

COVID-19 APM Questions and Answers

- 1. The various memos and the APM are confusing on how they apply to emergency responders and health care workers. Can you explain this?**

The Families First Coronavirus Response Acts exempts emergency responders and health care workers. The Department of Administration is working to compile a list of classifications that the County will be defining as “emergency responders” or “health care workers.” Employees in these classifications will not be eligible to take EFMLEA.

Technically, the County will also be exempting these employees from receiving the benefits of the Paid Sick Leave Act provisions of the Families First Coronavirus Response Act. However, the County Executive has created a separate county benefit to provide “emergency responders” and “health care workers” 80 hours of Emergency COVID Leave. “Emergency responders” and “health care workers” will have the use of this leave subject to their Department’s existing policy for the request for vacation time.

- 2. What if emergency responders and health care workers are unable to use their Emergency COVID Leave?**

The County Executive recognizes that this may be a potential issue with the County’s Emergency Responders and Health Care Workers. Per the County Executive’s Direction, the Department of Administration is working to allow employees who do are unable to use this leave to cash it out at the end of the year. Additional instruction on how this will work will be coming.

- 3. I have been with the county over 20 years and have my vacation and sick leave bank already maxed out. I had planned to take a nice vacation over spring break that can’t happen. It will be difficult to use my time given the circumstance. For employees who have canceled their trips, can we cancel the requirement to use vacation by the end of the payroll year? Can we extend the vacation bank?**

County Executive Parisi has proposed an increase to the vacation bank as a part of the Meet and Confer process. The vacation bank is currently capped at 712 hours and he has proposed increasing it 40 hours to 752. The requirement to use last year’s vacation time by the end of the payroll year is not being suspended for the current year. During the pandemic, employees are still able to use vacation time.

- 4. An employee’s role would allow them to work from home, but due to the lack of child care they can’t really work from home. Do they need to take leave during the virus outbreak?**

What an individual employee should do is best left up to the employee’s manager/supervisor.

Child care needs vary from family to family and each family needs to decide what is best for them. If an employee’s child care needs are such that they are unable work at all (the employee has an infant), then the employee should use the leave that is available. If an employee’s child care needs are such that they could be addressed through schedule adjustments, then supervisors should work with employees and be as flexible as possible.

- 5. An employee's role does not allow for work from home, but they are sent home. They are available to work, but there isn't work for them to do. They receive their regular pay?**

Yes – these employees will remain in pay status. The employee could be reassigned to another function in another department. Employees in these circumstances should monitor their phone and email if they are reassigned to another department.

- 6. A 24/7 employee is available to work, but for the lack of child care. Can they use leave to stay home?**

Yes – depending on the Department that they work and their classification. Emergency responders and health care workers are not eligible to use the EFMLEA. Vacation and sick time use would need to follow their department's leave use procedure.

- 7. If an employee needs to renew their FMLA, does the employee need to provide a health certification?**

No. Employee Relations is not requiring a health care certification at this time. The Division is doing its part to reduce the strain on the health care system at this time. Employees who are filing a new FMLA, renewing an FMLA for a chronic health issue or care of a relative may be asked to provide a health care certification of those on-going issues at a later date.

- 8. The COVID Emergency Leave starts on April 2, but is available beginning in pay period 9. Can an employee use the Emergency Leave starting 3/29/20?**

Yes. Employees are able to use COVID-19 Emergency leave for the few days prior to April 2. Because the law takes effect in the middle of the pay-period and it would be administratively difficult to ensure that the use of the leave didn't start until April 2. However, employees cannot take a leave of absence for Emergency Family Medical Leave Expansion Act until April 2.

- 9. Can the Department of Administration have the Emergency COVID leave be available pay period 8 instead?**

No. For pay period 8, employees can use their available sick or vacation time to cover for these needs. The Department of Administration has been working on making sure the leave is available for pay period 9 (which starts on Sunday) and changing to allow retro adjustments while everyone is completing their time sheets is administratively difficult.

- 10. Can the Emergency COVID-19 Leave be used intermittently?**

Yes. This leave will work similar to sick leave. Employees will have their time loaded into a bank (time code) that is available to use when they need it.

