

INTRODUCTION

This toolkit is intended for use by EMS organizations to facilitate the implementation and management of the emergency paid leave provided under the Families First Coronavirus Response Act (FFCRA). This toolkit includes the following forms and resources:

- FFCRA Summary of the Final Regulations
- FFCRA Emergency Paid Family & Medical Leave and Emergency Paid Sick Leave Request Form
- FFCRA Emergency Paid Family & Medical Leave and Emergency Paid Sick Leave Personnel Action Checklist
- FFCRA Emergency Responder Employee Exclusion Notice
- FFCRA Health Care Employee Exclusion Notice
- **U.S. Department of Labor FFCRA Temporary Regulations 85 FR 19326**
- **U.S. Department of Labor FFCRA Questions & Answers**
- U.S. Department of Labor FFCRA Mandatory Workplace Posting – WG1422 Non-Federal Employee
- **U.S. Department of Labor FFCRA Mandatory Workplace Posting – Frequently Asked Questions**
- **U.S. Internal Revenue Service Advance Payment of Employer Credits Due to COVID-19**
- **U.S. Internal Revenue Service Advance Payment of Employer Credits Due to COVID-19 Instructions**
- **U.S. Internal Revenue Service FFCRA Tax Related Frequently Asked Questions (FAQ)**

USE OF THE FORMS IN THIS TOOLKIT

These forms are intended to assist EMS organizations in establishing a process for managing the emergency leave provisions under the FFCRA. The U.S. DOL Regulations do not require a specific emergency leave request form but do require that employers who offer emergency leave under the FFCRA to document all requests for emergency leave received from employees and those documents must be retained for a minimum of four (4) years. In addition, employers who are seeking to take the FFCRA related emergency leave tax credits must have the appropriate supporting documentation. Below is the required or suggested use of the forms included in this toolkit.

- 1. U.S. Department of Labor FFCRA Mandatory Workplace Posting – WG1422 Non-Federal Employee**
All employers are required to post the attached U.S. Department of Labor (*DOL*) Mandatory Workplace Posting in all work locations where an employer typically posts the required workplace notices.
- 2. FFCRA Emergency Paid Family & Medical Leave and Emergency Paid Sick Leave Request Form**
Suggested use by employers for any employee requesting emergency paid leave under the FFCRA.
- 3. FFCRA Emergency Paid Family & Medical Leave and Emergency Paid Sick Leave Personnel Action Checklist**
Suggested use by employers to ensure consistent implementation and tracking of all requests for emergency leave under the FFCRA.
- 4. FFCRA Emergency Responder Employee Exclusion Notice**
Suggest use by employers to inform excluded employees or when responding to excluded employee requests for emergency leave under the FFCRA.

FREQUENTLY ASKED QUESTIONS (FAQ)

1. Are we required to provide emergency paid leave under the FFCRA?

The FFCRA permits an employer who employs emergency responders to provide Emergency Paid FMLA and Emergency Paid Sick Leave if they choose but permits EMS employers to exclude those employees from the definition of eligible employees who must be provided the emergency leave provisions of the FFCRA.

2. How can we exclude our emergency first responders when we know that they are likely to be at a greater risk of being exposed or contracting the Coronavirus?

This is a difficult decision for many EMS organizations. During the drafting of the FFCRA, we presume the legislators recognized that employers who employ health care providers and emergency responders may have difficulty delivering the essential services that their organizations provide to their patients and communities during the Coronavirus public health emergency.

3. Are we required to notify our employees that they are excluded from the Emergency Leave provisions of the FFCRA?

There is nothing in the FFCRA or the related Regulations that requires an employer to prospectively notify your employees that your organization is excluding them from the definition of employees who are eligible for emergency leave under the FFCRA. However, it is always the best practice to affirmatively communicate with your employees about these provisions.

4. Are we permitted to exclude our dispatch, billing, or fleet employees from the emergency leave provisions of the FFCRA?

The U.S. DOL published Temporary FFCRA Regulations on April 1, 2020. Section 826.30(c)(2) provides:

826.30(c)(2) Emergency responders—

(i) For the purposes of Employees who may be excluded from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, an emergency responder is anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, **as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.** This also includes any individual whom the highest official of a State or territory, including the District of Columbia, determines is an emergency responder necessary for that State's or territory's or the District of Columbia's response to COVID-19.

