



Families First Coronavirus Response Act Guidelines
Emergency Paid Sick Leave and Public Health Emergency Leave

This federal law was effective Wednesday, April 1st, and requires USM institutions to provide all employees with a new form of paid sick leave and paid family leave when they cannot work for specified reasons related to COVID-19 (C-19). Although private employers will be eligible for certain tax credits for the wages paid to employees who use these new benefits, there are no similar provisions for public employers such as the USM institutions.

The U.S. Department of Labor has issued guidelines, and regulations are expected. Until then, certain aspects of administering the benefits remain unclear. However, details of the emergency paid sick leave and expanded family and medical leave are summarized below.

Emergency Paid Sick Leave (EPSL)

The employee is entitled to two weeks' leave at full pay (\$511/day max) if the employee:

- (1) is subject to a Federal, State or local quarantine or isolation order related to C19;
- (2) has been advised by a health care provider to self quarantine; or
- (3) is experiencing symptoms of C-19 and seeking a diagnosis.

The employee is entitled to 80 hours of leave at 2/3 pay (\$200/day max) if they are caring for:

- (1) an "individual" who:
 - (A) is subject to a Federal, State or local quarantine or isolation order related to C-19; or
 - (B) has been advised by a health care provider to self quarantine; or
- (2) a son or daughter whose school or daycare is closed due to C-19 or whose paid child care provider is unavailable due to COVID-19 precautions.

Sick leave provided prior to April 1 does not count against the employee's benefits under this law, and the entitlement expires December 31, 2020. Also, the institution cannot require the employee to use other paid leave prior to being granted this new benefit.

Governor Hogan's current "Shelter in Place" order makes available use of the EPSL provided under federal law. However, if an employee cannot work because of the need to care for a family member with C-19, the employee will not qualify for EPSL, but will qualify for USM sick leave or advanced sick leave.

Under the USM policies, the employee receives full pay while out on sick or advanced sick leave, regardless of the circumstances. Thus, it is considered more advantageous for employees to choose to take leave under the USM policies rather than EPSL when they are absent to care for another person.

Other Issues:

- The USM temporary guidance states that for Contingent Staff, Hourly Faculty, and Student Employees, "Advanced Sick Leave should be limited to the amount of days necessary to equal a total of 20 days (prorated by FTE) both accrued and advanced, during any single fiscal year." Any days of EPSL granted to an employee will reduce that 20-day maximum on an hour for hour basis.
- Employees who are entitled to use EPSL may not be required to first use other paid leave provided by the employer; however, employees may choose to use accrued sick or other leave or ASL, if applicable, instead of EPSL. In such case, employees retain their entitlement to EPSL through Dec. 31, 2020.
- The U.S. Department of Health and Human Services has the authority to specify "other substantially similar conditions" for which EPSL may be used.
- Pending new federal guidance or regulations to the contrary, all employees are considered eligible for EPSL, including Contingent Staff, Hourly and Adjunct Faculty, Student Employees and Graduate Assistants.

Expanded Family and Medical Leave (Public Health Emergency Leave)

This new law temporarily expands the Family and Medical Leave Act to provide employees with 12 weeks of Public Health Emergency Leave (PHEL) if the employee is unable to work or telework due to a need to care for a son or daughter under 18 because:

- (1) the child's elementary or secondary school or place of care has been closed due to a C-19 public health emergency; or
- (2) the child's paid childcare provider is unavailable due to a C-19 public health emergency.

To qualify, the employee must have been on the payroll for 30 calendar days. The leave is prorated for part-time employees, and the institution may exclude health care providers and emergency responders.

Amount of Leave:

- 12 weeks total during a 12-month period, including Family and Medical Leave used for other purposes

Payment During Leave:

- The first 10 days are unpaid; the employee may substitute other paid leave, including EPSL.
- For the remaining 10 weeks, the employee receives 2/3 pay (\$200/day max prorated by FTE).
- The maximum total pay per employee for EPSL is \$10,000, in addition to any earned available paid leave that the employee elects to use towards the initial 10 days that are unpaid.

Documentation:

Subject to further guidance from DOL, the university may request appropriate documentation, including:

- Documentation establishing the parent's relationship to the child
- Documentation from the paid childcare provider establishing that the employee was relying on the provider prior to April 1, 2020 to provide care to the employee's son or daughter.
- No documentation should be required from the child's elementary or secondary school