitlement hours approved.

### **2. Will there be a special location on the timesheet to track Emergency Paid Sick Leave for these programs?**

Yes. In Tempo, for timesheet tracking, there is a leave code titled AT-EPSLA and a special hours code titled E-FMLA.

### **3. Is Regional Manager approval needed for Emergency Paid Sick Leave under these circumstances?**

Branch Chiefs and Regional Managers have been designated approvers for Emergency Paid Sick Leave. However, all employees who meet the criteria have a right to Emergency Paid Sick Leave. No request for EPSLA can be denied for operational needs.

All denials must be sent to the HRB Chief for review before a denial can be issued to an employee.

### **4. Is there a special project code used for ATO under these circumstances?**

If you are **STATE FUNDED**, there is essentially no change, and you charge ATO time to your normal reporting structure and project ID. If you are **FEDERALLY**

**FUNDED** you will charge ATO time to your normal reporting structure and Project ID (PID) 36000010010033.

**5. Is CalHR Approval needed for use of Emergency Paid Sick Leave under these circumstances?**

No, CalHR approval is not needed for Emergency Paid Sick Leave used for these circumstances.

**6. What is the pay for EPSLA and E-FMLA for Full Time Employees?**

EPSLA – EPSLA is paid at the employee’s full time hourly rate (just as regular sick leave is paid). EPSLA maxes out at 80 hours total.

E-MFLA - You can be approved for up to 12 weeks of EFMLA. The first two weeks of EFMLA are an unpaid wait period. To satisfy this time, you can use Emergency Paid Sick Leave (EPSLA), your leave credits, and/or dock to satisfy this time. The 10 weeks are paid at 2/3 rate or up to a maximum \$200 paid each day. There is also a maximum dollar limit of \$10,000 for EFMLA Benefits paid to you until December 31, 2020 or end of your approved EFMLA time. You can work while on EFMLA, but you can not work to supplement your 1/3 pay difference. Please email the Senior Specialist based on your last name for further information regarding pay:

A-G, Janice Moses;  
H-O, Trina Moya;  
P-Z ,Nicole Gustafson.

**7. Can I work to make up my 1/3 pay I would be missing with EFMLA?**

No, because supplementation is determined based on how many hours you worked in a pay period along with any leave credit, dock or EPSLA leave usage. Only after HR knows what your time usage was for the month, can your HR SR PS give you the exact amount of supplementation hours needed. You may work with your assigned SR PS to get a copy EFMLA supplementation calculator to better assist you with the planning and management of your EPSLA/EFMLA time usage.

**8. Can I use PLP to supplement my 1/3 pay?**

You can use the PLP to supplement the first of each month as long as you had an approved E-FMLA at the time of accrual.

## **9. Do you accrue PLP while on E-FMLA?**

You accrue PLP 2020 the same as you would working if you supplement for your whole paycheck. If you chose not to supplement while on EMFLA, your PLP credits will be prorate based on the number of hours you are being paid. Please work with your SR PS for your exact amount.

### **Emergency Family Medical Leave Expansion Act (E-FMLA)**

#### **1. In order to be eligible for E-FMLA, does the employee need to have worked 30 days, or is it 30 days from date of hire?**

In order to be eligible for E-FMLA, the employee needs to have worked with the State of California for a minimum of 30 *calendar* days. This means at least 30 days from date of hire for new to state employees.

#### **2. How does an employee enter supplemented leave credits onto their timesheets from weeks 3 – 12 of E-FMLA?**

Supplementation would not be referenced on the timesheet, If the employee elects to supplement, the Senior Personnel Specialist would determine the number of leave hours needed for supplementation and the hours would be keyed manually into the State Controller's Office.

### **Other Questions**

#### **1. Will the ATO Flow Chart and other resources be updated?**

Yes. We will continue to update this FAQ and other documents as we continue to receive guidance and additional information relating to these special programs. A new Flow Chart specific to FFCRA will also be developed.