

EMERGENCY PAID FMLA LEAVE (PHEL/FMLA) – Quick FAQs

What is the *Families First Coronavirus Response Act*?

This bill, passed in response to the present outbreak of coronavirus/COVID-19, is emergency legislation that requires employers to provide eligible employees with paid sick leave and paid family leave under certain circumstances related directly to the impact of coronavirus/COVID-19.

When does the law take effect?

The law is effective April 1, 2020 through December 31, 2020 and cannot be applied retroactively to dates prior to April 1, 2020.

Are certain employees excluded from this benefit?

Emergency responders are exempted from Emergency Paid FMLA Leave.

What does Emergency Paid FMLA Leave cover?

Also referred to as Public Health Emergency Leave (PHEL) Employees can take up to 12 weeks of covered leave (the first two weeks/10 days are unpaid).

Which employees qualify for Emergency Paid FMLA Leave?

Employees who have worked for the employer 30 calendar days or longer. This includes Project and Temp Seasonal employees.

What are qualifying reasons for using Emergency Paid FMLA Leave?

An employee is entitled to Emergency Paid FMLA Leave to care for a child¹ under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to the current public health emergency AND the employee is unable to work or telework.

Is Emergency Paid FMLA Leave paid at the regular rate of pay?

No. Approved PHEL/FMLA leave will be paid at 2/3 the employee's rate of pay up to a maximum of \$200 per day.

Can an employee supplement the 2/3 rate with PTO?

Yes, the employee can supplement with accrued leave if they want to.

Can an employee take Emergency Paid FMLA Leave intermittently while working?

Employees and supervisors should make every effort to modify existing schedules as needed to enable an employee to work the normal number of hours. A flexible collaboration may include working early in the morning, late at night, or different days of the week. Intermittent leave requests, in circumstances where an employee is prevented from working or teleworking the normal schedule of hours, will be evaluated on a case-by-case basis and must be approved by the Employer.

¹ As defined by FMLA regulations a biological, adopted, or foster child, a step child, legal ward, or a child of a person standing in loco parentis.

Does an employee have to exhaust their own paid time off accruals before accessing Emergency Paid FMLA Leave?

No. However, the first 10 days of leave may be unpaid. Employees can opt to use their first two weeks of pay under the Emergency Paid Sick Leave law during the initial 10-day period. If they do not have that time available, they can choose to use any other available employer-provided benefits (PTO, vacation, sick leave).

What if an employee has already taken 12 weeks of FMLA leave this year? Are they eligible for an additional 12 weeks of Emergency Paid FMLA Leave to stay home with their children?

No. The Act does not expand an eligible employee's FMLA leave entitlement to greater than 12 workweeks during any 12-month period. Accordingly, an employee that has otherwise exhausted FMLA leave during the 12 month period is not entitled to additional 12 weeks of leave.

How does an employee request Emergency Paid FMLA Leave?

Employees can submit a completed Emergency Paid FMLA Leave (PHEL/FMLA) Request Form (located on the COVID-19 Employee Portal) to Human Resources. Employees can also contact Human Resources if they need a paper form mailed to them, or require a designee to fill out the form on their behalf.

Is there documentation required to qualify for Emergency Paid FMLA Leave?

An individual requesting expanded family and medical leave must provide:

- The name of the child being cared for
- The name of the school, place of care or child care provider that closed or became unavailable due to coronavirus reasons
- A statement representing that no other suitable person is available to care for the child during the period of requested leave

Other documentation may be requested if needed to meet regulatory requirements.

How will the employee code approved Emergency Paid FMLA Leave on their time sheet?

Payroll will provide employees with instructions for timesheet coding upon approval.

How much notice do employees have to give before taking COVID-19 Emergency Paid FMLA Leave?

Where the necessity for leave is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.