



**CITY OF MILWAUKEE**  
**Department of Employee Relations**

**Families First Coronavirus Response Act Compliance Policy**

April 1, 2020

In compliance with the requirements of the Federal Families First Coronavirus Response Act (FFCRA), the City of Milwaukee is providing employees with Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave (EFMLA) for specified reasons related to COVID-19. These provisions apply from April 1, 2020 through December 31, 2020.

**Two Types of Leave Covered Under FFCRA**

**I. Emergency Paid Sick Leave (EPSL)**

**1. Employee Eligibility**

All employees, regardless of length of service, are eligible for up to two weeks (80 hours, or a part-time employee's two-week equivalent) of emergency paid sick leave. An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework for the following reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order;
2. The employee been advised by a health care provider to self-quarantine;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee is caring for an individual subject to, or advised to, quarantine or isolation;
5. The employee is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
6. Is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

To access the emergency paid sick leave, employees will be required to submit a signed declaration certifying the reason for taking EPSL and provide supporting documentation.

**2. Pay for a qualifying EPSL reason**

Eligible employees will receive up to 80 hours of paid sick leave.

- Full-time employees: 80 hours at their regular rate of pay, subject to caps and reasons noted below.

- Part-time employees: the number of hours that the employee works, on average, over a two week period, subject to caps and reasons noted below.

Payments are capped at \$511 a day (\$5,110 in total) for dealing with an employee's own illness or quarantine (reasons 1, 2 and 3 above).

Employees who are caring for an individual affected by COVID-19 and those whose children's schools have closed (reasons 4, 5 and 6 above) are eligible for two-thirds of their pay, and that benefit is limited to \$200 a day (\$2,000 in total). Employees cannot supplement the unpaid 1/3 of their pay with any other leave balance.

### **3. Taking Leave**

Employees must follow all departmental call-in procedures when using leave provided by this Act and employees should clearly articulate their reason for taking qualifying leave. This leave entitlement is in addition to the employee's regular sick leave balance.

### **4. Return to Work Following EPSL**

Employees are required to follow guidelines established by the City's Policy and Administrative Guidelines and the Milwaukee Health Department's protocols as it relates to ceasing home quarantine and isolation practices.

## **II. Emergency Family and Medical Leave Expansion (EFMLA)**

### **1. Employee Eligibility**

Employees who have been on payroll for 30 or more days are eligible for expanded Family Leave under federal FMLA through December 31, 2020. This is not an expansion in the total leave entitlement available to employees but rather an expansion in eligibility and qualifying events for FMLA leave.

Eligible employees are allowed up to 12 weeks of Family Leave if the employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

Taking EFLMA does not count against any leave entitlement under the Wisconsin Family Medical Leave Act.

### **2. Paid Benefits for EFMLA**

The first ten days of EFMLA leave are unpaid. However, employees are permitted to substitute available paid time off, including leave provided under the Emergency Sick Leave provisions of the Act.

Employees with other accrued leave available may elect to substitute that leave during this time period.

The City will continue paying its portion of employee benefits for time when this leave is taken. As with Emergency Sick Leave, the expanded Family Leave entitlement for part-time employees is based on the average hours worked in a 2-week period.

Thereafter the 10 day period, employees must be paid at no less than 2/3 their normal rate of pay, capped at \$200 per day and \$10,000 for the total leave period. Employees cannot supplement the unpaid 1/3 of their pay with any other leave balance.

### **3. How Leave May be Taken**

Leave may be taken in a continuous block or intermittently. Employees are expected to provide advance notice of their need for leave under the expanded Family Leave provisions.

## **II. FFCRA General Provisions**

### **1. Documentation Requirements**

Employees are required to complete a form documenting the need for the leave and provide documentation supporting the need for leave. This form includes fields for the employee to provide the names of applicable government health agencies, healthcare providers, schools, childcare providers and family members. There is no specific form of documentation required to support the need for leave, it could be any written verification from a medical provider or school/childcare.

Employees are instructed to work with their leave administrators if they are unsure as to what type of documentation will suffice. Documentation in support of the reason for the medical leave could be as simple as a telehealth visit follow-up note. It may also include a notice of closure or unavailability from your child's school, place of care, or child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to you from an employee or official of the school, place of care, or child care provider.

### **2. Employer Notice Requirements**

The City will post in conspicuous places in the workplace, all required postings published by the Department of Labor. The postings will be placed at all work locations. They are also available on the DER homepage.

### **3. Payroll**

The City Comptroller will establish new payroll codes for leave taken as full pay under the Emergency Sick Leave provisions, for leave taken at 2/3 pay under the Emergency Sick Leave provisions and for paid leave under the expanded Family Leave provisions. Payments to employees under the Act are subject to payroll taxes and are pensionable. Time taken under these provisions is considered creditable service for pension purposes.

### **4. Notifying of the Need for FFCRA Leave**

Employees should request their need for emergency paid leave as soon as possible, by notifying their immediate manager and/or Departmental Leave Administrator as indicated by department specific protocol. Departments will establish a departmental workflow for requesting and approving leave.

If an employee is incapacitated, the employee's representative should give verbal notice as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide sufficient information regarding the reason for an absence for the Department to know that protection and benefits may exist under this policy.

### **5. Insurance Benefit Continuation During FFCRA Leave**

Coverage under health insurance will continue while on leave, but employees must continue to pay their portion of the premium. Questions should be directed to the Department of Employee Relations-Employee Benefits Division at (414) 286-3184.

### **6. Rights Upon Return from FFCRA Leave**

An employee who takes leave under this policy may be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist.

The law provides that an employee has no greater rights upon a return from leave than the individual would have had if s/he had continued to work. Therefore, an employee may be affected by a layoff, reorganization, furlough, change in job duties or other change in employment if the action would have occurred had the employee remained actively at work.

## **7. Employee Dispute Resolution**

### **A. Internal Complaints**

If an employee believes that they have been denied leave to which they were entitled, that any other employee interfered with their use of protected FFCRA leave or that they were retaliated against for taking protected leave they may file a complaint with the Department of Employee Relations' Human Resources Compliance Officer at 414-286-6210. The Compliance Officer will review pertinent facts and documentation to assess if any rights were violated.

### **B. External Complaints**

Employees may file complaints with the Federal Department of Labor – Wage and Hour Division, if they feel that any of their rights under the FFCRA have been violated. Retaliation for filing complaints is strictly prohibited.

## **8. Questions**

Contact your Department Leave Administrator or the DER Leave Administration Coordinator at 414-286-2358 with questions.