



Families First Coronavirus Response Act (FFCRA)

March 30, 2020





Families First Coronavirus Response Act (FFCRA)

Effective April 1, 2020 - December 31, 2020

1. Emergency Paid Sick Leave Act
2. Emergency Family and Medical Leave Expansion Act
3. Paid Family Leave and Paid Sick Leave Tax Credits

Emergency Paid Sick Leave Act (EPSL)

Eligibility:

- Employers with fewer than 500 employees
- Employees are eligible on their 1st day of employment

Basic Leave Entitlement:

- FT employees = 80 Hours paid sick leave
- PT employees = Avg of Hours (2 weeks)

Use of Paid Sick Leave is Subject to:

1. Is quarantined related to COVID-19
2. Has been advised to self quarantine
3. Is experiencing symptoms and seeking diagnosis
4. Caring for an individual who is quarantined
5. Caring for a child whose school or daycare closed
6. Is experiencing other substantially similar conditions to COVID 2019

Paid Leave Entitlements (EPSL)

When Use of Paid Leave is Subject to:

1. Is quarantined related to COVID-19
2. Has been advised to self quarantine
3. Is experiencing symptoms and seeking diagnosis

Employees are Paid at 100%

- Up to \$511 daily / \$5,110 maximum

When Use of Paid Leave is Subject to:

4. Caring for an individual who is quarantined
5. Caring for a child whose school or daycare closed
6. Is experiencing other substantially similar conditions to COVID 2019

Employees are Paid at 67%

- Up to \$200 daily / \$2,000 maximum

Note: Employers with fewer than 50 employees can apply for an exemption if paid EPSL would jeopardize the viability of the business

Calculating Regular Rate of Pay During Leave (EPSL)

Regular Rate of Pay

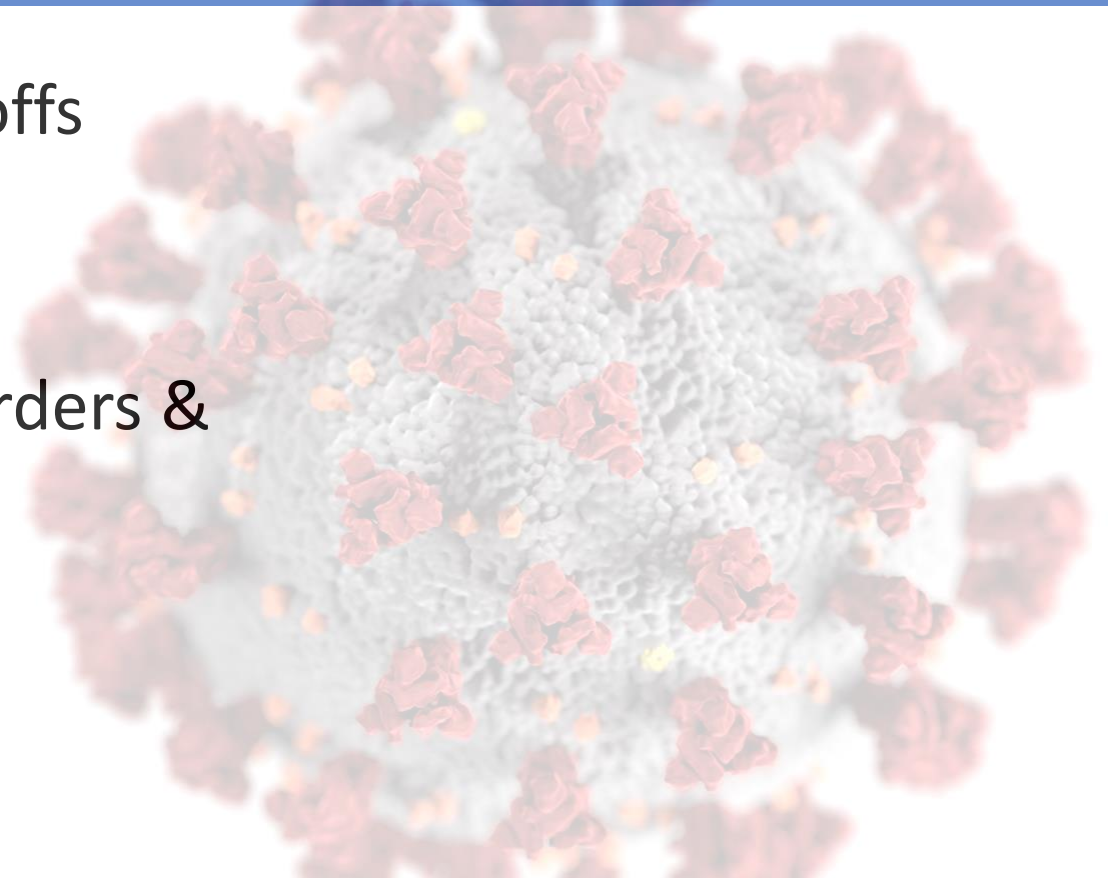
- Average of employee pay over 6 months prior to leave
 - If employee has less than 6 months, it is the average of weeks worked
- Employee pay includes
 - Commissions
 - Bonuses
 - Piece rates

