

# Families First Coronavirus Response Act

## Purpose

To comply with the Families First Coronavirus Response Act and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2020, until December 31, 2020. Our existing FMLA leave policy still applies to all other reasons for leave outside of this policy. All existing county leave policies remain in place to the extent they are not superseded by FFCRA. This policy amendment shall be interpreted consistent with the U.S. Department of Labor's rules.

## Paid Family Medical Leave PFML

### EMPLOYEE ELIGIBILITY

All employees who have been employed with Wells County for at least 30 days.

### REASON FOR LEAVE

Eligible employees who are unable to work due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

"School" means an elementary or secondary school.

### DURATION OF LEAVE

Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy.

## PAY DURING LEAVE

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid time off during this time. The employee may also elect to use the paid sick leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid at two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day, and \$10,000 in total. Any unused portion of this pay will not carry over to the next year. Employees may use any accrued paid leave, excluding accrued sick leave, in conjunction with the PFML to offset the reduction in pay.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

## EMPLOYEE STATUS AND BENEFITS DURING LEAVE

While an employee is on leave, the County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.

If the employee participates in any optional benefits, the County will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums. If the employee does not continue these payments, the County will discontinue coverage during the leave.

## PROCEDURE FOR REQUESTING LEAVE

All employees requesting PFML must provide written notice, where possible, of the need for leave to HR as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. Forms are available from HR. Within five business days after the employee has provided this notice, the HR will complete and provide the employee with any Department of Labor (DOL) required notices.

The notice the employee provides should include a brief statement as to the reason for leave, and if possible, the expected duration.

On a basis that does not discriminate against employees on PFML, the County may require an employee on PFML to report periodically on the employee's status and intent to return to work. Additionally, in the event that the qualifying reason is a serious health condition, a written medical release from a physician will be required prior to returning to work.

## EMPLOYEE STATUS AFTER LEAVE

Generally, an employee who takes PFML will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The County may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

Please contact the HR department with any questions.

## Emergency Paid Sick Leave

### ELIGIBILITY

All full- and part-time employees unable to work (or telework) due to one of the following reasons for leave:

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 seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

**[Note: A definition for “individual” should be provided as soon as more guidance is available.]**

### AMOUNT OF PAID SICK LEAVE

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

### RATE OF PAY

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

## INTERACTION WITH OTHER PAID LEAVE

The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this policy may use PSL during the first 10 days of normally unpaid FMLA leave.

## PROCEDURE FOR REQUESTING EMERGENCY PAID SICK LEAVE

Employees must notify Human Resources of the need and specific reason for leave under this policy. Forms will be available digitally and hard copy from Human Resources. Verbal notification will be accepted until practicable to provide written notice.

Once emergency paid sick leave has begun, the employee will be expected to return to work at the end of the 80 hours of allotted time, unless the employee has communicated to Human Resources that they will return earlier or the employee has initiated additional leave, either through Extended FMLA, FMLA or use of the employees sick or vacation leave.

## CARRYOVER

Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

## JOB PROTECTIONS

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

## SPECIAL EMERGENCY RESPONDERS AND HEALTH CARE PROVIDERS PROVISION

Certain Emergency Responders and Health Care Providers may be disqualified from taking leave under categories 4 – 6 of the Emergency Paid Sick Leave or Expanded Family Medical Leave Act. For those employees, prior approval of their department head in consultation with the Human Resources Department will be required. On March 25, 2020, Governor Doug Burgum issued Executive Order 2020-12 for extending workers' compensation coverage for COVID-19 to first responders and front-line health care providers.

Qualifying Reason	FFCRA 100% Rate	FFCRA 2/3 Rate	2 Weeks	Additional 10 Weeks
1. Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	<b>X</b>		<b>X</b>	
2. Employee has been advised by a health care provider to self-quarantine related to COVID-19	<b>X</b>		<b>X</b>	
3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis	<b>X</b>		<b>X</b>	
4. Employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2)		<b>X</b>	<b>X</b>	
5. Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19		<b>X</b>	<b>X</b>	<b>X</b>
6. Employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury		<b>X</b>	<b>X</b>	

Examples of Pay	
<p>1. Employee is subject to a Federal , State, or local quarantine or isolation order related to COVID - 19</p> <p>2. Employee has been advised by a health care provider to self-quarantine related to COVID - 19</p> <p>3. Employee is experiencing COVID - 19 symptoms and is seeking a medical diagnosis</p>	<p>This applies for examples 1, 2 &amp; 3</p> <p>Paid at 100% up to \$511 per day for TWO WEEKS only.</p> <p>100% pay only applies if COVID - 19 affects YOU.</p>
<p>4. Employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2)</p> <p>5. Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID - 19</p> <p>6. Employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury</p>	<p>This applies for examples 4, 5 &amp; 6</p> <p>EXAMPLE: This will be paid at 2/3 your rate up to \$200.00 per day</p> <p><math>\\$30.00 \times 8 = \\$240.00 \times 2/3 = \\$159.98</math></p> <p><math>\\$30.00 \times 10 = \\$300.00 \times 2/3 = \\$199.98</math></p> <p><math>\\$30.00 \times 12 = \\$360.00 \times 2/3 = \\$239.98</math> Capped at \$200.00 per day</p>

NOTE: If you are part time, you are entitled to the number of hours worked, on average, over a two week period.