



CHARLES COUNTY GOVERNMENT
Department of Human Resources

Families First Coronavirus Response Act (FFCRA)

Guidance Document

Purpose and Statement of this FFCRA Guidance Document

It is the policy of Charles County Government to comply with the requirements of the Federal Families First Coronavirus Response Act (FFCRA). The FFCRA provides employees with Emergency Paid Sick Leave and Emergency Family and Medical Leave Act (EFMLA) Expansion for those affected by the COVID-19 pandemic. The benefits afforded as a result of the FFCRA are in effect from April 1, 2020 through December 31, 2020.

Administration

The Human Resources Department in collaboration with department supervisors will have responsibility for the overall compliance with the FFCRA.

Definitions for FFCRA Purposes

Parent: The biological, adoptive step or foster father or mother or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include “parents-in-law”.

Son or daughter: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under the age of 18 years of age or who is 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that the EFMLA leave is to commence. The onset of a disability may occur at any age for purposes of the definition of an adult “son or daughter” under the EFMLA.

Spouse: a husband or wife as defined or recognized in the state where the individual was married, including same-sex marriage.

Individual:

- an employee’s immediate family member;
- a person who regularly resides in the employee’s home; or
- a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he were quarantined or self-quarantined.

Emergency Responder (and front facing) Employees: Per the Personnel Policy and Procedures Manual, Chapter 19, essential employees include 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 who believes there is another job title that should be deemed an Emergency Responder (or front facing employee) may contact their Director with sufficient justification.

Any 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.

Emergency Responders (and front facing employees) are not eligible for EFMLA. They are eligible for all other benefits provided under FFCRA.

Leave Covered Under FFCRA

There are two types of leave covered under the FFCRA.

1. Emergency Paid Sick Leave (EPSL)
2. Emergency Family Medical Leave Act (EFMLA) Expansion

Each is explained below.

Type 1: Emergency Paid Sick Leave (EPSL)

Emergency paid sick leave will be available for 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 due to concerns related to 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 who is subject to quarantine or isolation or advised to self-quarantine by a health care provider due to concerns related to COVID-19;
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.

Eligibility for EPSL:

All employees, regardless of their tenure with the organization, with full-time or part-time status are eligible to receive this benefit. Furloughed employees are not eligible for EPSL.

Benefits Under EPSL:

Eligible employees will receive up to two weeks of paid sick leave for the qualifying reasons above.

- Full-time employees (scheduled to work 37.5 or more hours per week): 75, 80, or 84 hours at their regular rate of pay based on their work schedule, subject to any caps and reasons noted below.
- Part-time employees (scheduled to work less than 37.5 hours per week): the number of hours that the employee works, on average, over a two-week period, as calculated based on hours worked during the six months prior to the request, subject to any caps and reasons noted below.

Note: While the FFCRA allows employers to apply a cap to the amount of money an employee may receive each day based on the six reasons listed above. Charles County Government is not applying any caps on the EPSL.

Return to Work Following EPSL

Employees are required to follow guidelines established by the [Centers for Disease Control and Prevention](#) as it relates to ceasing home isolation practices.

Type 2: Emergency Family Medical Leave Act (EFMLA) Expansion

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 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.

Eligibility for EFMLA

Under this provision of the FFCRA, full-time and part-time employees who have been on *Charles County Government* payroll for 30 days, prior to taking the leave, are eligible for leave.

This is an expansion of the Family & Medical Leave Act (FMLA) so all hours taken within the previous 12 months are applied as part of the 12 weeks of eligibility.

Benefits Under EFMLA

The EFMLA provides for a combination of *unpaid* and *paid* leave.

- ***The first 10 days of EFMLA may be unpaid.*** An employee may choose to take any existing pay benefit (i.e. annual, compensatory, floating holiday, personal day or, sick pay) during the 10-day unpaid period, or the 10 days may be paid under EPSL, if taken for a qualifying reason (see 1-6 above).
- After ten days of unpaid leave, employees are entitled to 10 weeks of job-protected leave of two-thirds their usual pay. Part-time employees are entitled to be paid two-thirds of their usual pay based on the average number of hours worked for the six months prior to taking the leave.

- The cap of the paid leave entitlement for employees is \$200 per day \$10,000 in the aggregate.

**** The FFCRA allows employers to apply a cap to the amount of paid leave entitlement an employee may receive each day and in total over the course of leave. Charles County Government is applying the daily limit of \$200 and a total limit of \$10,000 over the course of the leave period.**

Notifying the County of the Need for FFCRA Leave

Employees should request their need for emergency paid leave as soon as possible, by notifying their immediate Supervisor or Human Resources and filling out a request form indicating the specific qualifying reason and date of requested leave. If an employee is incapacitated, the employee's representative should give verbal notice as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide enough information regarding the reason for an absence for the supervisor and Human Resources to know that protection and benefits may exist under this policy.

