

## **Employee FAQs**

### **Families First Coronavirus Response Act**

These Frequently Asked Questions have been developed to help address the implementation of the paid leave provisions under the Families First Coronavirus Response Act (FFCRA). They are designed to inform employees about the emergency paid sick leave (EPSL), emergency public health leave (EPHL) available under the Act, and when these paid leaves may be utilized.

The FFCRA provides for leave, both paid and unpaid, if an employee meets eligibility requirements, and requests the leave for a qualifying event. Due to the complexity of the law, and the differing eligibility requirements and differing entitlement provisions, it is necessary that each request for leave be individually evaluated, and guidance provided on a case-by-case basis. Please contact Amanda Berry, [aberry11@msudenver.edu](mailto:aberry11@msudenver.edu), in Human Resources with questions regarding this information.

#### **1. What is the Families First Coronavirus Response Act (FFCRA)?**

- The FFCRA is a federal law that increased funding for food assistance, Medicaid, unemployment assistance, and testing for the COVID-19 disease. It also requires the MSU Denver to provide eligible employees with emergency paid sick leave (EPSL) or emergency public health leave (EPHL) for specified reasons related to COVID-19. FFCRA is in effect April 1, 2020 through December 31, 2020.

#### **2. What is emergency paid sick leave (EPSL)?**

- EPSL is for eligible employees to take for the following reasons:
  1. You are subject to quarantine or isolation order;
  2. You have been advised by a health care provider to self-quarantine due to concerns;
  3. You are experiencing symptoms of and seeking a medical diagnosis;
  4. You are caring for an individual who either is subject to a quarantine or isolation order or has been advised by a health care provider to self-quarantine due to concerns; or
  5. Your son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precautions;
  6. You are experiencing any other substantially similar condition specified by the [U.S. Department of Health and Human Services](#).

- MSU Denver will pay employees utilizing EPSL their regular rate of pay, up to 80 hours (part-time eligible for leave for the number of hours that the employee is normally scheduled to work over that period).

### **3. What is emergency public health leave (EPHL)?**

- When the employee must care for their child whose school or place of care is closed (or child care provider is unavailable) and they cannot telework, a full-time employee is potentially eligible for up to 12-weeks of paid leave (2 weeks of EPSL followed by up to 10 weeks of EPHL) at 40 hours a week (part-time employees are.... eligible for leave for the number of hours that the employee is normally scheduled to work over that period).
- EPHL is unpaid for the first two weeks of leave but EPSL can be used to cover up to 80 hours at regular pay and the remaining 10-weeks is paid at two-thirds your standard rate of pay. Employees may supplement the two-thirds pay with any accrued leave to bring them to 100% pay.
- This does impact employees FMLA allotment as the university allots FMLA based on a “rolling” 12-month period measured backward from the date an employee begins using FMLA leave.
- EPHL is limited to two-thirds of the employee’s regular rate up to \$200 daily and \$10,000 total in aggregate for the 10 weeks, (\$12,000 total in aggregate for EPSL and EPHL).

### **4. Which employees are eligible for EPSL and EPHL?**

- Full-time faculty, classified staff and administrators.
- There is one difference regarding an employee’s eligibility for EPSL and EPHL. While an employee is eligible for EPSL regardless of length of employment, an employee must have been employed for 30 calendar days in order to qualify for EPHL. For example, if an employee requests EPHL on April 10, 2020, they must have been employed since March 11, 2020.

### **5. May I take 80 hours of EPSL for my self-quarantine and then another amount of EPSL for another reason provided under the Act?**

- Employees are limited to 80 hours for a full-time employee (part-time employee, the number of hours equal to the average number of hours that you work over a typical two-week period) of EPSL for any combination of the qualifying reasons. However, the total number of hours for which you receive EPSL is capped at 80 hours in a one (1) year period.

- 6. Who is a “healthcare provider” for purposes of determining individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave?**
- In this case, the term “healthcare provider” means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.
- 7. If I am home with my child because his or her school or place of care is closed, or the child care provider is unavailable, do I get EPSL, EPHL, or both—how do they interact?**
- If you are unable to telework, you may take both EPSL and EPHL to care for your child whose school or place of care is closed, or the child care provider is unavailable, due to COVID-19 related reasons. EPSL provides for an initial two weeks (80 hours) of paid leave. This period covers the first ten workdays of EPHL, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless you elect to use EPSL or accrued leave. After the first ten work days have elapsed, you will receive EPHL of which is two-thirds of your [regular rate of pay](#) for the hours you would have been scheduled to work in the subsequent ten weeks. Employees may use EPSL intermittently up to 80 hours if they are able to telework or work on-site with an adjusted schedule.
  - Please note that you can only receive the additional ten weeks of EPHL to care for your child whose school or place of care is closed, or the child care provider is unavailable, due to COVID-19 related reasons and you are unable to telework. Employees are encouraged to work with their supervisors to see how flexible scheduling may allow them to use EPHL intermittently and continue to telework. Employees who use EPHL intermittently may do so up to 400 hours if they are able to telework or work on-site with an adjusted schedule.
  - NOTE: EPHL is limited to two-thirds of the employee’s regular rate up to \$200 daily and \$10,000 total in aggregate for the 10 weeks, (\$12,000 total in aggregate for EPSL and EPHL).
- 8. Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the [Family and Medical Leave Act \(FMLA\)](#)?**
- If you are an eligible employee, you are entitled to EPSL.
  - However, your eligibility for EPHL under the Emergency Family and Medical Leave Expansion Act depends on how much FMLA leave you have already taken in the last 12-month period. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, of the 12 workweeks (480 hours if

taken intermittently) of your leave under FMLA during the prior 12 month period, you may take the remaining portion of FMLA leave available. If you have already taken 12 workweeks (480 hours if taken intermittently) of FMLA leave during this 12-month period, you may not take additional EPHL under the Emergency Family and Medical Leave Expansion Act.

