

**SAUK COUNTY  
FAMILIES FIRST CORONAVIRUS RESPONSE ACT  
ADDENDUM TO FMLA POLICY  
EFFECTIVE APRIL 1, 2020**

President Trump signed legislation on March 18, 2020, which modifies the requirements of the Family and Medical Leave Act (Emergency Family and Medical Leave Expansion Act), expands access to Unemployment Compensation Insurance Benefits (Emergency Unemployment Insurance Stabilization and Access Act of 2020) and creates paid sick leave (Emergency Paid Sick Leave Act) for employees while the employee or his/her family members are impacted by COVID-19. The legislative responses to the COVID-19 pandemic are all within the scope of what is known as the FAMILIES FIRST CORONAVIRUS RESPONSE ACT (the “Act”). The Act will be effective on April 1, 2020, and will sunset on December 31, 2020.

Eligible employees are entitled to leave under the Act as outlined in the following addendum; however, the Act excludes “health care providers” and “emergency responders” from eligibility. Pursuant to Resolution 59-2020, the County Administrative Coordinator has authority to carry out the County’s emergency response to the COVID-19 pandemic. The County Administrative Coordinator, in working with Human Resources, Corporation Counsel, and outside counsel, created the list of exempt positions. This list is subject to change based on further legislative clarification of the definition, or change in the level of the COVID-19 crisis.

**Emergency Family and Medical Leave Expansion Act (EFMLEA):**

- I. **Employee Eligibility:** All employees who have been employed by Sauk County for at least 30 calendar days. This policy excludes health care providers and emergency responders as defined below.

Emergency responder positions exempted from the EMFLEA include but are not limited to Chief Deputy, all sworn law enforcement officers, Dispatch, and Emergency Management Director, and Administrative Coordinator.

Health care provider positions exempted from the EFMLEA include but are not limited to Public Health Director, Human Services Director, Nursing Home Administrator, all care providers at the Health Care Center required to work holidays and participate in the contingency staffing plan.

Public Works positions exempted from the EMFLEA include but are not limited to Highway Operator 1, Highway Operator 2, Highway Operator 3, Patrol Superintendent, Mechanic, Mechanic Helper, Welder, Assistant Shop Supervisor, Shop Supervisor, Highway Operations Manager, and Highway Commissioner.

- A. **Qualifications:** Employee is unable to work or telecommute because of a need to care for a minor child if the child’s school or childcare has been closed, or is unavailable due to a public health emergency (COVID-19).
- B. **Pay During Leave:** The EFMLEA provides for time away from work for up to 12 weeks. The first ten (10) work days of EFMLEA leave is unpaid, unless the employee has available accrued

vacation, personal or sick leave which can be substituted for the otherwise unpaid time. The employee will not be required to substitute pay for the first 10 days of unpaid leave. After the 10th unpaid work day, the employee will be eligible for pay from the County equal to 2/3 of the employee's regular rate of pay for the remainder of the available FMLA leave associated with the qualifying COVID-19 reason, not to exceed a daily cap of \$200 or aggregate cap of \$10,000, per person.

For full time employees, the paid leave opportunity will be based on the regular rate of pay of the employee for the hours the employee would normally work. Part-time employees pay eligibility will be based on their regular hours worked per week – or if variable – the average hours worked in the preceding six months.

An employee may be eligible for regular FMLA leave if they have a COVID-19 diagnosis and they meet the normal requirements of the FMLA. An employee who is not ill but merely quarantined because of coming into contact with COVID-19 would not be eligible for EFMLEA or regular FMLA.

Employer Paid FMLA leave is allowed **only** for the reason of closure of the child's school or childcare and need to provide child care due to the public health emergency and not allowed for other FMLA reasons.

It is important to note that while an employee is entitled to 12 weeks of leave under the EFMLEA, the length of the leave is reduced by any FMLA Leave previously taken by the employee – this is not a separate 12 week entitlement. In other words, the Emergency Leave for childcare purposes is automatically reduced by the amount of leave an employee has already taken in the current administrative year, without regard to the reason for the previous leave.

- C. **Benefits During Leave:** Benefits will continue as if actively working during this leave.
- D. **Employee Status after Leave:** The FMLA's job protected leave requirements and anti-retaliation provisions also apply to EFMLEA scenarios.
- E. **Procedure for Requesting Leave and Certification:** Employees shall complete an amended FMLA request form that will be used specifically for the purposes under the FAMILIES FIRST CORONAVIRUS RESPONSE ACT. Forms may be requested by contacting FMLASource at [fmlasource.com](http://fmlasource.com), or calling the Personnel Department at ext. 3270, or e-mail: [personnel@saukcountywi.gov](mailto:personnel@saukcountywi.gov). In compliance with the recommended social distancing, please do not physically go to the Personnel Department.