11. Can an employee use their entire 2020 sick leave for non-COVID-19 related sickness?

Yes. COVID-19 tests are not yet widely available, so it would be very difficult to figure out which illness are COVID-19 related and which are not. Additionally, we want to reduce the strain on the health care system. Staying home when ill with non-COVID illnesses allows the health care system to devote all resources towards the pandemic.

However, sick-time use is expected to be consistent with the Employee Benefit Handbook. Employees are to use this time for their illness or the illness of a family member. Additionally, the APM provides that sick leave and supplemental sick leave can be used for child care.

12. If an employee is on EFMLEA, does the County continue paying health and dental premiums for the employee?

Yes. The County will continue to pay the employee's health and dental premiums at the same rate as before the employee went on EFMLEA.

13. If an employee is on EFMLEA, does the employee continue earning sick-leave credits and longevity?

Yes. Employees will continue to earn these benefits as if they were in work-status. Additionally, we have allowed all employees to access the sick time that they would have earned in 2020 immediately.

14. Will the County allow employees on an approved EFMLEA to use their leave balances in order to be compensated at 100%

No. Given that EFMLEA can be used intermittently, allowing employees to use their leave time to be compensated at 100% is administratively difficult.

15. How does the new EFMLEA and Emergency COVID leave affect employees who are currently on an existing FMLA?

All employees will receive the emergency COVID leave. If the reason for an employee's existing FMLA is consistent with the uses for emergency COVID leave, then employees may use emergency COVID leave to receive pay while out on FMLA. If the leave is not consistent with their FMLA, employees must use other leave time or take unpaid leave. When an employee returns to work, the employee would follow the rules outlined in the COVID APM.

For example, if an employee had an existing FMLA to care for a relative with chronic health issues and that relative developed COVID-19, then the employee may use the emergency leave during their existing FMLA.

16. What does a "rate not less than 2/3 of the employee regular rate of pay" mean? At what rate can employees expect to be paid?

Employees with longevity and educational incentive will receive 2/3 their pay inclusive of longevity and educational incentive. Employees without longevity and educational incentive will receive 2/3 their regular pay.

17. If EFMLEA can be used intermittently, can it be used in hours (or portions of days) or only in full days?

Yes, it can be used in terms of hours.

18. Given that EFMLEA can be used intermittently, how is the 10 day period before 2/3 pay calculated?

The first ten days of EFMLEA is unpaid, but the employee can use their own leave to get full pay for those 10 days. For the remaining ten weeks, the employee will have a bank of time loaded up to 10 weeks of their normal schedule. The exact amount of leave will depend on the employee's circumstances and the duration of their requested leave.

For example, a 1.0 FTE applying for a 12-week EFMLEA, would have the two unpaid weeks and then would get a 10 week bank of 400 hours. As employees apply those hours on an Exception Time Report, they will be paid 2/3 pay for each of those hours.

19. Is there an expiration date for the EFMLEA?

Yes. Congress has only provided this leave until 12/31/2020.

20. Given the EFMLEA is "12 weeks" of leave time would it be accurate to say it is 480 hours that could be used intermittently?

No. In providing an additional type of Family Medical Leave, Congress did not expand the total amount of leave provide. Employees are entitled to up-to 12 weeks of job-protected leave on an annual basis. So if an employee took 6 weeks of FMLA earlier this year, then the same employee would only be able to use another sick weeks of EFMLEA. This will be different for each employee because FMLA is calculating on a rolling year, not a calendar year.

21. What's being done with the County's attendance policy?

The County is not changing its attendance policy at this time. It is critical that Dane County continues to serve the community. The County provides emergency response and health care and these functions depend on employees showing up for work. We have instructed supervisors to as flexible as possible given the circumstances.

If an employee or a member of their family develops COVID and is out of work for a prolonged period of time, the current policy would only count the first absence against the employee.

22. What happens if an employee refuses a reassignment?

If employees are sent home due to the closure of their work unit and are for all practical purposes non-essential employees, they should be redeployed if they are needed in an essential work unit or can perform essential duties. If they refuse, we would have to review the reasons why. Absent a valid reason, they would have to use their own benefit time to cover their absence.

23. Are employees who are currently on a Leave of Absence able to access the Emergency COVID leave or EFMLEA?

These individuals are able to access these benefits when they return to work, as long as the employee is not an emergency responder or health care worker.