



LAY PERSONNEL

## DIOCESE OF SACRAMENTO

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### **Families First Coronavirus Response Act (FFCRA) Questions & Answers for Employers**

#### **The Emergency Paid Sick Leave Act:**

##### **Q: Under what circumstances do covered employers need to provide emergency paid sick leave?**

A: Covered employers are required to provide emergency paid leave to an employee who is unable to work or work remotely because:

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 because of COVID-19;
3. the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. the employee is caring for an individual subject (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. the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

NOTE: Caring for another who is subject to an isolation order or advised to self-quarantine as described above is not limited to family members.

##### **Q: How long do employees need to be working at my site before they get emergency paid sick leave?**

A: All employees, regardless of their tenure with the organization or full-time or part-time status are eligible to receive this benefit.

##### **Q: Do we still need to provide emergency paid sick leave if the employee has existing paid leave via sick days and vacation days?**

A: Yes. The emergency leave is *in addition to* any paid leave provided by employers.

##### **Q: Do employees need to exhaust their vacation hours or sick hours before using emergency paid sick leave?**

A: No. Employers may not require employees to exhaust their current sick hours or vacation hours before using this emergency paid sick leave.

##### **Q: When can employees start using emergency paid sick leave?**

A: The effective date is April 1, 2020. Any paid leave provided *before the* law is enacted *cannot be* credited against the employee's paid sick leave entitlement.

**Q: How much pay are employees entitled to?**

A: Covered employers are required to provide employees with two weeks of paid sick leave.

- Full-time employees: 80 hours at their regular rate of pay.
- Part-time employees: the number of hours that the employee works, on average, over a two-week period.

NOTE: Once the employee returns to work the employer is not required to provide any further emergency paid sick leave.

**Q: Are the payments subject to caps?**

A: Yes, 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) receive up to two-thirds of their pay, and that benefit is limited to \$200 a day (\$2,000 in total over a two-week period).

**Q. If an employee is only receiving to-thirds of their wages through the emergency paid sick leave, can they supplement their pay with their existing paid leave via sick or vacation hours?**

A: Yes, because of the current emergency situation, all parishes and the diocese have adopted a temporary modification of the sick leave policy. Whereas that policy usually applies only where the employee needs time off to address actual sickness (of the employee or a family member), the modification will permit affected employees to supplement their pay with their accrued sick or vacation to make them whole. We will follow the same process as we use when we are integrating pay while an employee is on a leave of absence.

**Q. How do we process the emergency paid sick leave for the employee in ADP?**

A: There are two payroll codes established in ADP to process the emergency paid sick leave.

- Payroll code FF-PSL-EE (FF1) is to be used when the employee is dealing with their own illness or quarantine (reasons 1, 2 and 3 above).
- Payroll code FF-PSL-FAM (FF2) is to be used when the employee is caring for an individual affected by COVID-19 or when their children's schools have closed (reasons 4, 5 and 6 above).

**EXAMPLE SITUATION #1** Employee absence for reasons 1, 2, or 3 *who does* want to supplement pay:

An employee who normally works 40 hours a week was only able to work 3 days and then was no longer able to work because no other work was available from the parish/school.

**Pay period 4/1/20 – 4/15/20**

Regular Pay (Pay Code R)	24 hrs
COVID19 Sick (Pay Code FF-PSL-EE/FF1)	56 hrs (80 hours allotted per FFCRA)

**Pay period 4/16/20 – 4/30/20**

COVID19 Sick (Pay Code FF-PSL-EE/FF1)	24 hrs (80 hours allotted per FFCRA)
Regular Sick (Pay Code S)	16 hrs (balance of accrued sick hours)
Vacation (Pay Code V)	40 hrs (supplement of vacation hours to make the employee whole)

**EXAMPLE SITUATION #2** Employee absence for reasons 4, 5, or 6 who *does want* to supplement pay:

An employee who is unable to work due to the need to care for another. The employee normally works 40 hours a week and makes \$20 per/hr, a total of \$800 a week. Since this employee will only receive two-thirds of their normal wages, they would like to supplement their pay from their available accrued vacation or sick hours.

