



CITY OF MILWAUKEE
Department of Employee Relations

POLICY AND ADMINISTRATIVE GUIDELINES
EMPLOYMENT AND WORKPLACE CONSIDERATIONS RELATED TO THE
CORONAVIRUS (COVID-19)

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The Department of Employee Relations (DER) has developed this Policy and Administrative Guidelines to address employment and workplace considerations related to the novel coronavirus, COVID-19. This document attempts to provide clarity about policies, practices and procedures that may be impacted in response to COVID-19. We anticipate that the content of this document will continue to evolve as new information becomes available and based on new, or changes to, guidance provided by the Centers for Disease Control (CDC), the EEOC, the Wisconsin Department of Health (DHS), and the Milwaukee Health Department (MHD).

As indicated by the CDC, the guidance provided by this Policy focuses on leave policies, teleworking options, encouraging or requiring employees with symptoms of COVID-19 to stay at home, communicating personal protective measures among staff including handwashing and respiratory etiquette, enhanced environmental cleaning, and ensuring hand hygiene supplies are available.

Please note that as the City continues to identify ways to effectively respond to this public health challenge, there may be a need to change or add provisions to the Milwaukee Code of Ordinances. On Sunday March 15th the Mayor used the executive powers granted under Chapter 6 of the Milwaukee City Charter to declare a state of emergency and implement a number of provisions designed to mitigate the spread of the virus and to create an immediate financial safety net for employees given how fluid the situation is and given the decision by the Governor on March 13th to close all public and private schools. The original and a subsequent proclamations issued can be found under the Proclamations by Mayor Tom Barrett section of Milwaukee.gov/der

The Federal Families First Coronavirus Response Act (FFCRA) became effective on April 1, 2020. The legislation requires the City to provide employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions apply from April 1, 2020 through December 31, 2020. DER has created an FFCRA policy, FAQ and forms. More information is available on the DER website: www.milwaukee.gov/der. Additional policies are also available on the City's face covering policy and the policy and protocol for returning employees to the workplace.

If you have questions about the content of this document or concerns about information that is not addressed in this document, please contact DER at X6210.

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POLICY STATEMENT

The safety of our workforce and community is our highest priority. The City is committed to providing employees a safe and healthy work environment. Together we share a responsibility to help prevent the spread of illnesses in our community. Employees have an obligation to practice the CDC, Wisconsin Department of Health Services recommendations and Milwaukee Health Department (MHD) to help keep the spread of the virus to a minimum.

Managers and supervisors are expected to adhere to the guidance provided by this Policy and Administrative Guidelines in responding to employee concerns and questions. Department leadership has a responsibility to ensure compliance with all applicable provisions of these guidelines including those that require greater flexibility in determining schedules, work assignments, locations, scheduling and use of paid time off, and other related employment matters. The Policy and Administrative Guidelines apply to all employees and officials of the City of Milwaukee, including sworn employees of the Milwaukee Fire Department and Milwaukee Police Department. If any portion of this Policy and Administrative Guidelines conflicts with specific language of a current collective bargaining agreement, then the collective bargaining agreement will control.

EMPLOYEES WITH SYMPTOMS, EXPOSURES AND EXCLUSION FROM WORK

An important way to reduce the spread of both seasonal flu and COVID-19 is to actively encourage sick employees to stay home. Currently, in any of the following situations, employees can be carried on payroll using sick leave and all other accrued balances before going into unpaid status. Effective on April 1 to December 31, 2020, employees may also be eligible for additional leave entitlements under the Families First Coronavirus Response Act (FFCRA).

Symptoms of COVID-19: The CDC updated and slightly modified the symptom criteria for COVID-19.

