



## Charles County Department of Human Resources

### **Frequently Asked Questions for the Families First Coronavirus Response Act: Emergency Paid Sick Leave and Emergency Family and Medical Leave**

#### **What is the Families First Coronavirus Response Act (FFCRA)?**

On March 18, 2020 the Families First Coronavirus Response Act (FFCRA) H.R. 6201 was approved by Congress and is effective April 1, 2020 through December 31, 2020. Two key portions of the FFCRA impact County policies with respect to COVID-19 related leave and pay. It provides six reasons that paid and unpaid leave may be available to staff affected by COVID-19. The two provisions to the Act that are applicable to leave are:

- Emergency Paid Sick Leave (EPSL): Up to two weeks of paid leave
- Emergency Family & Medical Leave (EFMLA) Expansion: Up to twelve (12) weeks of job-protected leave

#### **What is Emergency Paid Sick Leave (EPSL)?**

The EPSL provides up to two weeks of pay at an employee's regular rate of pay. Qualifying Charles County Government full-time employees may receive up to 75, 80 or 84 hours of pay based on their schedule. Paid leave for part-time employees is based on the number of hours the employee works on average over a two-week period during the six-months prior to the request for leave.

#### **How do I know if I can take EPSL?**

All full-time and part-time employees who are actively working and have not been furloughed regardless of tenure with the County. Leave may be granted for the following six reasons:

1. The employees are subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employees have been advised by a health care provider to self-quarantine due to COVID-19- related concerns.
3. The employees are experiencing COVID-19 symptoms and seeking medical diagnosis.
4. The employees are caring for individuals experiencing symptoms of and seeking diagnosis for COVID-19 or are subject to a governmental order or medical recommendations to quarantine or self-isolate.
5. The employees are caring for children whose schools or places of care have been closed or whose care providers are unavailable due to COVID-19.
6. The employees are experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services, except employers of health care providers or emergency responders who can elect to exclude those employees from receiving paid sick leave.

#### **What is Emergency Family and Medical Leave (EFMLA)?**

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 because the child's school or place of care is closed and no suitable childcare is available. This leave is both paid and unpaid. The first 10 days may be unpaid and employees have the option to use their own accrued leave -annual, personal, compensatory, or floating holidays. Excludes sick leave. Alternatively, employees may elect to use EPSL (above) to be paid during the first two weeks of EFMLA. (Note: EPSL and EFMLA run concurrently for a total of 12 weeks of job protected leave. EFMLA is also subject to availability of leave through the Family and Medical Leave Act (FMLA).)

**How do I know if I can take EFMLA?**

To be eligible for the job protection under EFMLA, a full- or part-time employee must be on Charles County Government payroll at least 30 days prior to requesting the leave.

Emergency Responders are excluded from EFMLA.

**How do I know if I am an Emergency Responder with regards to COVID-19 types of leave?**

Per the Personnel Policy and Procedures Manual, Chapter 19, essential employees includes those employees who are regularly scheduled and employed in County agencies, departments and/or offices whose services are considered necessary at all times under all circumstances (e.g. Dispatchers, Paramedics, EMTs and Water/Wastewater Operators regularly scheduled during the severe emergency situation).

Additionally, emergency responders for this emergency also includes EMS management, Animal Control Officers, Animal Shelter employees, building service technicians, parks and grounds employees, inspectors, landfill and scale house employees, mail delivery, Tech Support Spec Manager and Technology Sup Spec II.

Any employee or director who believes there is another job title that should be deemed an Emergency Responder (or front facing employee) may seek approval on a case-by-case basis from the County Administrator with sufficient justification.

**I am a part-time employee and my worksite has closed so I am not working and not getting paid. Do I qualify for the EPSL provision of the Families First Coronavirus Response Act?**

No. Employees who are not working due to closure of their worksite are considered furloughed and have the opportunity to apply for unemployment benefits through the state. Please visit Maryland's Department of Labor's website for specific information: <https://www.dllr.state.md.us/employment/uicovidfaqs.shtml>

**How much notice do I have to give if I want to request leave?**

Employers may not require notice in advance.

Notice may only be required after the first workday for which an employee takes EPSL or EFMLA. After the first day, an employer may require notice as soon as practicable. Notice from an employee's spokesperson is reasonable. An employer may not require the notice to include documentation beyond what is allowed by Section 826.100 of FFCRA, which includes:

- Employee's name;
- The date(s) for which leave is requested;
- Qualifying reason for leave; and
- Oral or written statement that the employee is unable to work because of the qualified reason for leave.

