This article is important information for employees from the State Department of Administration and Division of State Human Resources (DSHR).

On March 18, 2020, the “Families First Coronavirus Response Act” (FFCRA) was signed into law. The FFCRA seeks to assist employees impacted by novel coronavirus (“COVID-19”). The FFCRA, effective April 1, 2020, includes two forms of paid leave for employees: Emergency Family and Medical Leave (EFMLA) and Emergency Paid Sick Leave.

The provisions of the FFCRA are only for those employees who cannot work, including work-from-home, as a result of COVID-19. As directed by Governor Henry McMaster in Executive Order 2020-11, state agencies should still first offer work-from-home opportunities to employees to the maximum extent possible and only use the provisions of the Act when an employee is unable to work-from-home due to unique circumstances.

Below is a brief explanation of the two forms of paid leave:

**Emergency FMLA:** The Emergency Family and Medical Leave Expansion Act (EFMLA) amends and expands the federal Family and Medical Leave Act (FMLA), on a temporary basis, to provide qualifying employees 12 weeks of leave if the employee is unable to work, including work-from-home, due to the need to care for the employee’s child (under 18 years of age) if the child’s school or place of care is closed or the child care provider is unavailable due to a public health emergency. A public health emergency is “an emergency with respect to COVID-19 declared by a Federal, State, or local authority.”

EFMLA leave is available to all employees who have been employed at least 30 calendar days, including employees who do not accrue leave. The first 10 workdays of the 12 workweeks of leave provided under the EFMLA are unpaid, but in accordance with standard FMLA administration, employees are required to use any paid leave available concurrently with EFMLA leave during this 10-day period. After the first 10 workdays, paid leave must be provided for the remaining leave taken under the EFMLA. Paid leave provided to eligible employees shall be calculated at two-thirds of an employee’s regular rate of pay and should be based on the number of hours the employee would otherwise be normally scheduled to work. Paid leave under the EFMLA is capped at $200 per day and $10,000 in the aggregate. Employees can use accrued leave to augment leave taken pursuant to the EFMLA up to their regular salary rate.

**Emergency Paid Sick Leave Act:** The Emergency Paid Sick Leave Act is a new, temporary form of leave that applies to any public agency, including all South Carolina state government agencies and institutions. State employees may take up to 80 hours of paid sick leave for one of six qualifying reasons outlined below. Employee is defined by the Act as any individual who meets the definition of employee under the Fair Standards Labor Act (FLSA). Therefore, this includes employees who do not currently earn leave including temporary employment. Employees are eligible from their first day of employment.
If an employee is unable to work (or work-from-home), the employee can receive paid sick time if:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. Governor McMaster’s Executive Order requiring that all non-essential state employees not report to work constitutes 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 seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in the first reason for leave above OR has been advised to quarantine as described in the second reason for leave above.
5. The employee is caring for a child where the school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Act.

The payment provided to employees who utilize leave under the Act will depend on the reason the leave is taken. If leave is taken for the first three reasons listed above, the employee is paid their regular rate of pay up to $511.00 per day or $5,110 in the aggregate. If leave is taken for reasons four through six listed above, the employee is paid at 2/3 of the employee’s regular rate of pay up to a maximum of $200 per day and $2,000 in the aggregate. Employees can use accrued leave to augment leave taken pursuant to the Emergency Paid Sick Leave Act up to their regular salary rate.

Please contact the Human Resources Office at (803) 896-8879 if you have any questions.
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:

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);
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; or
6. 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.

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