

Emergency FMLA (“E-FMLA”) and Emergency Paid Sick Leave (“E-PSL”) under the FFCRA

Who decided that Employee should not come to work?

Employer

Employee

Jobsite closed for lack of work or due to state “stay-in-place” order.

Lays off EEs for lack of work or because of a state stay-in-place order.

Sends EE home because of cough, fever, etc.

EE is scared of contracting COVID-19 and refuses to come to work

EE is sick with symptoms of COVID-19

EE has been advised to stay home

EE is caring for someone else.

Can the employee telework?

No E-PSL or E-FMLA. EE should apply for UI.

Is the employee seeking a medical diagnosis for COVID-19?

No E-PSL or E-FMLA. EE may use existing PTO.

Has the cared-for person been advised by a health care provider to self-quarantine or is the person subject to a governmental isolation order?

No E-PSL or E-FMLA. EE should apply for UI

Do you have work that can be done remotely?

No E-PSL or E-FMLA. EE can use existing PTO

Yes, the EE can use up to 80 hours of E-PSL for time spent making, waiting for, or attending an appointment for a test for COVID-19. *Paid at “regular rate,” up to \$511 per day*

No E-PSL or E-FMLA. EE Should apply for UI

EE should be teleworking.

Is the advice from a “health care provider” or is the employee prevented from coming to work by a governmental order (e.g., shelter-in-place, stay at home, quarantine, etc.)?

Is the cared-for person the EE’s child and is their school or day-care is closed or is their “child care provider” is “unavailable” because of COVID-19?

Yes, the EE can use (up to 80 hours of) E-PSL if there is a “genuine need to care for the individual” and the individual is an immediate family member, roommate, or someone else with whom the EE has a personal relationship. *Paid at 2/3 of “regular rate,” up to \$200 per day*

No E-PSL or E-FMLA. EE Should apply for UI

Can the employee telework?

No E-PSL or E-FMLA. EE Should apply for UI

Yes, the EE can use up to 80 hours of E-PSL and/or up to 12 weeks (10 paid) of E-FMLA to care for their child. The employee must actually be caring for the child and another suitable individual is not available (e.g., co-parent, co-guardian, or usual child-care provider). *Paid at 2/3 of “regular rate, up to \$200 per day.* *E-FMLA pays after 2 wks, up to 10 wks (\$10,000 total)*

Yes, the EE can use up to 80 hours of E-PSL as long as the employee could perform work “but for” the advice of the health care provider or governmental order. *Paid at “regular rate,” up to \$511 per day*

