



The Pennsylvania Employees Benefit Trust
Fund

Emergency Paid Sick & Expanded FMLA Policy

This PEBTF policy provides guidance on the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA) based on information provided by the U.S. Department of Labor (DOL) as of March 29, 2020. To the extent that the DOL issues guidance and promulgates regulations for the EPSLA or EFMLEA that supersedes the provisions of this policy, the PEBTF reserves the right to alter or amend this policy to ensure compliance with federal law.

1. PURPOSE

- 1.1. This policy of the PEBTF is set forth to provide guidance on the use of leave pursuant to the EPSLA and EFMLEA.

2. SCOPE

- 2.1. This policy applies to all employees of the PEBTF.

3. BACKGROUND

- 3.1. On March 6, 2020, pursuant to Section 7301(c) of Pennsylvania's Emergency Management Services Code, 35 Pa. CS 7301(c), Governor Wolf issued a Proclamation of Disaster Emergency ("Proclamation") related to the novel coronavirus disease (COVID-19) outbreak. On March 13, 2020, President Trump declared a national emergency in response to the COVID-19 outbreak. On March 18, 2020, The Families First Coronavirus Response Act (FFCRA), P.L. 116-127, which provides paid sick leave and expanded family and medical leave for certain employees impacted by COVID-19, was signed into law. The PEBTF, as an employer, is subject to the EPSLA and EFMLEA. The PEBTF is committed to supporting employees who are impacted by this pandemic while continuing to support the operational needs of the organization to provide services to its members.

4. POLICY

- 4.1. Eligibility
 - 4.1.1. Pursuant to the EPSLA or the EFMLEA, leave is available to an eligible employee if the employee is unable to work or telework due to the qualifying events as outlined below, and the employee is able to provide documentation, as soon as practicable, to establish the qualifying event.
 - 4.1.2. An employee is "unable to work" at a time when the employer actually has work for the employee **and** the employee cannot work due to a qualifying reason, at either the workplace or through telework (if permitted by the employer).

- 4.1.3. All current, PEBTF employees are eligible under the EPSLA or the EFMLEA.
- 4.1.4. Emergency paid sick leave, pursuant to the EPSLA, is available to an otherwise eligible employee on their first day of employment with the PEBTF.
- 4.1.5. Expanded family and medical leave, pursuant to the EFMLEA, is available to an otherwise eligible employee on the 31st day after the date of employment with the PEBTF. However, expanded family and medical leave under EFMLEA does not add an additional twelve (12) weeks to the twelve (12) workweeks in a twelve (12) month period to which an employee is entitled under the Family and Medical Leave Act (FMLA). An eligible employee may take a total of twelve (12) workweeks for FMLA **and** expanded family and medical leave reasons under EFMLEA in a twelve (12) month period.
- 4.1.6. Benefit eligibility varies for full-time and part-time employees.
 - 4.1.6.1. Full time employees, defined as those who work forty (40) hours per week, are eligible for up to ten (10) days of emergency paid sick leave and up to twelve (12) work weeks of emergency family and medical expansion leave.
 - 4.1.6.2. Part time employees, defined as those who work less than forty (40) hours per week, are eligible for up to ten (10) days of emergency paid sick leave and up to twelve (12) workweeks of emergency family and medical expansion leave. Part time employees are entitled to leave for their average number of normally worked hours in a two week period. If the normal scheduled hour are unknown, or vary in a two week period, the number of hours of leave to which a part time employee is entitled shall be determined based on a six (6) month average of daily hours. If the employee has been employed for less than six (6) months, the number of hours shall be determined based on the average daily hours from the date of hire through the last work day prior to the first day of EPSLA/EFMLEA leave.
- 4.2. Qualifying Events – Leave entitlement under EPSLA is capped at ten (10) days regardless of whether the employee has a single or multiple qualifying events.