Variable Work Schedules:

- Determine the number of hours to be paid based on the average hours the employee worked per day over a six-month period prior to taking leave.

What is Not Included under EPSL

- Furloughs and Temporary Layoffs (before or after April 1, 2020)
- Government “Stay in Place” Orders & Business Closures



Emergency Family & Medical Leave Expansion Act (EFMLEA)

Eligibility

- Employee must have worked for the employer for at least 30 days

Use of EFMLEA

- Up to 12 weeks to care for children if their school or daycare is closed

Pay During EFMLEA

- The first 10 days of EFMLEA may be unpaid
- Employees can use accrued paid leave including EPSL for the first 10 days
- Employees are entitled to paid EFMLEA (after the first 10 days) at 2/3rds pay up to \$200.00 per day

Note: Employers with fewer than 50 employees can apply for an exemption if paid EFMLEA would jeopardize the viability of the business

Job Restoration (EFMLEA)

At the end of EFMLEA, the employer must generally return the employee to the same or equivalent position.

Employers with fewer than 25 employees are exempt from this requirement if:

- **The employee's position doesn't exist after EFMLEA** due to economic conditions or other changes caused by a public health emergency during the period of leave;
- **The employer makes reasonable efforts to restore the employee** to a position equivalent to the position the employee held before the leave; and
- **The employer makes reasonable efforts to contact the employee** if an equivalent position becomes available within the next year.

COVID-2019 Emergency Paid Sick Leave Policy

Create a policy that includes:

- Basic Leave Entitlement
- Use of Paid Sick Leave
- Pay During Leave
- Employee Request for Leave
- Job Restoration (upon return from leave)