If leave is for Reason 1, an employee must provide the name of the government entity that issued the quarantine or isolation order.

For Reason 2, an employee must provide the name of the healthcare provider who advised the employee to self-quarantine due to concerns related to COVID-19.

For Reason 4, an employee must provide either the name of the government entity that issued the quarantine or isolation order to which the individual being cared for is subject or the name of the health care provider who advised the individual being cared for to self-quarantine.

For Reason 5, the employee must provide the name of the child being cared for, the name of the school, place of care, or child care provider that has closed or become unavailable, and a statement that no other suitable person is available to care for the child during the period for which the employee takes EPSL or EFLMA.

**I am an Emergency Responder, who can I call for daycare purposes?**

AlphaBest, a daycare provider at the Charles County Government's Port Tobacco building may have some openings for children of Emergency Responders. You may contact them for availability and pricing at 301-934-0104.

**What do I need to do to apply for EPSL or EFMLA?**

First, employees should contact their supervisor to notify them of the need to take leave. Second contact Human Resources to notify them of your need for leave, to get instructions and to have your questions answered.

**Where can I find the forms to request EPSL and EFMLA?**

The EPSL and EFMLA forms can be found on the Charles County Government's website, under Human Resources. Employees may also call the Department of Human Resources at 301-645-0585 for assistance.

**I have completed the EPSL and/or the EFMLA Request form, who do I send it to?**

Please send the EPSL Request form and/or the EFMLA request form (as applicable) to your supervisor for their signature. The supervisor should send form(s) to the personnel coordinator. The personnel coordinator should send the form(s) to HR.

**How do I know if I was approved for EPSL or EFMLA?**

Once HR receives the forms, they will process them and send the notification back to the employee, supervisor and personnel coordinator.

**What documents do I need to give my employer to get EPSL or EFMLA?**

When requesting EPSL or EFMLA, you must provide to your supervisor either orally or in writing the following information:

- Your name;
- The date(s) for which you request leave;
- The reason for leave; and
- A statement that you are unable to work because of the above reason.

If you request leave because you are subject to a quarantine or isolation order or to care for an individual subject to such an order, you should additionally provide the name of the government entity that issued the order. If you request leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice, you should additionally provide the name of the health care provider who gave the advice.

If you request leave to care for your child whose school or place of care is closed, or child care provider is unavailable, you must also provide:

- The name of your child;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement that no other suitable person is available to care for your child.

In addition to the above information, you must also provide to your supervisor written documentation in support of your EPSL request as specified in any available and applicable IRS forms, instructions, and information (as of 04/14/2020, forms are not yet available).

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA if required by your employer.

**When am I able to telework under the Families First Coronavirus Response Act (FFCRA)?**

You may telework when your supervisory chain of command permits or allows you to perform work while you are at home or at a location other than your normal workplace. Telework is work for which normal wages must be paid and is not compensated under the paid leave provisions of the FFCRA.

**What does it mean to be unable to work, including telework for COVID-19 related reasons?**

You are unable to work if your supervisory chain of command has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either under normal circumstances at your normal worksite or by means of telework.

If you and your supervisory chain of command agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

**If I am or become unable to telework, am I entitled to EPSL or EFMLA?**

If your supervisory chain of command permits teleworking—for example, allows you to perform certain tasks or work a certain number of hours from home or at a location other than your normal workplace—and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for EPSL then you are entitled to the benefits under the emergency paid sick leave.

Similarly, if you are unable to perform those teleworking tasks or work the required teleworking hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, then you are entitled to take EFMLA. Of course, to the extent you are able to telework while caring for your child, neither EPSL nor EFMLA leave are applicable and thus not available.

**May I take my EPSL intermittently while working at my usual worksite (as opposed to teleworking)?**

It depends on why you are taking EPSL and whether your supervisory chain of command agrees. Unless you are teleworking, EPSL 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 because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking EPSL for one or more of these qualifying reasons, you must continue to take EPSL each day until you either (1) use the full amount of EPSL or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking EPSL and it is not exhausted, you may take any remaining EPSL at a later time, until December 31, 2020, if another qualifying reason occurs.