People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. People with these symptoms may have COVID-19:

- Fever or chills
- Cough
- Shortness of breath or difficulty breathing

Or at least two of these symptoms:

- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

In addition, in order to ensure compliance with CDC, DHS, and MHD guidance, DER is implementing the following protocols for employees who are not first responders who are covered by separate protocols established by the respective departments in consultation with MHD:

When employees call in sick: ordinarily, the City does not inquire into the details of an illness when an employee calls in sick; however, requesting information about the reason for the absence in order to protect the rest of the workforce during a coronavirus-like event is acceptable to avoid wide community spread provided that the question is restricted to whether the employee is experiencing symptoms of COVID-19. If the employee is experiencing COVID-19 symptoms, the department will inform the employee that return to work will be allowed when the employee has had no fever for 24 hours without the use of fever-reducing medication and is no longer displaying other symptoms of COVID-19 AND at least 10 days have passed since symptoms first appeared.

When employees have COVID-19 symptoms upon arrival to work or become sick during the day:

Employees in the workplace who exhibit symptoms should be separated from other employees and directed to go home and stay at home until one of the following have happened:

- 1) Symptomatic employees who have 2 negative test results for COVID-19 are able to return to work immediately. Symptomatic employees and their household members have the option to utilize the City's COVID-19 testing services by calling 414-286-5777 to schedule COVID-19 test; or
- 2) If employee tests positive or does not take a test, they can return to work after they have been fever-free for 24 hours without the use of fever-reducing medicine and are no longer displaying other symptoms of COVID-19 AND at least 10 days have passed since symptoms first appeared.

When an employee is identified by a medical provider, a public health authority, or by City of Milwaukee management as a potential exposure to a confirmed case as defined by the CDC's most

recent criteria: the employee will be quarantined and will be required to stay at home for 14 days and monitor for symptoms. If symptoms develop or the employee tests positive for COVID-19, the employee will remain in isolation until a determination is made by the public health authority, in coordination with the CDC, that the individual is no longer infectious. In accordance with this Policy, employees will be required to self-quarantine at home for 14 days from the date of contact if they have had direct contact. Direct contact means contact that is <6ft distance with a +COVID-19 case for a prolonged period of time (usually 10 minutes or more). Employees who are not symptomatic and were advised to quarantine due to exposure to COVID-19 are not allowed to return to work earlier than 14 days if they test negative during the 14-day quarantine.

When an employee is diagnosed with COVID-19: the employee must follow medical orders and will remain in isolation until he or she is fever free for 24 hours without the use of fever reducing medicine and other symptoms have improved AND at least 10 days have passed since symptoms first appeared. Employees who test positive do not need to take a subsequent test to return to work. For employees who never develop symptoms, isolation and other precautions can be discontinued 10 days after the date of their first test.

Notification of return to work protocols should follow standard departmental protocol and can be coordinated with MHD and/or DER Leave Administrator as necessary.

Recommended precautions by the CDC for household members when an employee has tested positive for COVID-19 can be found at

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-prevent-spread.html>

In addition, information regarding self-quarantine/isolation can be found at:

<https://www.dhs.wisconsin.gov/covid-19/diagnosed.htm>.

Important Information:

Under Wisconsin State Statutes the Commissioner of Health or her designee is required to adopt all measures necessary to prevent, suppress and control communicable diseases. The Rules of the Board of the City Service Commissioners further authorize and permit the Commissioner of Health to direct that any employee or group of employees whose work is such as to expose the employee or employees to danger of contracting a communicable disease to undergo medical examination as necessary for the protection of the interests of the service and for the protection of other employees or the public. Given continued developments associated with the spread of this virus, the Commissioner will determine when measures to quarantine or isolate employees will be utilized and when testing protocols, if available, will be ordered and followed.

PROTOCOL FOR EMPLOYEE NOTIFICATION AND DEPARTMENTAL RESPONSE TO EMPLOYEES WITH SYMPTOMS, A PROBABLE CASE OR A CONFIRMED CASE OF COVID-19

The City of Milwaukee is working diligently to protect the health and safety of its employees and that of the general public following guidance from the proper public health authorities. Effective immediately employees are required to notify the departmental human resources contacts or the leave administrators if they had a positive COVID-19 test result or have been in direct contact, defined as contact of at least 10 minutes within 6 feet of a positive confirmed case. In addition, employees who are experiencing symptoms of COVID-19 at work should notify their supervisor so that the appropriate action(s) can be implemented. This is necessary to ensure that the health and safety of others in the workplace is protected.

