

Emergency Sick Leave Frequently Asked Questions

1. How many Emergency Paid Sick Leave hours may full-time employees receive?

- a. 80

2. How many Emergency Paid Sick Leave hours may part-time employees receive?

The number of hours equal to the number of hours that the employee works, on average, over a two-week period.

3. When may I take Emergency Paid Sick Leave?

a. The following are qualifying reasons to take Emergency Paid Sick Leave:

- 1) The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- 2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- 3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- 4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 as described in subparagraph (2);
- 5) The employee is caring for a son or daughter under the age of 18 of such employees if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions; or
- 6) The employee is experiencing any other substantially similar condition as has been specified by the U.S. Government

4. If an employee can work remotely, can the employee still receive Emergency Paid Sick Leave?

- a. Yes, if the employee is symptomatic and too ill to perform the functions of the position remotely; or the employee is unable to perform the functions of the position remotely due to the need to provide:
 - i. care to those with COVID-19 symptoms,
 - ii. care to those under quarantine due to a governmental or doctor's order, or
 - iii. childcare because their child's school or daycare has closed, or the childcare provider is unavailable on account of COVID-19 precautions.
- b. Otherwise, the expectation is that if you are quarantined, you will perform any of your job functions that can be performed remotely.

5. Are all employees eligible for Emergency Paid Sick Leave, regardless of how long they have worked for the State?

- a. Yes, generally. However, employees in positions that fall under the categories of health care providers and emergency responders are not eligible for Emergency Paid Sick Leave. If you

have questions about whether you fall into one of these categories, please talk with your supervisor and HR manager.

- b. Guidance from the DOL on who falls within these categories is located on questions 56 and 57: <https://www.dol.gov/agencies/whd/pandemic/ffera-questions>.

6. Does Emergency Paid Sick Leave count against an employee's existing sick, vacation or personal leave balances?

- a. No. However, depending on the reason the employee is taking Emergency Paid Sick Leave, an employee is only entitled to 2/3 of regular salary. An employee may supplement the 2/3 pay with accrued sick or annual leave to reach 100% regular pay.
 - i. An employee is entitled to 100% regular pay when taking Emergency Paid Sick Leave for reasons (1)-(3) in question #3. An employee is entitled to 2/3 regular pay when taking Emergency Paid Sick Leave for reasons (4)-(6).

7. Can Emergency Paid Sick Leave be used on an intermittent schedule?

- a. It depends on whether you are teleworking or working at your usual worksite.
 - i. If you are teleworking and you are unable to telework your normal schedule of hours due to one of the qualifying reasons, you and your supervisor may agree that you may take paid sick leave intermittently while teleworking.
 - ii. If you are working at your usual worksite, as opposed to teleworking, it depends on why you are taking leave. Unless teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken for reasons (1)-(4) and (6) in question #3. Unless you are teleworking, once you begin taking emergency paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either use the full amount of paid sick leave or no longer have a qualifying reason for taking the paid sick leave.

8. Can an employee take the 80 (or prorated number of hours) hours of sick leave for their self-quarantine and then another amount of paid emergency sick leave for another reason provided under the Emergency Paid Sick Leave Act?

- a. No. A full-time employee may take only up to two weeks—ten work days (80 hours)—of emergency paid sick leave for any combination of continuous qualifying reasons. A part-time employee may take emergency paid sick leave hours only up to the amount of work hours over an average two-week period for any combination of continuous qualifying reasons.

Emergency FMLA Frequently Asked Questions

1. Is Emergency FMLA paid or unpaid leave?

- a. The first 10 (work) days of Emergency FMLA will be unpaid unless the employee chooses to use (a) the Emergency Paid Sick Leave hours to cover the leave time or (b) other applicable leave balances to cover the leave time.
- b. After the first 10 (work) days of Emergency FMLA, the remaining FMLA leave will be paid, not less than 2/3 of the employee's regular rate, for the number of hours the employee would otherwise be scheduled to work if the person is unable to work (or telework) because of the

need to care for a child when the school or daycare has closed, or the childcare provider is unavailable, due to a declared COVID-19 emergency. The employee has the option to use accumulated sick or vacation leave balances to cover the remaining 1/3 leave time, or other amount necessary to ensure 100%.

2. **Does the 2/3 paid leave count against an employee's sick or vacation leave balances?**
 - a. No, however, if the employee wants to receive full pay while on Emergency FMLA, he or she may use accumulated sick or vacation leave balances, as allowable based on the rules associated with the accumulated leave to be used to cover the remaining 1/3 of the leave time, or other amount of leave necessary to ensure 100% pay.
3. **Can an employee use Emergency FMLA for his or her illness related to COVID-19?**
 - a. No, this category of FMLA is only related to childcare. An employee suffering from COVID-19 may use the "standard FMLA" leave, but the special 2/3 paid leave provision will not be applicable. The employee's banked sick and vacation leave, or emergency paid sick leave, may also be available.
4. **If an employee can work remotely, can the employee still receive Emergency FMLA?**
 - a. Yes, if the need for an employee to provide childcare prevents him or her from being able to complete the job duties remotely, this leave can be utilized.
5. **Are all employees eligible for this leave, regardless of how long they have worked for the State?**
 - a. No, employees must have been employed by the State for at least 30 calendar days in order to qualify for Emergency FMLA.
 - b. Employees in positions that fall under the categories of health care providers and emergency responders are not eligible for Emergency FMLA. If you have questions about whether you fall into one of these categories, please talk with your supervisor and HR manager.
 - c. Guidance from the DOL on who falls within these categories is located on questions 56 and 57: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.
6. **Can this leave be used on an intermittent schedule?**
 - a. Yes.
7. **If an employee has already used FMLA hours, are the available Emergency FMLA hours reduced?**
 - a. Yes, the 12 weeks will be reduced by the hours the employee has used for other FMLA qualifying events.

If you wish to request Emergency Paid Sick Leave or Emergency FMLA, please send an email to your supervisor and human resources manager and complete all necessary forms. When you submit your request, please include the reason you are requesting the leave and the amount of time you are requesting.

Thank you in advance for your cooperation. If you have any additional questions related to the Families First Coronavirus Response Act, please submit those by email to your HR office.