In contrast, if you and your supervisory chain of command agree, you may take EPSL intermittently if you are taking EPSL to care for your child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19 related reasons and other suitable childcare is available. For example, if your child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

Charles County Government encourages supervisors and employees to collaborate to achieve maximum flexibility. Therefore, if supervisors and employees agree to intermittent leave on less than a full work day for employees taking EPSL to care for their child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19-related reasons and no suitable child care is available, the County is supportive of such voluntary arrangements.

**May I take my EFMLA intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not teleworking?**

Yes, but only with your supervisory chain of command's permission. Intermittent EFMLA should be permitted only when you and your supervisory chain of command agree upon such a schedule. For example, if you both agree, you may take EFMLA on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because your child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, and no suitable child care is available for the duration of your leave.

The County encourages supervisors and employees to collaborate to achieve flexibility. Therefore, if you both agree to intermittent leave on a day-by-day basis, the County supports such voluntary arrangements.

**What if my supervisor does not approve my request for EPSL or EFMLA?**

There are certain circumstances where an employee may not qualify or be eligible for either EPSL or EFMLA. We encourage supervisors to work with employees on providing the best arrangements possible while continuing to provide services for our residents. If an employee's request is denied, supervisors, directors and HR can work together to identify potential alternative solutions and provide a clear explanation for the denial of the request.

**If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get EPSL and EFMLA?**

No. If, prior to the FFCRA's effective date, your supervisory chain of command sent you home and stopped paying you because there is no work for you to do, you are not eligible for EPSL or EFMLA, but you may be eligible for unemployment insurance benefits. This is true whether Charles County Government closes your worksite for lack of work or because it is required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

It should be noted, however, that if Charles County Government is paying you pursuant to a paid leave policy or State or local requirements, you are not eligible for unemployment insurance.

**Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?**

If you are an eligible employee, you are entitled to EPSL under the FFCRA regardless of how much leave you have taken under the FMLA.

However, your eligibility for EFMLA depends on how much leave you have already taken during a rolling 12-month period that we use for tracking FMLA leave. You may take a total of 12 workweeks for FMLA or EFMLA reasons during a rolling 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current rolling period, you may take the remaining portion of leave available. If you have already taken 12 workweeks of FMLA leave during this rolling 12-month period, you may not take additional EFMLA.

For example, assume you are eligible for FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because EFMLA is a type of FMLA leave, you would be entitled to take up to 10 weeks of EFMLA, rather than 12 weeks. And any EFMLA you take would count against your entitlement to preexisting or future FMLA leave within the rolling 12 month period.

**May I take leave under the FMLA over the next 12 months if I used some or all of my EFMLA under the FFCRA?**

It depends. You may take a total of 12 workweeks of leave during a rolling 12-month period under the FMLA.. If you take some, but not all 12, workweeks of your EFMLA by December 31, 2020, you may take the

remaining portion of FMLA leave for a serious medical condition, as long as the total time taken does not exceed 12 work weeks in a rolling 12 month period. Please note that EFMLA is available only until December 31, 2020; after that, you may only take FMLA leave.

For example, assume you take four weeks of EFMLA in April 2020 to care for your child whose school is closed due to a COVID-19 related reason. These four weeks count against your entitlement to 12 weeks of FMLA leave in a rolling 12-month period. If you are eligible for FMLA leave and need to take such leave in August 2020 because you need surgery, you would be entitled to take up to eight weeks of FMLA leave.

However, you are entitled to paid sick leave under the EPSL regardless of how much leave you have taken under the FMLA. Paid sick leave is not a form of FMLA leave and therefore does not count toward the 12 workweeks in the 12-month period cap. But please note that if you take paid sick leave concurrently with the first two weeks of expanded family and medical leave, which may otherwise be unpaid, then those two weeks do count towards the 12 workweeks in the 12-month period.

**As an employee, I become ill with COVID-19 symptoms, decide to quarantine myself for two weeks, and then return to work. I do not seek a medical diagnosis or the advice of a health care provider. Can I get paid for those two weeks under the FFCRA?**

Generally no. If you become ill with COVID-19 symptoms, you may take EPSL under the FFCRA only to seek a medical diagnosis or if a health care provider otherwise advises you to self-quarantine. If you test positive for the virus associated with COVID-19 or are advised by a health care provider to self-quarantine, you may continue to take EPSL. You may not take EPSL if you unilaterally decide to self-quarantine for an illness without medical advice, even if you have COVID-19 symptoms. Note that you may not take EPSL if you become ill with an illness not related to COVID-19. You may be able to telework during your period of quarantine dependent on your supervisory chain of command's approval.