Required Documentation

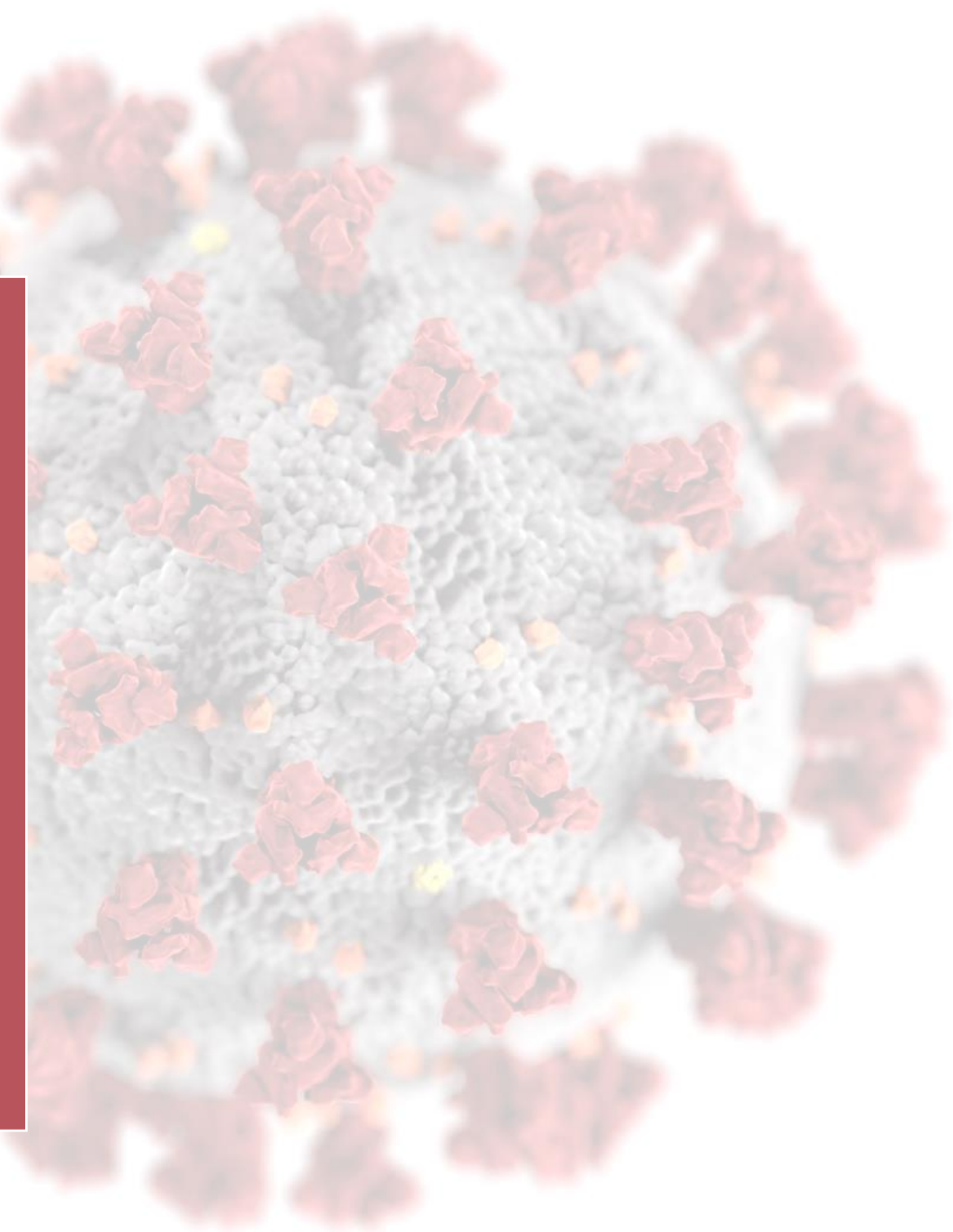
- EPSL – must provide appropriate documentation (Federal, State, Local quarantine or isolation order, or health care provider)
- EFMLEA – must provide a notice of closure from school or daycare

Paid Family Leave and Paid Sick Leave Tax Credits

- Employers are allowed a credit against employer Social Security Tax equal to 100% of qualified sick leave wages
- The credit is increased by certain specified health expenses excluded from the employee's income – such as employer paid health plan premiums.
- Emergency paid sick leave and EFMLEA wages paid are also exempt for Social Security taxes

Next Steps

- Set up payroll systems to track new earnings codes for COVID-2019 between April 1 and December 31, 2020
- Make sure emergency paid sick leave and EFMLEA wages are exempt from Social Security taxes
- Develop a Leave Policy and Request Form
- Post a Notice of FFCRA requirements



Online Resources

HR4VR

www.HR4VR.com

FLSA Q&A

<https://www.dol.gov/agencies/whd/flsa/pandemic>

DOL Guidance on Families First Coronavirus Response Act

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

DOL Q&A on Families First Coronavirus Response Act

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Required Employer Posting

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

Questions? Contact us!



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Disclaimer: This information and resources are for general guidance and informational purposes only, designed to improve your general understanding of the current employer responsibility's surrounding COVID-19 and does not constitute legal advice.