Understanding that schools and most day care facilities are closed, and health care providers are overwhelmed at this time, the required certification will be waived by FMLASource unless there is cause to believe the employee falsified the request.

- F. **Return to Work:** Employees will not be required to provide a return-to-work notice unless specifically requested by FMLASource. Employees who experience virus symptoms (cough, fever, sore throat, shortness of breath) should be symptom free for 72-hours prior to returning to work.
- G. **Enforcement:** Nothing in this provision shall be construed to in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing Sauk County policy. An employee is encouraged to consult with the Human Resources

Director or Benefits Specialist regarding any questions or concern. An employee may file a complaint with the U.S. Department of Labor.

- H. **Termination of Benefit:** EFMLEA entitlement expires on December 31, 2020. The County will not pay out any unused EFMLEA upon separation for any reason and the benefit will not carry over into 2021.

**The Emergency Paid Sick Leave Act (PSLA):** Provides a limited term paid sick leave benefit for employees in addition to leave available under the FMLA or EFMLEA.

- II. **Employee eligibility:** All employees actively employed by Sauk County. This policy excludes health care providers and emergency responders as defined below.

Emergency responder positions exempted from the Emergency Paid Sick Leave include but are not limited to Chief Deputy, all sworn law enforcement officers, Dispatch, Emergency Management Director, and Administrative Coordinator

Health care provider positions exempted from the Emergency Paid Sick Leave include but are not limited to Public Health Director, Human Services Director, Nursing Home Administrator, all care providers at the Health Care Center required to work holidays and participate in the contingency staffing plan.

- A. **Qualifications:** The employee must be unable to work, or telecommute due to:

1. the employee is subject to a Federal, State or local quarantine or isolation order relative to the COVID-19 virus;
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 the COVID-19 (fever, cough, sore throat, shortness of breath) and is seeking medical diagnosis from an appropriate health provider;
4. the employee is caring for a family member subject to a federal, state or local order related to COVID-19;
5. the employee is caring for a son or daughter whose school or place of care is closed or child care provider is unavailable due to COVID-19 precautions; or,
6. the employee is experiencing a substantially similar condition to COVID-19 as has been identified by the Secretary of Health and Human Services.

- B. **Pay During Leave:** The amount of Emergency Paid Sick Leave available to employees is limited:

1. Full-time employees regularly scheduled to work 40 hours per week will be eligible for 80 hours of Emergency Paid Sick Leave.
2. Regular, part-time employees will be pro-rated based upon their regular hours of work.
3. Employees who work a variable work schedule, the average bi-weekly hours of work over the preceding six month period will be utilized.

The actual pay to which an employee will be entitled will depend on the reason for the absence.

1. If absent due to reasons identified under 1), 2) or 3) under qualifications above (generally arising from the employee's own illness), the employee will be entitled to:
  - a. 100% of his/her regular hourly rate of pay (as long as in excess of minimum wage) for the hours of work missed and
  - b. Subject to the cap of \$511 per day, to a maximum aggregate payment of \$5,110.
2. If absent due to reasons identified under 4), 5) or 6) under qualifications above, the employee will be entitled to:
  - a. 2/3 of the employee's regular rate of pay or minimum wage, whichever is greater, and
  - b. Subject to the cap of \$200 per day, \$2,000 in the aggregate.

C. **Benefits During Leave:** Benefits will continue as if actively at work during this leave.

D. **Procedure for Requesting Leave and Certification:**

The Paid Sick Leave Law requires that the employee give notice to the employer of the desire to use the available paid time. Notice must be given to the employer no later than the first workday (or portion of such workday) that the employee receives Emergency Paid Sick Leave.

Please refer to Procedures as set forth in Section I, Emergency Family Medical and Leave Expansion Act.

F. **Return to Work:** Employees will not be required to provide a return-to-work notice unless specifically requested by FMLASource. Employees who experience virus symptoms (cough, fever, sore throat, shortness of breath) should be symptom free for 72-hours prior to returning to work.

G. **Enforcement:** Nothing in this provision shall be construed to in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing County policy. An employee is encouraged to consult with the Human Resources Director or Benefits Specialist regarding any questions or concern.

H. **Termination of Benefit:** The Emergency Paid Sick Leave entitlement expires on December 31, 2020. The County will not pay out any unused PSLA upon separation for any reason and the benefit will not carry over into 2021.

**Unemployment Insurance:**

General information regarding unemployment benefits related to COVID-19, located here:

<https://dwd.wisconsin.gov/covid19/public/ui.htm>