A protocol documenting employee notification and departmental response requirements has been developed to address the following situations:

1. The employee has been in contact with someone who was exposed but neither individual is showing symptoms.
2. The employee has been in Close Contact with someone who has been diagnosed with COVID-19.
3. The employee reports to work with symptoms of COVID-19, develops symptoms while at work, or calls in sick with symptoms consistent with COVID-19
4. The employee has tested positive for COVID-19.

The protocol can be found at: www.milwaukee.gov/COVID-19NotificationProtocol

HEALTH AND WELLNESS RESOURCES

The City of Milwaukee is committed to the health, safety, and well-being of its employees and families. During the COVID-19 pandemic and challenging times filled with uncertainty, it is especially important for employees to take care of themselves and their family members. The DER in conjunction with the City's health and wellness partners have redesigned all programs and services to telephonic or virtual formats that are easy to access including the City's clinic services. We want to ensure all health and wellness programming continues to be relevant and tailored to fit the various circumstances that employees are experiencing during this time. New programs and services are continually being launched to focus on areas where employees and their families may need extra support.

Below is a quick summary of resources to help employees access information on updated benefits, services and programs:

- Important Benefit Updates related to COVID-19
www.milwaukee.gov/COVID-19BenefitUpdates
- Wellness Programs and Services are continually updated and shared via the Wellness Website:
www.milwaukee.gov/wycm
- City of Milwaukee Benefits information:
www.milwaukee.gov/benefits
- Onsite Employee Assistance Program (EAP) Consultations: 414-286-3145 or
czamora@milwaukee.gov; www.milwaukee.gov/der/eap

CARING FOR FAMILY MEMBERS

Paid Time Off Options: Earned and borrowed vacation hours or sick time should be granted to employees to care for family members who may have COVID-19 symptoms or who have been exposed to or diagnosed to COVID-19. Ensuring maximum flexibility for allowing paid time off to care for those members is critical. Sick leave benefits are now available to employees to care for family members (as defined by the FMLA). The proclamation signed by the Mayor on March 16th included a provision allowing the use of sick leave to care for family members. Effective on April 1 to December 31, 2020, employees

may be eligible for additional leave entitlements under the Families First Coronavirus Response Act (FFCRA).

Unpaid Time Off: time without pay may be granted at departmental discretion to employees who have exhausted other leave balances.

Be flexible when considering employee requests to telework or flex work schedules to care for family members who are sick with COVID-19: While not all jobs permit this type of flexibility and some telework policies do not permit telework when children are present, you are encouraged to be as flexible as possible.

LEAVE BENEFITS

Sick Leave: employees who are experiencing COVID-19 symptoms should not report to work but should follow call-in protocols established by their departments. Paid sick leave benefits are available in accordance with Chapter 350-37 of the Milwaukee Code of Ordinances. Paid sick leave will also be available to care for family members per the proclamation by Mayor Barrett to take effect on March 16th.

FMLA: Employees diagnosed with COVID-19 may qualify for FMLA leave and will be provided with FMLA paperwork. Please note that precautionary quarantines due to return from travel or exposure without a diagnosis likely do not involve a serious health condition and thus are unlikely to qualify for FMLA leave. Effective on April 1 to December 31, 2020, employees may be eligible for additional leave entitlements under the Families First Coronavirus Response Act (FFCRA).

Employees and departments should consult with the City's Leave Administrator Coordinator, Johnnie Nelson, by calling 414.286.2358 or emailing jnelson@milwaukee.gov to assess whether leave under FMLA for the serious health condition is available.

Medical Leave: employees who do not have access to paid sick leave or who are not eligible for leave under FMLA may be granted a medical leave of absence under the appropriate civil service rules or Milwaukee Code of Ordinance provisions. A short-term medical leave of absence may also qualify as a reasonable accommodation under the ADA.