ADDITIONAL QUESTIONS OR INQUIRIES

If you require additional information or have questions regarding the provisions of the FFCRA, this toolkit or the included resources, please contact smoore@mooreemsconsulting.com or at www.mooreemsconsulting.com.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) SUMMARY OF TEMPORARY FINAL REGULATIONS

SECTION 1

Emergency Paid Family and Medical Leave Act (EPFMLA):

- Cannot Work or Telework
- Up to 12 weeks of job-protected leave to Care for child due to school closure, childcare unavailable due to coronavirus

Eligible Employees:

- All employees on payroll for 30 days or more

Amount of Pay:

- After first 10 days, receive no less than 2/3 employee regular rate of pay.
- Not to exceed \$200 per day, \$10,000 in the aggregate

Reinstatement/Return to Work:

- Must reinstate to same or equivalent position
- Unless position was eliminated

SECTION 2

Emergency Paid Sick Leave Act (EPSLA):

- Cannot Work or Telework due to:
 - Quarantine, advised to self-quarantine, seek diagnosis, preventative care or diagnosis for coronavirus (*Quarantine order includes orders that advise citizens to shelter in place, stay at home, otherwise restrict their mobility*)
 - Caring for an individual who subject to quarantine or isolation order or advised to self-quarantine

Eligible Employees:

- All Employees

Amount of Hours & Pay:

- Full-time employees entitled to 80 hours (*14 days*)
- Part-Time entitled to average number of hours employee is scheduled per day over six-month period.
- Full pay, not to exceed \$511 per day, \$5,110 in the aggregate for employee Quarantine, self-quarantine, or preventative care or diagnosis
- 2/3 pay, not to exceed \$200 per day, \$2,000 in the aggregate

SECTION 3

Covered Employers:

- Private Employers with Under 500 Employees
- Public Agency Employers (*State Gov & Political Subdivision*) with 1 or more employees

Determination of Employer Size:

- Made at the time of each leave request
- May vary depending upon time of request

Employer Exemption with Under 50 Employees. Permitted if imposition would jeopardize the viability of the business if:

- Leave would result in expense and financial obligation exceeding available revenues and cause business to cease operating at minimal capacity
- Absence of employee or employees requesting leave would entail “substantial risk to financial health or operational capabilities of business due to specialized skills, knowledge, or responsibilities; or
- Not enough workers available to keep labor sufficient to operate at minimal capacity

Employer Documentation for Exemption:

- Employer must document facts and circumstances that meet criteria of “ongoing business concern”

Exceptions to Providing Leave:

- Employers of Health Care Providers
- Employers of Emergency Responders *(Includes EMT, EMTP, Dispatchers, “those individuals whose work is necessary to maintain the operation of the facility”)*

SECTION 4

Intermittent Leave:

- Mutual Agreement of Employer and Employee
- If for employee symptoms or diagnosis of COVID-19 must take all sick leave

SECTION 5

Healthcare Benefits:

- Employer must maintain all health benefits during EPFMLA and EPSLA
- Employer may make regular employee premium deductions from paid EPFMLA and EPSLA

SECTION 6

Postings:

- Covered employers must post U.S. DOL Posting: [Employee Rights Paid Sick Leave and Expanded Family and Medical Leave Under the Families First Coronavirus Response Act](#)

Employee Notice of Need for Leave:

- Employer may require employee to follow notice procedures of need for leave as soon as practicable.
- Notice may be oral, but employer must maintain documentation supporting need and eligible reason for leave.
- May not be required in advance of first workday employee takes EPFMLA or EPSLA

Emergency Paid Family & Medical Leave (EPFMLA). Employee need for leave must include:

Employee Name

- Date Leave Requested
- Type of Leave Requested
- COVID-19 Qualifying Reason
- Statement that employee is unable to work or telework
- If for caring for child whose school or childcare is closed due to COVID-19 must provide:
 - Name of child
 - Name of school or childcare that is closed
 - Representation that no other suitable person will be caring for child during period of leave.