Calculation

Total normal pay: 80 hrs x \$20 per/hr = \$1,600.00

2/3<sup>rd</sup> rate: \$20 x 2/3 = \$13.33

\$13.33 x 80hrs = \$1,066.40

Balance to be paid from sick or vacation: \$1,600 - \$1,066.40 = \$533.60

Additional hrs to be supplemented from sick/vacation accrual to equal \$533.60, equates to 26.68 hrs

You will need to create a “New Rate code” for the 2/3 rate of pay.

NOTE: If the employee has an hourly rate that is greater than **\$37.50** per/hr, the employee will be limited to a \$200 maximum per day.

**Pay period 4/1/20 – 4/15/20**

COVID19 Sick (Pay Code FF-PSL-FAM/FF2)	80 hrs (80 hours allotted per FFCRA)
Regular Sick (Pay Code S)	20 hrs (supplement of available balance of accrued sick leave to make the employee whole)
Vacation (Pay Code V)	6.68 hrs (supplement of vacation hours to make the employee whole)

**EXAMPLE SITUATION #3** Employee absence for reasons 4, 5, or 6 who *does not want* to supplement pay:

An employee who is unable to work due to the need to care for another. The employee normally works 40 hours a week and makes \$20 per/hr, a total of \$800 a week.

Calculation

Total normal pay: 80 hrs x \$20 per/hr = \$1,600.00

2/3<sup>rd</sup> rate: \$20 x 2/3 = \$13.33

\$13.33 x 80hrs = \$1,066.40

You will need to create a “New Rate code” for the 2/3 rate of pay.

NOTE: If the employee has an hourly rate that is greater than **\$37.50** per/hr, the employee will be limited to a \$200 maximum per day.

**Pay period 4/1/20 – 4/15/20**

COVID19 Sick (Pay Code FF-PSL-FAM/FF2) 80 hrs (80 hours allotted per FFCRA at the 2/3 rate)

**Q. Why do we have to use the special payroll code in ADP?**

A: Under the FFCRA provisions the government will reimburse the employer for this additional benefit provided to the employee. We must accurately track the emergency paid sick leave to ensure we can submit the appropriate amount to the federal government for reimbursement.

**Q. Will the employee accrue sick or vacation hours when paid for emergency paid sick leave?**

A: No, the employee will not be eligible to accrue sick or vacation hours when being provided this emergency relief benefit.

**Q: Do employees need a note from a doctor?**

A: Although not specifically addressed in the FFCRA, we recommend that you do not require a health care provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as health care provider offices and medical facilities are *very busy* and will likely not be able to provide the documentation. The CDC recommends that people who are experiencing respiratory illness stay home until they are free of fever and other symptoms, for at least 24 hours without the use of medicines (e.g., aspirin and cough suppressants).

**Q: Will employees be entitled to this benefit in 2021?**

A: No. Hours cannot be carried over after December 31, 2020 (when the legislation sunsets).

**Q: What do we do with employees who are *not* working right now and are currently using their own sick or vacation days or collecting unemployment benefits?**

A: You should contact the employee and inform them of the additional two weeks of emergency paid sick leave that they may be eligible to use. If the employee is eligible, allow the employee to use this new benefit if they choose to do so.

NOTE: Reference the information stated above to determine if the employee is eligible for the emergency paid sick leave (Number 1-6) and how much pay the employee should be provided.

**Q: Do we need to reclassify any of the sick or vacation days the employee previous used?**

A: No. These benefits are not retroactive and do not take effect until April 1, 2020.

**Q: Do we need to post a notice?**

A: Yes. Employers will be *required* to post the WH1422 document attached with this document. This notice should be placed in a common area space such as the breakroom.

For those employees who are prevented from coming into the workplace, we also recommend that you email or mail them a pdf copy of the required poster.

**Q: Are employers eligible for reimbursement for providing these additional paid benefits to employees?**

A: To ease some of the financial burden this will place on employers, a reimbursement will be allowed for the amount of emergency sick leave paid in accordance with the limits stated in the FFCRA. The reimbursement made by the Federal Government via a credit against the employer portion of Social Security taxes on your entire payroll. Any refund not able to be recaptured via the credit against employer's payroll tax liability, will be refunded via check by the IRS. Please consult with Diocese Finance Department for specific guidance on applying for the appropriate credits.