Staying home to avoid getting sick: employees generally are not entitled to sick leave or FMLA or reasonable accommodation leave to stay at home to *avoid* getting sick (though exceptions may exist where a preexisting medical condition is likely to be worsened by exposure to a contagious disease). Effective on April 1 to December 31, 2020, employees may be eligible for leave entitlements under the Families First Coronavirus Response Act (FFCRA). Please consult with DER if you believe you are dealing with circumstances that may be considered under such exception.

ATTENDANCE POLICIES, SICK LEAVE PROCEDURES AND RETURN TO WORK CERTIFICATES

Temporary Relaxation of Attendance Policies and Sick Leave Procedures: departments should also consider adjusting standards and definitions of unexcused absences for absences related to this outbreak. A temporary relaxation of attendance policies and sick leave procedures may encourage ill employees stay home from work, which is in line with the CDC and DHS recommendations. Employees must understand that decisions to relax the aforementioned protocols may be temporary and will cease to be in effect at the discretion of the Department Head.

Sick Leave Control: DER is directing departments to relax sick leave control protocols and not count absences due to quarantine or isolation orders, COVID-19 symptoms, or absences related to school closures, as occurrences.

Return to Work Certificates: consistent with CDC recommendations, DER is directing departments to relax medical certification requirements for absences related to COVID-19 symptoms as a way to decrease the strain on healthcare systems.

However in accordance with department specific work rules, a medical certificate may be required:

- for any FMLA qualifying event
- any absence of more than 3 days, for illness or injury other than COVID-19 symptoms
- any absence where sick leave is exhausted, for illness or injury other than COVID-19 symptoms

REFUSING TO WORK DUE TO CONCERNS ABOUT EXPOSURE TO COVID-19

Generally an employee who refuses to work will not be paid and may be disciplined. However, because of COVID-19, employees may be permitted to work remotely in accordance with the department's protocols. If an employee is refusing a work assignment due to a concern about exposure to COVID-19 and the employee is unable to telework, DER must be contacted for additional options before disciplinary action is considered.

ADA CONSIDERATIONS

COVID-19 may qualify as an ADA-recognized disability. Employees may also develop a disability from COVID-19 or aggravate a pre-existing disability. Employees with a disability are entitled to a reasonable accommodation, provided it does not cause an undue hardship or direct threat to health and safety.

Disability related Inquiries: Under the ADA managers are restricted from making medical inquiries into an employee's medical status. However such inquiries may be permitted in order to protect the workforce during a coronavirus-like event. If the department has a reasonable belief that an employee poses a direct threat to the health or safety of others in the department the inquiry is permitted under the law. However such inquiry needs to be done in consultation with the City's Leave Administration Coordinator.

Maintain the confidentiality of medical information received: all information about employee illness must be maintained as a confidential medical record in compliance with the ADA.

It is important to remember that during an influenza pandemic, there is community-wide transmission of the virus and the general workplace should not pose a greater risk than the risk of exposure while conducting daily activities in the community. People may be exposed anywhere — at work, at the grocery store, at the bank or anyplace they go.

Reasonable Accommodations: departments may have employees with chronic health conditions that may provide a medical certificate indicating that they should not be at work because they are high risk for COVID-19. We will be treating those as requests for accommodations under the ADA. Effective on April 1 to December 31, 2020, employees may also be eligible for additional leave entitlements under the Families First Coronavirus Response Act (FFCRA).

Please note that typically, it is not a reasonable accommodation to be absent from work indefinitely due to a chronic health condition but if someone has a chronic health condition and the doctor has indicated to

stay home, they may be allowed under the ADA to stay home and use sick time (or go unpaid if they run out of sick time) for the extent of the COVID pandemic (not indefinitely).

As always, ADA requests should be handled on a case-by-case basis. If leave is granted as an accommodation under the circumstances of an employee having a condition that causes the employee to be at greater risk due to the COVID 19 pandemic, long increments of time should not be granted, as the scope of the pandemic changes very rapidly. Depending on the situation, leave could be granted in increments of 2 weeks or 3 week periods with the option for an employee to request an extension; or HR can check on the status every 2-3 weeks, depending on what is going on with the COVID 19 pandemic in the Milwaukee area and the specific employee's situation.

