



FAMILIES FIRST CORONAVIRUS RESPONSE ACT Administrative Procedure HR-51

Number: HR-51	Name: Families First Coronavirus Response Act
<p>The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to the COVID-19 (Novel Coronavirus). The purpose of this administrative procedure is to provide clear guidance on how leave and pay under FFCRA applies to employees affected by the COVID-19 (Novel Coronavirus) pandemic.</p>	
Responsible Unit: Human Resources	
Approved by: <i>Bruce Felder</i> , Director of Human Resources	Approval Date: April 1, 2020

I. PURPOSE

- A. Pursuant to the **Families First Coronavirus Response Act (FFCRA or ACT)** requires certain employers including Marshall University to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to the COVID-19 (Novel Coronavirus). The purpose of this administrative procedure is to provide clear guidance on how leave and pay under FFCRA applies to employees affected by the Pandemic.
- B. Paid benefits under this Act are not retroactive beyond the start of the pay period in which the request for benefits are received. Furthermore, paid time off provided under this Act is considered as a “use it or lose it” benefit and does not carry over from one year to the next.
- C. Employees who have been removed from the University’s payroll for a period greater than 30 days from the request for coverage will not be granted benefits under this Act.

II. DEFINITIONS

- A. **Child Care Provider** - a provider who receives compensation for providing child-care services on a regular basis and is “licensed, regulated, or registered under State law.” However, if the child care provider is a “family member or friend, such as a neighbor,” the provider need not be compensated nor licensed.
- B. **Children** - a “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in *loco parentis*, who is under 18 years of age, and also includes a child who is 18 years of age or older if the child is disabled and incapable of self-care.

- C. **Telecommute** - work the employer permits or allows an employee to perform while at home (or another location other than the employee's normal workplace). Telecommuting may be performed during normal work hours or at other times agreed by the employer and employee. Telecommuting may also involve periodic visits to campus and reduced on-site work.
- D. **Employee** – For purposes of the FFCRA, a full-time employee is an employee who is normally scheduled to work 37.5 or more hours per week. In contrast, the FFCRA does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week will affect the amount of pay the employee is eligible to receive.
- E. **Pandemic** – The 2020 worldwide outbreak of COVID-19 (Novel Coronavirus).
- F. **Public Health Emergency** – an executive order or declaration by Federal, State, or local officials in relation to COVID-19 (Novel Coronavirus).
- G. **School** – K-12 Public, Private, or Charter Schools as defined by the State in which you reside.

III. PROCEDURE

It is the intent of Marshall University that all eligible employees receive their full benefits under FFCRA. The University shall consider employees to be entitled to FFCRA benefits according to the provisions set forth in the Act in which contains two different employee benefits: **Emergency Family Medical Leave Expansion Act (EFMLEA)** and **Emergency Paid Sick Leave Act (EPSLA)**.

- A. **Emergency Family Medical Leave Expansion Act (EFMLEA)** - Eligible employees are entitled to take up to twelve (12) weeks of Emergency FMLA leave for "a qualifying need related to a public health emergency." The Act applies to employees who have been employed for at least 30 calendar days prior to taking the EFMLEA. The existing federal Family and Medical Leave Act (FMLA) requirements that the employee has been employed for a year, worked for 1,250 hours will not apply.

Eligibility is limited to circumstances where an employee is unable to work, (onsite or telecommute) to care for a minor child if the child's school or place of childcare has been closed or is unavailable due to a public health emergency as follows:

1. Eligible employees shall be granted unpaid leave or may take available accrued annual leave, compensatory time, substitute time off, or emergency paid sick leave (EPSL) during the first ten (10) days of leave.
2. The remaining ten (10) weeks are paid at not less than $\frac{2}{3}$ of the employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. The maximum payment is \$200 per day and with a total limit of \$10,000.

3. For employees with variable hours each week, paid leave would be equal to the average number of hours worked per day over the previous six (6) months.
4. An eligible employee is entitled to twelve (12) weeks of Emergency FMLA leave.
5. Emergency FMLA leave is job-protected, and the employer would restore an employee to the same or equivalent position upon their return to work.

B. Emergency Paid Sick Leave Act (EPSLA) - Full-time employees who are unable to work or telecommute are eligible for up to two (2) weeks or (75) hours of paid sick leave at their regular rate of pay do to the fact:

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; or
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.

Full-time employees who are unable to work or telecommute are eligible for up to two (2) weeks or (75) hours of paid sick leave (part-time employees are eligible to take the number of hours they would normally work during a two-week period) at two-thirds ($\frac{2}{3}$) of the employee's regular rate or minimum wage, whichever is greater when caring for an immediate family member because:

1. The employee has a bona fide need to care for an individual subject to quarantine. The individual must be an immediate family member, roommate, or a "similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person;
2. The employee is caring for a son or daughter whose school or place of care is closed, or child-care provider is unavailable, due to COVID-19 precautions; or
3. The employee is experiencing substantially similar conditions as specified by the Secretary of the United States Department of Health and Human Services.

The law limits paid leave to \$511 per day (\$5,110 in total) where leave is taken for an employee's own illness or quarantine; and \$200 per day (\$2,000 in total) where leave is taken for reasons to care for others or school closures.

IV. RESPONSIBILITIES

A. The responsibility of Human Resource Services includes the following:

1. Determine eligibility and track benefit usage.
2. Maintain prescribed forms necessary for compliance with the provisions of FFCRA.
3. Request documentation, as needed, for child-care related reasons.
4. Will ensure that employees are not allowed to return to work without proper medical certification if they acquire or have been exposed to COVID-19 (Novel Coronavirus).
5. Hold supervisors accountable for compliance under section (B) below.

- B. The responsibility of department leadership includes the following:
1. Disseminate this policy with all staff either electronically and/or via hard copy. Due to the current Pandemic many staff are working from home.
 2. Will ensure that employees are not allowed to return to work without authorization from Human Resource Services if they acquire or have been exposed to the COVID-19 (Novel Coronavirus).
 3. Restore eligible employees to his or her same or equivalent position at the conclusion of the period of leave.
 4. Direct any employees who may need benefits under FFCRA to Human Resource Services for assistance.
- C. The responsibility of each employee includes, but is not limited to the following:
1. Provide notice of the need for leave.
 2. Complete the [request forms](#) and submit required documentation for determination of eligibility.
 3. Comply with procedural requirements for requesting leave established by Human Resource Services.

V. EFFECTIVE DATE: April 1, 2020 - December 31, 2020.