**Emergency Family and Medical Leave Expansion Act (EFMLA):**

**Q: How long do employees need to be working at my site before they are eligible to receive EFMLA?**

A: Any full-time or part-time employee that has been on the employer's payroll for 30 days prior to taking the leave is eligible.

NOTE: This is a significant departure from the FMLA's usual requirement that the employee work for the employer for 12 months and 1,250 hours in the 12 months prior to taking leave.

**Q: When do I need to provide EFMLA to my employee?**

A: Employees will be entitled to take up to 12 weeks of job-protected leave if an employee is unable to work (or remote work) due to caring for the employee's son or daughter (who is under 18) because the child's school or place of care has been closed or his or her childcare provider is unavailable due to the public health emergency.

**Q: What is the effective date and will employees be entitled to this benefit in 2021?**

A: The EMFLA is effective on April 1, 2020, and will remain in place until December 31, 2020, when the legislation sunsets.

**Q: How much pay are employees entitled to under EFMLA?**

A: The EFMLA provides for a combination of unpaid and paid leave. The first 10 days of EFMLA are unpaid, but during that period, the employee may utilize the emergency paid sick leave benefit described above. (Technically, an employee may voluntarily choose to instead use his or her existing pay benefit (i.e. vacation or sick leave) during the 10-day unpaid period but we anticipate that all employees will elect to receive the government-funded emergency paid sick leave, in order to preserve their existing leave balances for future need.) After those first ten days of leave, qualified employees are entitled to 10 weeks of job-protected leave, as well as wage replacement benefits of at least two-thirds their usual pay. The cap of this entitlement is \$200 per day (\$10,000 in the aggregate). Part-time employees are entitled to be paid based on the average number of hours worked for the six months prior to taking the leave.

**Q. Since employees are only receiving to-thirds of their wages through the EFMLA, can they supplement their pay with their existing paid leave via sick or vacation hours?**

A: Yes, because of the current emergency situation, all parishes and the diocese have adopted a temporary modification of the sick leave policy. Whereas that policy usually applies only where the employee needs time off to address actual sickness (of the employee or a family member), the modification will permit employees to supplement their pay with their accrued sick or vacation to make them whole. We will follow the same process as we normally use when we are integrating pay while an employee is on a leave of absence.

**Q. How do we process the paid EFMLA for the employee in ADP?**

A: The payroll code established in ADP to be used when an employee is taking an EFMLA is FF-FMLA.

Note: This code is only to be used for the 10 weeks of paid leave under the EFMLA. The first two-weeks of leave should be coded according to how it is paid. If the employee chooses to use the emergency paid sick leave, then it should be coded under the FF-PSL-FAM payroll code as directed under the Emergency Paid Sick Leave section. If the employee chooses to their accrued sick or vacation hours, then it should be coded under the vacation (V) or sick (S) pay codes.

**EXAMPLE SITUATION #1 Employee *who does* want to supplement pay:**

An employee who is unable to work due to the need to care for their minor children and will be taking an EFMLA. The employee normally works 40 hours a week and makes \$20 per/hr, a total of \$800 a week. Since this employee will only receive two-thirds of their normal wages, they would like to supplement their pay from their available accrued vacation or sick hours.

Calculation

Total normal pay: 80 hrs x \$20 per/hr = \$1,600.00

2/3<sup>rd</sup> rate: \$20 x 2/3 = \$13.33

\$13.33 x 80hrs = \$1,066.40

Balance to be paid from sick or vacation: \$1,600 - \$1,066.40 = \$533.60

Additional hrs to be supplemented from sick/vacation accrual to equal \$533.60, equates to 26.68 hrs

You will need to create a “New Rate code” for the 2/3 rate of pay.

NOTE: If the employee has an hourly rate that is greater than **\$37.50** per/hr, the employee will be limited to a \$200 maximum per day.