If possible, remote work should be an option for a temporary accommodation as well. If working from home is permitted as an accommodation under the ADA, please make clear to the employee that the accommodation is temporary (for the extent of the COVID pandemic) and allowed under these special circumstances to comply with social distancing. If relevant, let the employee know that even though they are not able to perform all of the essential functions of their job at home, this temporary accommodation is an exception, given the pandemic.

ALTERNATIVE WORK ARRANGEMENTS AND TELECOMMUTING

With the spread of this disease, departments are asked to exercise judgement to protect employees and their families. Please see the DER's policy and protocol for returning employees to the workplace for specific guidance on teleworking during the pandemic. Upon a directive by the appropriate authority, departments that are able to have employees work remotely should encourage or require them to do so. Additional measures to prevent the spread of the disease include hosting videoconferences instead of in-person meetings and canceling or rescheduling trainings, testing, and other group events.

Departments are encouraged to create, revisit, or redistribute telecommuting policies. Appointing authorities should work with the City's Chief Information Technology Officer to ensure that decisions regarding allowing work from home options are supported by technology and that the appropriate IT infrastructure needed to ensure the security for remote work is available. For further information on setting up the technology for telecommuting, see "Working Remotely" at the top of <https://mint.milwaukee.gov>. ITMD will continue to update and add content so please check back regularly.

Departments needing assistance developing telecommuting policies can contact Katherine Holiday from DER at 286-6210.

If a Department initially denies a request to telecommute or for an alternative work arrangement ("AWA"), that request can be revisited as circumstances change. Also, in situations where Departments would not normally approve telecommuting or AWAs, they are encouraged to give more leeway in granting these requests on a temporary basis given the circumstances. During this time, an employee may be assigned to work on a special project or training. Departments can also consider Alternative Work Schedules, such as working four ten-hour days, to allow for staggered shifts. Decisions regarding telecommuting options and the availability for staggered or alternative work schedules are at the discretion of the appointing authority.

When telework is not an option, paid time off requests should be given serious considerations even when they are submitted with little or no advance notice.

Many City of Milwaukee positions consist of essential functions that cannot be performed remotely. The fact that not all essential functions of a position can be performed remotely does not mean that a department cannot or should not permit an employee to work remotely on a limited or temporary basis. If a Department is temporarily expanding its rules on allowing employees to work from home, given the current health emergency and in an effort to limit person-to-person contact, the Department should, for each employee permitted to work remotely, advise the employee what work they will be expected to perform, and document that communication, both as it is initially given, and as it may change or be modified over time. Also please advise the employee and document the fact that employees working remotely are not expected to be able to perform all of the position's essential functions, and should only concern themselves with functions they can perform remotely and other work directives given to them by their supervisor. This will be important to avoid employees having an unwarranted expectation that work from home is a viable option from a reasonable accommodation perspective in the future during non-health-emergency conditions.

WORKER COMPENSATION CONSIDERATIONS

Exposure to COVID-19 that is deemed to have arisen out of and in the course of employment may be eligible for worker compensation benefits, including injury pay. For claims to be compensable, it would have to be proven that the virus was, in fact, contracted at work, and exposure to the employee was not due to an alternative source.

The City works with its third party administrator, CorVel Corporation and the appropriate medical professionals to determine whether the exposure is work related. In response to the widespread concern around COVID-19, CorVel has created a dedicated support line that is staffed 24/7 by nurses and telehealth physicians to guide employees with the most current medical information on prevention and treatment. The number is: 855-283-2710. This hotline is specifically to address COVID-19 concerns. To file a claim, employees should continue to call the 24/7 Work Injury Nurse Triage line at 1-844-645-2567. Employees who have a question about a claim that has already been filed should call 414-286-2020.

FAIR LABOR STANDARDS ACT (FLSA) CONSIDERATIONS

Before assessing how to pay employees while they are off work for COVID-19 related reasons, departments need to understand the employee's classification under the provisions of the FLSA.

