



Bulletin 4-6-2020

## **Families First Coronavirus Response Act (FFCRA) - Emergency Paid Sick Leave (EPSL) and Expanded FMLA (EFMLA)**

As part of our effort to assist our clients in complying with the requirements of the Families First Coronavirus Response Act (FFCRA), BCN Services will be assisting you in navigating the leaves of absence the Act is temporarily making available to your employees. These leaves apply to all employers with less than 500 employees, unless the employer has sought a variance through the Department of Labor (DOL). This will be a new process for many of you who traditionally haven't been required to offer FMLA. We have created one simple form to make it easy for employees to apply for either of the newly available leaves. Leaves for an employee's own COVID-19 medical condition will require a simple accompanying doctor's note, which should be much easier to get back than the regular government FMLA forms.

### **Emergency Paid Sick Leave (EPSL)**

Emergency Paid Sick Leave (EPSL) is available to all employees, regardless of their tenure. It offers up to 2 weeks (up to a maximum of 80 hours) of regular pay for the following reasons:

- An employee is quarantined (due to government order or advice of health care provider – this does not include “shelter in place” orders)
- An employee is experiencing symptoms of COVID-19 and is seeking treatment

It offers up to 2 weeks (up to a maximum of 80 hours) of 2/3 regular pay for the following reasons:

- An employee is caring for an individual who is quarantined
- An employee is caring for a child because the regular child care provider or school is unavailable (typically for children age 14 and under and only if the employee is the only suitable caregiver available to care for the child(ren))
- An employee is experiencing a substantially similar situation to these reasons

Once an employee uses 2 full weeks (all 80 hours for a full-time employee, the average over the last 6 months for part-time employees) of this pay, it's not available again for a different circumstance. If an employee uses 1 week (up to 40 hours) for one reason, and then has a new reason for leave, the total can't exceed 2 weeks (up to 80 hours).

### **Expanded FMLA (EFMLA)**

Expanded FMLA (EFMLA) provides an additional use for FMLA and makes it available to a broader range of employees. All employees who've been with your company for at least 30 days are eligible for this leave. This not only expands the leave to those with who are the only person available to care for a

child or children who can't be at school or day-care for reasons related to COVID-19, but it requires employers to pay 2/3 of the employee's pay for weeks 3-12 of the leave. Pay for weeks 1-2 may be covered by EPSL, giving employees a potential of 12 weeks of paid or partially paid leave time. Unlike regular FMLA, employers cannot require the employee use existing PTO, vacation or personal time instead of using the pay options or lack of pay options available through these leaves. However, an employee can choose to use any available time instead.

This doesn't change anything about traditional FMLA. For example, it doesn't require paying employees on FMLA for other reasons, and it doesn't give people more than 12 weeks of FMLA (including EFMLA) in a 12 month period.

From a pay perspective, for both types of leave, there are some caps to the amount of pay employees can receive in a week for the leaves.

Intermittent leave is possible. One reason allowable for intermittent leave would be if an employee is sick with COVID-19 or caring for someone who's sick and can work remotely but can only handle part of their schedule. Another would be if the employee is sharing responsibility of caring for children whose school or day care aren't available. In these cases, intermittent leave should only be allowed if the employer and the employee can work out a mutually acceptable schedule. You, as the employer, don't have to agree to something that doesn't work for your business.

### **The Form**

All leaves do require documentation from the employee stating the reason for the leave, the dates they will need time off, and a statement of the source of the need. That can include providing the name of the day care or school, the name of the government entity that required the quarantine, or the name of the doctor who made the recommendation. If the employee is sick with COVID-19 related symptoms and is seeking treatment, the form will be acceptable if it's returned with a doctor's note that states the reason for the need for leave and the dates the doctor expects the employee to need to be off work due to their medical condition. It's important to not require additional documentation, as that could be a compliance violation.

Managers can find the FFCRA Leaves Request Form to provide to their employees on the BCN Services website in their manager portal. Go to Manage Documents and it's located in the General Forms. Employees can also access it through their web portal themselves through Manage Documents.

### **The Posting**

There's a required posting for the FFCRA that must be posted prominently in the worksite. If some or all of your employees are working remotely, it can be emailed to all remote working employees or be posted on an intranet or extranet that the employees regularly use. We've included these in a recent bulletin, but there's been a lot of information coming very quickly, so here they are again. There's one for government contractors and one for private sector only employers.

- [General employees](#)
- [Federal offices](#)

### **Entering FFCRA Time For Payroll**

When you're entering payroll, there are pay codes for these leaves. EPSL is for the first 2 weeks of leave time (up to 80 hours) for someone receiving 100% pay. EPSL23 is for someone receiving 2/3 pay for up to 2 weeks. EFMLA will be used for weeks 3-12 for any employee who's on an approved leave to care of children based on the COVID-19 situation (2/3 pay). If an employee has used up their EPSL already, you wouldn't enter time into the system for the first 2 weeks, so there's no pay code for those 2 weeks unless they have some sort of vacation time they're choosing to use for pay.

We're here to help you! Anyone in the BCN HR Team can assist you with the steps to provide the employees the leave for which they are eligible during this challenging time. Email us at [hr@bcnservices.com](mailto:hr@bcnservices.com) for assistance.