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UPDATED MARCH 31, 2020

EMPLOYEE LEAVE GUIDANCE IN RESPONSE TO NOVEL CORONAVIRUS

PLEASE NOTE THAT FEDERAL AND STATE GUIDANCE IS CHANGING RAPIDLY so the links in the document should be used regularly.

Updated information from CDC is imbedded in the links below and the main source of federal policy information can be found at <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>.

The Montana Department of Public Health and Human Services is maintaining an updated Coronavirus site at

<https://dphhs.mt.gov/publichealth/cdepi/diseases/coronavirusmt>.

Governor Bullock declared a State of Emergency in Montana and information related to the Emergency Declaration can be found at <https://dphhs.mt.gov/aboutus/news/2020/stateofemergencydeclared>.

SUMMARY OF OPTIONS FOR EMPLOYEE LEAVE BEYOND THE NORMAL USE OF ACCRUED LEAVE

- Expanded FMLA (FFCRA, H.R. 6201)** – the Families First Coronavirus Response Act (see below).
- Paid Administrative Leave** – this is recommended if the employer is telling the employee they cannot come to work and is putting them on leave.
- Furlough (temporary reduction in force)** – this is recommended if your county is facing budgetary issues and/or a reduced need for services. Employees who are furloughed should be referred to the local unemployment office.
- Modified Leave Policies** – a [directive](#) issued by Governor Bullock on March 24, 2020 allows local governments to modify their sick and vacation policies to minimize the impact economic impact on their employees. Such policies may include permitting impacted employees who have exhausted their leave to accrue negative balances of sick or vacation time for the duration of the emergency. This would likely come into play after leave under FFCRA is exhausted.

THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

This law was signed into effect on March 18, 2020 and takes effect April 1, 2020. There are two temporary, emergency statutory schemes. The provisions expire on December 31, 2020.

Who is eligible?

- All employees are eligible for two weeks of paid sick time for specified reasons related to COVID-19. Employees employed for at least 30 days are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19.

Are there any exceptions?

- Yes, an employee working for a health care responder or an emergency responder can be excluded from these requirements by the employer.

Paid Sick Leave (EPSLA) – this provides up to 80 hours of paid sick leave if an employee is unable to work or telework due to COVID-19.

What are the qualifying reasons?

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 son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter 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.

What type of leave?

- Up to 80 hours of paid sick leave, prorated for part-time employees.
- Employees are not required to use other types of leave prior to using this leave.
- Paid sick leave must be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above (not to exceed \$511 per day and \$5,110 in the aggregate).
- An employee taking leave for reasons 4-6 may be compensated at 2/3's of their regular rate of pay, or 2/3's the applicable minimum wage, whichever is greater (not to exceed \$200 per day and \$2,000 in the aggregate).

Expanded FMLA (EFMLEA) – this allows employees to take 12 weeks of protected leave because their minor's school or childcare is closed due to a COVID-19 emergency declared by federal, state or local authority.

What type of leave?

- The first 10 days of this leave are unpaid; however, employees may use any accrued leave during this time.
- After the initial 10 days, employees must be paid at least 2/3's of their regular rate of pay based on the number of hours the employees would have been otherwise scheduled to work (not to exceed \$200/day or \$10,000 in the aggregate).

Please contact McKenzie McCarthy at mmccarthy@mtcounties.org with any questions.