**Pay period 5/1/20 – 5/15/20**

COVID19 Sick (Pay Code FF-PSL-FAM/FF2) 80 hrs (10 day waiting period, emergency sick pay at \$13.33/hr rate per FFCRA)

Vacation (Pay Code V) 26.68 hrs (at \$20/hr)

**Pay period 5/16/20 – 5/31/20**

COVID19 FMLA (Pay Code FF-FMLA/FF3) 80 hrs (exhausted 10 days of sick now coded as the EFMLA at \$13.33/hr)  
Vacation (Pay Code V) 26.68 hrs (at \$20/hr)

**EXAMPLE SITUATION #2** Employee *who does not* want to supplement pay:  
An employee who is unable to work due to the need to care for their minor children and will be taking an EFMLA. The employee normally works 40 hours a week and makes \$20 per/hr, a total of \$800 a week.

Calculation

Total normal pay: 80 hrs x \$20 per/hr = \$1,600.00  
2/3<sup>rd</sup> rate: \$20 x 2/3 = \$13.33  
\$13.33 x 80hrs = \$1,066.40

You will need to create a “New Rate code” for the 2/3 rate of pay.

NOTE: If the employee has an hourly rate that is greater than **\$37.50** per/hr, the employee will be limited to a \$200 maximum per day.

**Pay period 5/1/20 – 5/15/20**

COVID19 Sick (Pay Code FF-PSL-FAM/FF2) 80 hrs (10 day waiting period, emergency sick pay at \$13.33/hr rate per FFCRA)

**Pay period 5/16/20 – 5/31/20**

COVID19 FMLA (Pay Code FF-FMLA/FF3) 80 hrs (exhausted 10 days of sick now coded as the EFMLA at \$13.33/hr)

**Q. Why do we have to use the special payroll code in ADP?**

A: Under the FFCRA provisions the government will reimburse the employer for this additional benefit provided to the employee. We must accurately track the paid leave to ensure we can submit the appropriate amount to the federal government for reimbursement.

**Q. Will the employee accrue sick or vacation hours when paid for hours under the EFMLA?**

A: No, the employee will not be eligible to accrue sick or vacation hours when being provided this emergency relief benefit.

**Q: What do we do with employees who are *not* working right now and are currently using their own sick or vacation days or collecting unemployment benefits?**

A: You should contact the employee and inform them of the EFMLA benefit that they may be eligible to use.

**Q: Do we need to reclassify any of the sick or vacation days the employee previous used?**

A: No. These benefits are not retroactive and do not take effect until April 1, 2020.

**Q. Do employees need a note from a doctor?**

A: Although not specifically addressed in the FFCRA, we recommend that you do not require a health care provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, as health care provider offices and medical facilities are *very busy* and will likely not be able to provide the documentation. The CDC recommends that people who are experiencing respiratory illness stay home until they are free of fever and other symptoms, for at least 24 hours without the use of medicines (e.g., aspirin and cough suppressants).

**Q: Have the employee protections changed?**

A: As with the traditional FMLA, the EFMLA is job-protected leave. However, EFMLA's job restoration requirements will apply to employers *with 25 or more employees*. For employers with *fewer* than 25 employees, job restoration is not required if:

- The employee takes EFMLA;
- The position held by the employee does not exist due to economic conditions or other changes in operating conditions that affect employment and are caused by a public health emergency during the period of leave;
- The employer makes reasonable efforts to restore the employee to an equivalent position

NOTE: If no equivalent positions are available at the time the employee tries to return from leave, the employer must attempt to contact the employee if an equivalent position becomes available in the next year.

**Q: Are employers eligible for reimbursement for providing these additional paid benefits to employees?**

A: To ease some of the financial burden this will place on employers, a reimbursement will be allowed for the amount of EFMLA in accordance with the limits stated in the FFCRA. The reimbursement will be made by the Federal Government via a credit against the employer portion of Social Security taxes on your entire payroll. Any refund not able to be recaptured via the credit against employer's payroll tax liability, will be refunded via check by the IRS. Please consult with Diocese Finance Department for specific guidance on applying for the appropriate credits.

If you have any questions regarding the above or any other matter, please do not hesitate to contact one of us at the following:

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