Employees subject to FLSA Provisions: Hourly employees permitted to work remotely are required to track remote hours to limit potential wage claims. Also employees, who are required to self-quarantine for the reasons specified under applicable provisions of these guidelines, may take time without pay as necessary as regulations do not guarantee wages or hours and pay.

Employees exempt from FLSA Provisions: exempt employees are paid on a salary basis. This means that they must receive their full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Deductions can be made when an exempt employee is absent from work for one or more full days for sickness or disability, if the employee works only a partial day because of sickness or disability, the City cannot make deductions from the employee's salary for the lost time because the exempt employee must receive a full day's pay for the partial day worked in order for the City to meet the "salary basis" rule. However, the City can require an exempt employee to use available sick leave if the employee only works part of their regularly scheduled day due to sickness or disability.

If there is no available remote work and the City chooses to direct the employee not to come into work due to concerns regarding the spread of disease, it cannot deduct the day's wage from an exempt employee's salary. The City must pay an exempt employee the full salary for any week work was performed.

In summary, time away from work can be unpaid as long as it is in full-day increments if it is voluntary and initiated by the exempt employee. For time off mandated by the employer, the time away can be unpaid only in full-pay week increments.

PREVENTING DISCRIMINATION

The City of Milwaukee is committed to providing employees with a workplace that is free of illegal bias, prejudice, discrimination, harassment, and retaliatory conduct. Employees who are experiencing any such behavior should notify their supervisor or manager immediately, or the Department of Employee Relations.

While the City needs to prepare for COVID-19, we must also remain vigilant about preventing discrimination based upon race or national origin. There is no race or national origin, or other classification that makes any one individual more or less likely to acquire or spread COVID-19 than any other person.

UNEMPLOYMENT INSURANCE

Unemployment benefits are generally available to individuals who are unemployed through no fault of their own. If COVID-19 causes a Department to shut down operations and no work is available, individuals may be eligible for unemployment benefits.

Please note the provision related to employee's eligibility for pay when closure of a city facility is necessary or mandated as a result of the current public health emergency that is included in the Mayor's proclamation to take effect on March 16th.

WORKPLACE PREPAREDNESS

As the City adapts and adjusts to changes in the workplace given the ongoing duration of the pandemic, departments need to follow the protocol provided by DER regarding when to resume in-person operations and returning employees to the worksite. Departments are expected to follow the guidance outlined in the returning employees to the worksite protocol and share that information with employees. Departments that are following different practices or deviating from the information outlined in the protocol should notify DER directly. The most recent protocol can be found on DER's website under the department resources section: www.milwaukee.gov/DER

MANAGING TRAVELERS

As of March 19th the Milwaukee Health Department has provided updated guidance regarding managing travelers. There is now community spread of the novel Coronavirus in Wisconsin therefore guidance related to travel has been updated. If you have a staff member who was previously put on self-quarantine due to travel outside of Wisconsin it is now appropriate to reevaluate each specific situation. Please have the employee confirm through self-monitoring that they are not showing any symptoms of the coronavirus illness. If the individual is clear from all symptoms, the individual may return to work.

HOW TO PREVENT THE SPREAD OF THE VIRUS

Practicing good infection prevention behaviors creates good habits that will help prevent the spread of the virus during an outbreak. All employees – regardless of symptoms – are expected to take action to help prevent the spread of COVID-19. To help keep the spread off the virus to a minimum employees are asked to:

- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom, before eating, and after blowing your nose, coughing, or sneezing.
- Cover your nose and mouth with a tissue when coughing or sneezing (or an elbow or shoulder if no tissue is available)
- Avoid close contact with people who are sick
- Avoid touching your eyes, nose, and mouth with unwashed hands
- Clean and disinfect frequently touched objects and surfaces
- Use an alcohol-based hand sanitizer with at least 60% alcohol if soap is not available
- Be alert for symptoms of COVID-19.
- Stay home if they have symptoms of COVID-19.
- Put 6 feet of distance between yourself and people who don't live in your household wherever possible.
- Use Cloth Face Coverings or masks; see full policy here:
www.milwaukee.gov/FaceCoveringRequirement