**When am I eligible for EPSL to care for someone who is subject to a quarantine or isolation order?**

You may take EPSL to care for an individual who, as a result of being subject to a quarantine or isolation order, is unable to care for him or herself and depends on you for care and if providing care prevents you from working and from teleworking.

Furthermore, you may only take EPSL to care for an individual who genuinely needs your care. Such an individual includes an immediate family member or someone who regularly resides in your home. You may also take EPSL to care for someone if your relationship creates an expectation that you would care for the person in a quarantine or self-quarantine situation, and that individual depends on you for care during the quarantine or self-quarantine.

You may not take EPSL to care for someone with whom you have no relationship. Nor can you take EPSL to care for someone who does not expect or depend on your care during his or her quarantine or self-quarantine.

**When am I eligible for EPSL to self-quarantine?**

You are eligible for EPSL if a health care provider directs or advises you to stay home or otherwise quarantine yourself because the health care provider believes that you may have COVID-19 or are particularly vulnerable to COVID-19, and quarantining yourself based upon that advice prevents you from working (or teleworking).

**May I take EPSL or EFMLA to care for my child who is 18 years old or older?**

It depends. EPSL and EFMLA include leave to care for one (or more) of your children when his or her school or place of care is closed or child care provider is unavailable, due to COVID-19 related reasons. This leave may only be taken to care for your non-disabled child if he or she is under the age of 18. If your child is 18 years of age or older with a disability and cannot care for him or herself due to that disability, you may take EPSL or EFMLA to care for him or her if his or her school or place of care is closed or his or her child care provider is unavailable, due to COVID-19 related reasons, and you are unable to work or telework as a result.

In addition, EPSL is available to care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. If you have a need to care for your child age 18 or older who needs care for these circumstances, you may take EPSL if you are unable to work or telework as a result of providing care. But in no event may your total EPSL exceed two weeks.

**Can more than one guardian take EPSL or EFMLA simultaneously to care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons?**

You may take EPSL or EFMLA to care for your child only when you need to, and actually are, caring for your child if you are unable to work or telework as a result of providing care. Generally, you do not need to take such leave if suitable care is available such as a co-parent, co-guardian, or your usual child care provider is available to provide the care your child needs.

**May I take EPSL to care for a child other than my child?**

It depends. The EPSL which is to care for one (or more) of your children when their place of care is closed (or child care provider is unavailable), due to COVID-19 related reasons, may only be taken to care for your own "son or daughter."

However, EPSL is also available to care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. If you have a need to care for a child who meets these criteria, you may take EPSL if you are unable to work or telework as a result of providing care. But in no event may your EPSL exceed two weeks.

**May I take EFMLA to care for a child other than my child?**

No. EFMLA is only available to care for your own "son or daughter."



**May I take EPSL or EFMLA if I am receiving workers' compensation or temporary disability benefits through an employer or state-provided plan?**

In general, no, unless you were able to return to light duty before taking leave. If you receive workers' compensation or temporary disability benefits because you are unable to work, you may not also take EPSL or EFMLA. However, if you were able to return to light duty and a qualifying reason prevents you from working, you may take paid sick leave or expanded family and medical leave, as the situation warrants.

**I'm a part time employee, will I get my job back once the County goes back to normal operations?**

Charles County Government will assess staffing levels based on programming needs and operations.

**If I go out on EPSL or EFMLA will I get my job back?**

An employee who takes leave under this policy may be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist.

The law provides that an employee has no greater rights upon a return from leave than the individual would have had if s/he had continued to work. Therefore, an employee may be affected by a layoff, reorganization, furlough, change in job duties or other change in employment if the action would have occurred had the employee remained actively at work.

**What should I do if I find another job and do not wish to return to Charles County Government?**

If you find alternate employment during this period and do not intend to return to work for Charles County Government, please notify your supervisor immediately of your voluntary resignation.

**What do I do if I need to "prove" that I've been furloughed if I need to apply for unemployment benefits?**

All Charles County Government employees furloughed due to the COVID-19 health crisis were given a notice informing them that they are placed on a temporary, unpaid leave of absence. You should provide this notice to the unemployment office. If you did not receive the notice, please contact your supervisor.