

<b>HUMAN RESOURCES MEMORANDUM 20-008</b>		DATE ISSUED: 04/03/2020
SUBJECT: <b>EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT</b>		REFERENCE: CalHR 2127
TO: All DGS Employees		SUPERCEDES: None

**PLEASE ENSURE THAT THIS INFORMATION IS SHARED WITH YOUR EMPLOYEES**

**Purpose**

The purpose of this memorandum is to provide information on the expansion of the Family and Medical Leave Act (FMLA) benefits due to the Families First Coronavirus Response Act (FFCRA).

**Background**

Effective April 1, 2020, the Federal Government enacted FFCRA, which enacted both the Emergency Paid Sick Leave Act (see HR Memo 20-007) and the Emergency Family and Medical Leave Expansion Act (E-FMLA).

**Emergency Family and Medical Leave Expansion Act**

E-FMLA requires certain employers to provide employees who have worked for the employer for 30-days with up to 12-workweeks of paid FMLA leave for specified reasons related to COVID-19. Specifically, eligible employees can take up to 12-workweeks of leave to provide care for their child whose school or daycare is closed because of COVID-19. Employees do not have to have worked for the employer for 12-months or have worked 1,250 hours in the 12-months preceding the leave to be eligible for E-FMLA.

The first two weeks of E-FMLA are unpaid, although employees can elect to use their two weeks of emergency paid sick leave as provided for in HR Memo 20-007.

For weeks 3 to 12 of E-FMLA, employees will be paid two-thirds of their salary, up to \$200/per day up to a total of \$10,000. Employees can elect to use leave credits to supplement their E-FMLA. The maximum daily entitlement and overall total are the same regardless of the employee's time base.

E-FMLA utilizes the same 12-week entitlement as FMLA. If an employee has used any of their 12-week entitlement under FMLA, the entitlement under E-FMLA will be reduced by the amount already used.

If leave under this program is foreseeable, an employee shall provide their employer with such notice of leave as is practicable.

Employers may not discharge, discipline, or otherwise discriminate against any employee based upon the employee's use of E-FMLA leave.

## **Supplementation**

Employees receiving pay at two-thirds may elect to use applicable available leave credits to supplement up to full pay.

## **Required Documentation for e-FMLA**

In order to take E-FMLA, employees must provide documents to support the need to care for a child whose school or place of care is closed due to COVID-19 related reasons. This may be a notice of closure or unavailability from the child's school, place of care or child care provider. The notice may include a notice that may have been posted on a government, school or day care website, published in a newspaper or email to the parent from an employee or official of the school, place of care, or child care provider.

Absent the distinctions discussed above, the FMLA and California Family Rights Act policies, which can be found in HR Manual section 2701, apply to E-FMLA.

Requests for E-FMLA and supporting documentation must be sent to the following e-mail address:

[DGSOHREmergencyFMLA@dgs.ca.gov](mailto:DGSOHREmergencyFMLA@dgs.ca.gov)

## **Notice Requirements**

Effective immediately, departments must post the notices required by the Department of Labor. The postings can be found at: <https://www.dol.gov/agencies/whd/pandemic>.

Departments should post the notices at the worksite, distribute them electronically to all staff, as well as post them on the department's website or intranet site.

## **Expiration**

The FFCRA expires on December 31, 2020.

## **Reporting/Timekeeping**

The appropriate alias for documenting E-FMLA leave usage in the Project Accounting and Leave system has been established as E-FMLA.

## **Questions**

If you have questions, please contact Amy Applegate at (916) 376-5428 or via e-mail at [Amy.Applegate@dgs.ca.gov](mailto:Amy.Applegate@dgs.ca.gov).

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