Emergency Paid Sick Leave Act (EPSLA). Employee need for leave must include:

- Employee Name
- Date Leave Requested
- Type of Leave Requested
- COVID-19 Qualifying Reason
- Statement that employee is unable to work or telework
- If for quarantine or isolation order, name of government entity that issued order
- If for COVID-19 qualifying reason, name of health care provider who advised to self-quarantine.
- If for caring for child whose school or childcare is closed due to COVID-19 must provide:
 - Name of child
 - Name of school or childcare that is closed
 - Representation that no other suitable person will be caring for child during period of leave.

Employer must retain all documentation for a period of four (4) years following the request for leave.

Documentation for:

- Approved or denied leave
- Oral statements provided by employee to support leave
- Denial due to exemption for employers of under 50 employees
- To support tax credit for any leave taken under act, including employee eligibility and amount
- To support credit for qualified health plan expenses
- Copies of completed IRS Form 7200
- Copies of completed IRS Form 941

SECTION 7

Interaction with Leave Under Traditional FMLA and Emergency Paid FMLA:

- Total of 12 Weeks of leave between both
- Employee who has already exhausted 12 weeks of traditional FMLA is not entitled to additional EPFMLA
- Amount of EPFMLA is offset by any leave previously taken in FMLA year.
- Amount of traditional FMLA is offset by any leave previously taken under EPFMLA

SECTION 8

Non-Retaliation/Non-Discrimination:

- Employers cannot retaliate or discriminate against an employee who has requested or taken leave under EPFMLA or EPSLA

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT
EMERGENCY PAID FAMILY MEDICAL LEAVE ACT (EPFMLA)
LEAVE OR SICK REQUEST FORM**

Directions for applying for leave under EPFMLA or EPSLA:

- Employee must complete this request form and return to their HR Department
- For questions and submission of forms please contact your HR Department at _____

SECTION 1 – LEAVE REQUEST DATA

After HR Department review, you will be notified in writing as to the status of your leave request.

Employee Name: _____ Ph #: _____ Alt Ph #: _____

Address: _____
Street City State Zip

Requested leave beginning date: _____ Ending Date: _____

Type of Leave Request:

- Emergency Paid Sick Leave Act (EPSLA)
- Emergency Paid Family & Medical Leave Act (EPFMLA)

Reason for request:

I attest that I am unable to work or telework due to the following reason(s):

- Employee subject to quarantine or isolation order, to seek diagnosis, preventative care or diagnosis for Coronavirus
- Caring for an individual who is subject to quarantine or isolation order or advised to self-quarantine

Quarantine or Isolation Order Issued by:

Gov't Agency Name: _____ Ph #: _____

Address: _____
Street City State Zip

Healthcare Provider Name: _____ Ph #: _____

Address: _____
Street City State Zip

- Caring for son or daughter due to closed school or childcare
- I represent that no other suitable person will be caring for the child during the period of leave

Child Name: _____

School/Childcare Name: _____ Ph #: _____

Address: _____
Street City State Zip

Intermittent Leave Request: Intermittent Leave Requests are only approved by mutual agreement of employer and employee

Are you requesting intermittent leave: [] Yes [] No

If YES, explain why schedule requested: _____

Are you requesting a reduced work schedule: [] Yes [] No

If YES, explain why schedule requested: _____

SECTION 2 – EMPLOYEE ENTITLEMENT AND RESPONSIBILITIES

- During my EPFMLA and/or EPSLA eligible period of leave, I understand that any employee benefit costs will be deducted from my pay through the normal payroll deductions. If I exhaust my available paid leave benefits, I understand that I will be responsible to pay my portion of all employee benefits.
- During my EPFMLA and/or EPSLA eligible period of leave, my available emergency paid sick time will be paid out first and then my available emergency paid family medical leave time or other paid time off will be utilized until exhausted, after which, all leave will be unpaid.
- I am responsible for notifying my HR Department immediately, in writing, of any changes in the leave period.

Employee Name *(Please Print)*: _____

Employee Signature: _____ **Date:** _____

Supervisor Name *(Please Print)*: _____

Supervisor Signature: _____ **Date:** _____

Human Resource Name *(Please Print)*: _____

Human Resource Signature: _____ **Date:** _____

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT
EMERGENCY PAID FAMILY MEDICAL LEAVE ACT (EPFMLA)
OR EMERGENCY PAID SICK LEAVE ACT (EPSLA)**

PERSONNEL ACTION CHECKLIST

Covered employers are required to post a general notice in the workplace to notify employees of their rights under the Families First Coronavirus Response Act (FFCRA).

