

SECTION 4.2.27: Families First Coronavirus Response Act. In accordance with HR 6201, the Families First Coronavirus Response Act (“Act”), the County adopted the temporary provisions of the Act effective April 1, 2020 through December 31, 2020. The Act added temporary eligibility criteria to the Family Medical Leave Act (“FMLA”) and Emergency Paid Sick Leave (“EPSL”) for eligible employees. The County is extending these provisions from January 1, 2021 through March 2, 2021 (effective date subject to change per federal guidance or approval by the Board of Supervisors).

(a) FML Public Health Emergency Leave (FML PHE).

(1) FML Public Health Emergency Leave (FML PHE) is a leave of absence granted to eligible employees to care for a child of an employee if their school or place of care has been closed, or the childcare provider is unavailable, due to coronavirus or COVID-19 related reasons in accordance with applicable federal and state laws. This leave is an extension of Family and Medical Leave (FML) provisions.

(2) Eligibility.

(a) Employee must be employed by the County of San Diego for at least thirty (30) calendar days and have not exhausted FML. Any hours used during the current rolling calendar period for FML reduces the number of hours available for FML PHE Leave.

(b) Qualifying Event for FML PHE Leave Eligibility. An employee is eligible to take FML PHE Leave if the employee is unable to work or telework due to a need for leave to care for a child if the child’s school or place of care has been closed, or if the childcare provider is unavailable, due to a public emergency related to coronavirus or COVID-19.

A child is defined as a son or daughter, which includes biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is under the age of 18 years old; or 18 years of age or older and incapable of self-care because of a mental or physical disability.

(3) Conditions. FML PHE Leave is subject to the following condition:

- (a) Job Retention. Following FML PHE Leave, the employee is entitled to return to the same or an equivalent job upon return from leave. However, should the employee exhaust their FML Leave and continue on some other form of County unpaid leave, they may not be entitled to return to their previous position.

- (4) Duration and Coordination with County Leave Programs. An employee may take this leave of absence for up to twelve (12) weeks through the expiration of the program. FML time used for FML PHE Leave reduces FML hours during a rolling calendar period. FML PHE Leave shall be coordinated with County paid leave and unpaid leave as follows:
 - (a) First Ten (10) Days of Leave. The first ten (10) days of FML PHE Leave are unpaid. However, employee may substitute accrued leave or Emergency Paid Sick Leave, which is outlined in Subsection (b)(1), to receive pay during the initial ten (10) days.

 - (b) Eleventh Day of Leave and After. The County will pay up to two-thirds (2/3) of an employee's regular rate of pay with a maximum of \$200 per day / \$10,000 in total. Employees may supplement the two-thirds (2/3) pay with their accrued leaves to achieve 100% of their regular rate of pay.

- (5) Maintenance of Insurance Coverage.
 - (a) General Requirement. An employee's group insurance coverage shall be maintained during the approved FML PHE Leave on the same conditions as coverage would have been provided if the employee had been employed continuously during the entire FML PHE Leave period.
 - i. The County shall continue to contribute toward health insurance premiums during the FML PHE Leave period.

 - ii. Employees will be required to pay their share of the insurance premiums.

(b) Emergency Paid Sick Leave.

(1) This sick leave provides up to eighty (80) hours of paid leave for full-time employees; part-time employees will be entitled to the number of hours typically worked in a two-week period.

(2) Eligible employees can use a total of eighty (80) hours of Emergency Paid Sick Leave for any purpose listed in (3)(b) and (c) below.

(3) Eligibility and Payment Maximums.

(a) Employee must be employed by the County of San Diego preceding the commencement of leave. There is no length of service requirement before an employee is entitled to Emergency Paid Sick Leave.

(b) Employees unable to work or telework for the following reasons shall receive their regular rate of pay up to \$511 per day / \$5,110 in total. Employee may supplement with their accrued leaves to achieve 100% of their regular rate of pay:

- i. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19,
- ii. Been advised by a health care provider to self-quarantine due to concerns related to COVID-19,
- iii. Experiencing symptoms of COVID-19 and seeking a medical diagnosis.

(c) Employees unable to work or telework for the following reasons shall receive two-thirds (2/3) of their regular rate of pay up to \$200 per day / \$2,000 in total. Employee may supplement with their accrued leaves to achieve 100% of their regular rate of pay:

- i. To care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.

The term "individual" means a family member, domestic partner, friend, neighbor or other person

with whom you do not otherwise have a family member relationship.

- ii. To care for a child of an employee if the school or place of care of the child has been closed, or if the childcare provider is unavailable, due to a public emergency related to coronavirus or COVID-19.

Child is defined as a son or daughter, which includes biological, adopted, or a foster child, stepchild, a legal ward, or a child of a person standing in loco parentis, who is under the age of 18 years old, or is over the age of 18 and incapable of self-care because of a mental or physical disability.

(Added 03/16/21, Ord. No. 10720)