- For example, assume you took two weeks of FMLA leave in January 2020 to undergo and recover from a surgical procedure. You, therefore, have 10 weeks of FMLA leave remaining. Because EPHL is a type of FMLA leave, you would be entitled to take up to 10 weeks of EPHL, rather than 12 weeks. And any EPHL you take would count against your entitlement to future FMLA leave during the 12-month period from the time you took in January 2020.

**9. Are the EPSL and EPHL requirements retroactive?**

- The requirements take effect April 1, 2020 and cannot be applied retroactively.

**10. What documents do I need to turn in to get EPSL or EPHL?**

- Employees are required to submit the [Leave Request Form under the FFCRA](#) to Amanda Berry in Human Resources, [aberry11@msudenver.edu](mailto:aberry11@msudenver.edu). Additionally, employees must self-certify the COVID-19-like illness by completing the [State of Colorado Self-Certification Form for COVID-19-like Symptoms Form](#) within 15 calendar days from the date of the first absence, barring extenuating circumstances, and present a signed copy to Amanda Berry, [aberry11@msudenver.edu](mailto:aberry11@msudenver.edu). MSU Denver will also require you to provide additional documentation in support of your EPHL taken to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19-related reasons.
- Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of EPSL because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA.

**11. What does it mean to be unable to work, including telework for COVID-19 related reasons?**

- You are unable to work if your supervisor has work for you and one of the COVID-19 qualifying reasons prevents you from being able to perform that work, either under normal circumstances at your normal worksite or by means of telework.

- If you and your supervisor agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

**12. If I am or become unable to telework, am I entitled to paid sick leave or expanded family and medical leave?**

- MSU Denver employees are all teleworking at this time, if teleworking allows you to perform certain tasks or work a certain number of hours remotely, and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for EPSL, then you are entitled to take EPSL.
- Similarly, if you are unable to perform those teleworking tasks or work the required teleworking hours because you need to care for your child whose school or place of care is closed, or childcare provider is unavailable, because of COVID-19 related reasons, then you are entitled to take EPHL.

**13. May I take my EPSL or EPHL intermittently while teleworking?**

- Yes, if your supervisor allows it and if you are unable to telework your normal schedule of hours due to one of the qualifying reasons. In that situation, you and your supervisor may agree that you may take EPSL intermittently while teleworking. Similarly, if you are prevented from teleworking your normal schedule of hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you and your supervisor may agree that you can take EPHL intermittently while teleworking.
- You may take intermittent leave in any increment, provided that you and your supervisor agree. For example, if you agree on a 90-minute increment, you could telework from 1:00 PM to 2:30 PM, take leave from 2:30 PM to 4:00 PM, and then return to teleworking.
- Supervisors are highly encouraged to collaborate with employees to achieve flexibility and meet mutual needs including voluntary arrangements that combine telework and/or intermittent leave.
- Please contact Amanda Berry in Human Resources at, [aberry11@msudenver.edu](mailto:aberry11@msudenver.edu), to ensure proper documentation is on file. MSU Denver is required to track and report on all hours taken for any of the reasons listed in question two.

**14. May I take EPHL intermittently while my child's school or place of care is closed, or the child care provider is unavailable, due to COVID-19 related reasons, if unable to telework?**

- Yes. Intermittent EPHL is permitted only when you and your supervisor agree upon such a schedule. For example, if your supervisor and you agree, you may take EPHL on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays.
- Supervisors and employees should collaborate to achieve flexibility. Therefore, if supervisors and employees agree to intermittent leave on a day-by-day basis, such voluntary arrangements are encouraged.

**15. If an employee has previously exhausted 12 weeks of FML and needs to be home for child care, will the employee have job protection under FML?**

- If an employee has exhausted their 12 weeks of FML, then they are not eligible for EPHL and would not have job protection under FML if they take off additional time for child care purposes.

**16. If I elect to take EPSL or EPHL, must MSU Denver continue my healthcare coverage? If I remain on leave beyond the maximum period of EPHL, do I have a right to keep my healthcare coverage?**

- You are entitled to continued group healthcare coverage during your EPHL on the same terms as if you continued to work. You generally must continue to make any normal contributions to the cost of your health coverage.

**17. May I use accrued leave and EPSL and EPHL concurrently for the same hours?**

- If you are receiving two-thirds of your normal earnings from EPHL under the FFCRA, you may use accrued annual or sick leave to get the additional one-third of your normal earnings so that you receive your full normal earnings for each hour.

The [Colorado Emergency Child Care Collaborative](#) has established an emergency childcare system for essential and emergency workers. [2-1-1 Colorado](#) can also help interested families. Families who need help in identifying child care and aren't in need of financial assistance can also reach out to Colorado Shines Child Care Referral for assistance, through any of the below methods:

- [Colorado Shines](#)
- Phone (toll free): 1-877-338-CARE (2273)
- Email: [childcarereferrals@unitedwaydenver.org](mailto:childcarereferrals@unitedwaydenver.org)
- Text "child care referrals" to 898-211

- Complete the child care online intake [form](#)