Supervisors must notify Human Resources via email of an employee's request for leave under the FFCRA:

Kimberly Pelczar (Primary) PelczarK@charlescountymd.gov

Angel DuBose DuBoseA@charlescountymd.gov

Megan Donnicks DonnicksM@charlescountymd.gov

If a supervisor is uncertain of the leave type an employee is requesting or should request as a result of the pandemic, please contact Human Resources for support and assistance at (301) 645-0585 or via email at any of the email addresses above.

Insurance Benefit Continuation During FFCRA Leave

Coverage under County sponsored group health insurance will continue while on leave, but employees must continue to pay their portion of the premium. Other employment benefits such as group life insurance, accidental death and dismemberment (AD&D) etc. will also be continued during the leave, if the employee continues to pay any required contribution. Payment arrangements will be discussed with individuals upon their request for leave.

Certification for FFCRA Leave

Generally, the County will require certification to verify the qualifying reason for the leave. Employees should be prepared to provide documentation such as a copy of any quarantine or isolation order, or written note by a health care provider advising self-quarantine, or a notice of closure of school or childcare provider (i.e. email, notification on website, or news article).

We understand that requesting healthcare provider documentation may place additional burdens on our medical community during this pandemic, therefore if an employee is unable to obtain this documentation, at a minimum, the name, address, and phone number of your treating healthcare provider must be provided. Charles County Government also reserves the right to request additional documentation be completed by your healthcare provider or childcare provider (as applicable) in situations where insufficient information has been provided to establish eligibility for leave and/or there is reason to believe an employee has fraudulently obtained leave or paid benefits.

Intermittent Leave

For employees working on the premises, intermittent leave will only be permitted for the qualifying reason related to caring for their minor child whose school or place of care is closed, or childcare provider is unavailable. For employees working remotely, intermittent leave will be permitted if the employee is unable to work his or her normal schedule of hours.

The employee and supervisor will come to an agreement on a schedule that provides for the least amount of disruption to an employee's job. Supervisors are asked to be flexible with hours, creative schedules could be developed where feasible and practicable. For EFLMA purposes, the total amount of leave taken should not exceed the 12 weeks defined earlier in this policy.

Rights Upon Return from FFCRA Leave

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.

Please be advised that this is a living document and that guidance may be adjusted as additional information is provided by the Federal Government regarding implementation of the features of the FFCRA.



Charles County Department of Human Resources

Emergency Family and Medical Leave Election Form COVID-19 Related Leave

Instructions for EFMLA Form:

The employee will complete the form and submit it to their supervisor for approval.

The supervisor will review the form, sign off and submit to their personnel coordinator.

The personnel coordinator should keep a copy for their own records and then forward to HR.

HR will determine eligibility, sign off and forward a copy of the completed form to the personnel coordinator, supervisor and employee.

Name: _____ Date: _____
(Please print)

Job Title: _____ Phone Number: _____

Email: _____

Beginning April 1, 2020 and ending December 31, 2020, employees may be eligible for Emergency Family Medical Leave (EFMLA) related to the COVID-19 public health emergency.

In general, to be eligible for EFMLA an employee must have worked for an employer for at least 30 calendar days prior to taking leave. Employees are entitled to a total of 12 weeks of combined EFMLA and FMLA during a 12-month period as set forth in County policy.

To be completed by Employee

I need EFMLA beginning _____ to _____ because I am **unable to work or telework** because I need to care for my minor child (or child over 18 if the child has a mental/physical disability and is incapable of self-care because of that disability) because my child's school or place of child care has been closed or is unavailable due to a public health emergency.

You are required to provide documentation supporting your need for leave. Identify below the documents you have submitted with this form to substantiate your need for leave and explain why you are unable to work or telework. You must provide: (1) the name and age of the child (or children) to be cared for; (2) the name of the school that has closed or place of care that is unavailable; and (3) a statement that no other person will be providing care for the child during the period for which you are using EFMLA. If your child (or children) are over 14 years old, you must also provide a statement explaining the special circumstances requiring you to provide care for the child (or children) during daylight hours. **If another individual will be providing care for the child (or children) you are not eligible for EFMLA.**

I request EFMLA leave on a continuous / intermittent basis (circle one). If intermittent, detail the days/hours for which you are requesting leave:

The first 2 weeks of EFMLA is unpaid unless you elect to use Emergency Paid Sick Leave (EPSL) or other available accrued leave. Identify below whether you elect to use EPSL and/or other available leave during the first 2 weeks of EFMLA. If eligible you may use EPSL, existing accrued leave, excluding sick leave, or a combination of the two so that you receive 100% of your weekly pay while on EFMLA leave.