SECTION 1 – LEAVE REQUEST DATA

After HR Department review, you will be notified in writing as to the status of your leave request.

Employee Name: _____ Ph #: _____ Alt Ph #: _____

Address: _____
Street City State Zip

Requested leave beginning date: _____ Ending Date: _____

EMPLOYEE ELIGIBILITY

Is the employee eligible to take EPFMLA:

- Employed for 30 days

Is the employee eligible to take EPSLA:

- Employed one day

Is the reason for the leave covered by the EPFMLA:

- Employee subject to quarantine or isolation order, to seek diagnosis, preventative care or diagnosis for Coronavirus
- Caring for an individual who subject to quarantine or isolation order or advised to self-quarantine. Quarantine of Isolation Order Issued by:
- Caring for son or daughter due to closed school or childcare

EMPLOYEE REQUESTS EPFMLA LEAVE

Send the employee the following forms:

- FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) EMERGENCY PAID FAMILY MEDICAL LEAVE ACT (EPFMLA) LEAVE OR SICK REQUEST FORM.

Date Notice Provided: _____

- Notice requiring documentation to support the COVID-19 qualifying reason

Send the employee an email notification that you have received the employee's request to take EPFMLA or EPSLA within two (2) business days of receiving the "Employee Request Form".

Date Notice Provided: _____

Supporting Documentation:

- Employee must provide the requested supporting documentation within 15 calendar days after the request to take EPFMLA or EPSLA, unless it is not feasible under the circumstances.

Date Documentation received: _____

- Supporting Documentation is complete or sufficient: Yes No

Returning from EPFMLA:

- Send the employee an email notification that their EPFMLA leave period is coming to an end in two weeks and that you are seeking confirmation of the employee's intent to return.

Date Notice Provided: _____

- Received confirmation employee is returning from leave on Date: _____

Payroll Notification for Tax Credit Tracking:

- Notified payroll to ensure appropriate tracking of all hours and payroll paid to employee under Emergency Paid Family & Medical Leave Act (*EPFMLA*) and Emergency Paid Sick Leave Act (*EPSLA*)

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)
EMERGENCY PAID FAMILY AND MEDICAL LEAVE AND
EMERGENCY PAID SICK LEAVE**

EMPLOYEE ELIGIBILITY EXCLUSION NOTIFICATION

Date: _____

Employee Name: _____

Date of Emergency Paid Leave Request: _____

We are in receipt of your request for Emergency Paid Family & Medical Leave or Emergency Paid Sick Leave as provided under the Families First Coronavirus Response Act (FFCRA). This is to inform you that your position is one that meets the definition of Emergency Responder as defined by 29 CFR Part 826.30(c)(2) and, as such, is excluded from the category of individuals who are eligible for Emergency Paid Family & Medical Leave or Emergency Paid Sick Leave.

Employees who require leave must refer to the company policies and procedures that address both paid and unpaid leave from work. If you have questions or need assistance determining which leave benefits for which you may be eligible, please contact the Human Resources Department at _____, or via email at _____

Name *(Please Print)*: _____ Title: _____

Signature: _____ Date: _____

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)
EMERGENCY PAID FAMILY AND MEDICAL LEAVE AND
EMERGENCY PAID SICK LEAVE**

EMPLOYEE ELIGIBILITY EXCLUSION NOTIFICATION

Date: _____

Employee Name: _____

Date of Emergency Paid Leave Request: _____

We are in receipt of your request for Emergency Paid Family & Medical Leave or Emergency Paid Sick Leave as provided under the Families First Coronavirus Response Act (FFCRA). This is to inform you that your position is one that meets the definition of Health Care Provider as defined by 29 CFR Part 826.30(c)(1) and, as such, is excluded from the category of individuals who are eligible for Emergency Paid Family & Medical Leave or Emergency Paid Sick Leave.

Employees who require leave must refer to the company policies and procedures that address both paid and unpaid leave from work. If you have questions or need assistance determining which leave benefits for which you may be eligible, please contact the Human Resources Department at _____, or via email at _____

Name *(Please Print)*: _____ Title: _____

Signature: _____ Date: _____

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



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