_____ I elect to use: _____ EPSL _____ Other leave: _____ (both EPSL and accrued leave)
(identify)

_____ I elect not to use any paid leave during the first 10 days of EFMLA.

The final 10 weeks of EFMLA is paid by the County up to a maximum of \$200.00 per day. You may use EPSL (if eligible and leave is available) and/or available accrued leave to supplement the paid EFMLA up to 100% of your salary. You may not use sick leave to supplement paid EFMLA.

_____ I elect to supplement paid EFMLA with accrued (please mark "1" next to the leave type that you would like to use first and mark "2" next to the leave type that you would like to use second to supplement the paid EFMLA once your first option is exhausted):

_____ annual, _____ administrative and/or _____ compensatory leave during my EFMLA absence.

_____ I elect not to supplement EFMLA with accrued leave.

Employee's Signature

Date

To be completed by Supervisor

_____ You are approved for the following intermittent leave schedule, if applicable:

Supervisor's Signature

Date

To be completed by Human Resources

_____ You are eligible for EFMLA.

_____ You are not eligible for EFMLA, because:

_____ You have not met the EFMLA's 30-day service requirement.

_____ You are not eligible for EFMLA, because you are able to work or telework even though your child's school or place of child care has been closed or is unavailable due to a COVID-19-related public health emergency.

_____ Your child(ren) are over 14 years old and you have not provided a sufficient explanation showing special circumstances that make you unable to work or telework during daylight hours.

_____ You have not provided sufficient documentation to support your leave request.

_____ Other reason (i.e., employee is a health care provider or emergency responder; or employee has exhausted FMLA)

Human Resource Representative's Signature

Date



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."

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;
- $\frac{2}{3}$ 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 $\frac{2}{3}$ 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



WH1422 REV 03/20

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.



Charles County Department of Human Resources

Temporary Emergency Paid Sick Leave Election Form COVID-19 Related Leave

Instructions for completed EPSL Form:

The employee will complete the form and submit it to their supervisor for approval.

The supervisor will review the form, sign off and submit to their personnel coordinator.

The personnel coordinator should keep a copy for their own records and then forward to HR.

HR will determine eligibility, sign off and forward a copy of the completed form to the personnel coordinator, supervisor and employee.

Name: _____
(Please print)

Date: _____

Job Title: _____

Phone Number: _____

Email: _____

Beginning April 1, 2020 and ending December 31, 2020, employees may be eligible for Emergency Paid Sick Leave (EPSL) related to the COVID-19 public health emergency for the six (6) reasons described below.

To be completed by Employee

I need EPSL beginning _____ to _____ because **I am unable to work or telework**, for the following reason(s):

Note: you must provide the requested information in the "Explanation" space below.

_____ I am subject to a federal, state, or local quarantine or isolation order related to Coronavirus (Reason 1)
Provide documentation from the government entity that issued the quarantine or isolation order.

_____ I have been advised by a health care provider to self-quarantine due to Coronavirus related concerns (Reason 2)
Provide documentation from the health care provider who advised you to self-quarantine.

_____ I am experiencing Coronavirus symptoms and is seeking medical diagnosis (Reason 3)
Provide documentation from the health care provider from whom you are seeking a diagnosis.

_____ I am caring for an individual who, due to the Coronavirus: (a) is subject to an isolation or quarantine order from a federal, state, or local government; or (b) have been advised by a health care provider to self-quarantine (Reason 4)
Provide the name of the individual and provide documentation from the government entity that issued the quarantine or isolation order or the name of the health care provider who advised the individual for whom you are caring.

_____ I am caring for my minor child (or child over 18 if the child has a mental/physical disability and is incapable of self-care because of that disability) because my child's school or place of child care has been closed or is unavailable due to a public health emergency (Reason 5)
Provide the name of the child(ren) 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 will be caring for the child (ren) during the period for which you are taking EPSL. If the child(ren) you are caring for are over 14 years old, explain the special circumstances that require you to provide care during daylight hours.

_____ I am experiencing "any other substantially similar condition specified" by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury (Reason 6)

Explanation: _____

Continuous/Intermittent EPSL Leave - If you are working at your normal work place, intermittent leave is only available for Reason 5. If you are teleworking, intermittent leave is available only if an acceptable arrangement is agreed to between you and your supervisory chain of command.

I request intermittent EPSL leave and propose the following schedule:

Employee's Signature

Date

To be completed by Supervisor

_____ I acknowledge the leave to be taken and understand the employee will not work during their regularly scheduled hours.

_____ You are approved for the following intermittent leave schedule, if applicable:

Supervisor's Signature

Date

To be completed by Human Resources

_____ You are eligible for EPSL.

_____ You are not eligible for EPSL, because you have not provided documentation sufficient to support a reason qualifying for EPSL.

Human Resource Representative's Signature

Date