- 4.2.1. Employee is subject to a Federal, State or local quarantine or isolation order, issued by a healthcare provider or governmental entity, related to COVID-19.
 - 4.2.1.1. Employee shall receive up to ten (10) days of Emergency Paid Sick (EPSL) leave pursuant to the EPSLA.
 - 4.2.1.2. Employee shall receive their regular hourly rate of pay, up to \$511 per day or \$5,110 in total.
 - 4.2.1.3. Leave under Section 4.2.1 may not be taken on an intermittent basis.
- 4.2.2. Employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
 - 4.2.2.1. Employee shall receive up to ten (10) days of Emergency Paid Sick (EPSL) leave pursuant to the EPSLA.
 - 4.2.2.2. Employee shall receive their regular hourly rate of pay, up to \$511 per day or \$5,110 in total.
 - 4.2.2.3. Leave under Section 4.2.2 may not be taken on an intermittent basis.
- 4.2.3. Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
 - 4.2.3.1. Employee shall receive up to ten (10) days of EPSL leave pursuant to the EPSLA.
 - 4.2.3.2. Employee shall receive their regular hourly rate of pay, up to \$511 per day or \$5,110 in total.
 - 4.2.3.3. Leave under Section 4.2.3 may not be taken on an intermittent basis.
 - 4.2.3.4. A permanent employee may elect to use accrued or anticipated sick leave instead of EPSL leave pursuant to EPSLA, but is not required to.
- 4.2.4. Employee is caring for an individual who is subject to an order as described in 4.2.1 or advised to self-quarantine as described in 4.2.2 above.

- 4.2.4.1. Employee shall receive up to ten (10) days of Emergency Paid Sick Leave (EPSL) leave pursuant to the EPSLA.
- 4.2.4.2. Employee shall receive 66.67% of their regular hourly rate of pay, up to \$200 per day or \$2,000 in total.
- 4.2.4.3. Leave under Section 4.2.4 may not be taken on an intermittent basis.
- 4.2.4.4. A permanent employee may elect to use accrued or anticipated sick leave instead of EPSL leave pursuant to EPSLA but is not required to.
- 4.2.5. Employee is caring for the employee's son or daughter because the school or daycare is closed, or the child care provider is unavailable due to COVID-19 related reasons.
 - 4.2.5.1. Employee is eligible for up to twelve (12) weeks of leave pursuant to EFMLEA, the first two (2) weeks of which are unpaid.
 - 4.2.5.2. For the first two (2) otherwise unpaid weeks of leave, an employee may elect to substitute the ten (10) days of EPSL paid leave pursuant to EPSLA or their own accrued or anticipated annual leave.
 - 4.2.5.3. If the employee elects to use EPSL, the employee shall receive 66.67% of their regular hourly rate of pay, up to \$200 per day of \$2,000 in total.
 - 4.2.5.4. For the following ten (10) weeks, the employee shall receive leave at 66.67% of their regular hourly rate of pay, up to \$200 per day or \$10,000 in total.
 - 4.2.5.5. Leave must be used in full day increments for under Section 4.2.5, but may be taken on an intermittent basis, at the employer's discretion, subject to management's responsibility to maintain the efficiency of operations.
- 4.2.6. Employee is experiencing any other substantially similar condition specified by the U.S. Secretary of Health and Human Services, in consultation with the U.S. Secretaries of Labor and Treasury.
 - 4.2.6.1. Employee shall receive up to ten (10) days of Emergency Paid Sick (EPSL) leave pursuant to EPSLA.

- 4.2.6.2. Employee shall receive 66.67% of their regular hourly rate of pay, up to \$200 per day or \$2,000 in total.
- 4.2.6.3. Leave under Section 4.2.6 may not be taken on an intermittent basis.
- 4.2.7. The PEBTF reserves the right to require documentation from a physician pursuant to the Families First Coronavirus Response Act and will require employees requesting leave to provide the following documentation pursuant to United State department of Treasury Guidelines covering the FFCRA. (Ask your HR Representative for the Employee Request for EPSL/EFML form.)
 - 4.2.7.1. Employee's name;
 - 4.2.7.2. The date or dates for which leave is requested;
 - 4.2.7.3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
 - 4.2.7.4. A statement that the employee is unable to work, including by means of telework, for such reason.
 - 4.2.7.4.1. In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include the name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine, and, if the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.
 - 4.2.7.4.2. In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include the name and age of the child (or children) to be cared for, the name of the school that has closed or place of care that is unavailable, and a representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and, with respect to the employee's inability to work or telework because of a need to provide care for a

child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care

4.3. Forfeiture of Leave

4.3.1. Employees are not entitled to reimbursement for any unused leave available under EPSLA or EFMLEA upon their termination, resignation, retirement or other separation from employment.

4.3.2. Paid leave for EPSLA does not carry-over from one year to the next and expires on December 31, 2020.

4.3.3. Paid leave under EFMLEA ends twelve (12) weeks from the commencement of such leave or when the qualifying need related to the public health emergency ends, whichever is earlier, and expires on December 31, 2020.

4.4. Administrative Leave. To the extent that any administrative leave was approved for an employee due to COVID-19 related reasons, prior to April 1, 2020, that administrative leave is capped at and will end after ten (10) work days.

4.5. Paid and Unpaid Absences. Employees on an approved paid or unpaid absence on April 1, 2020, shall not be entitled to utilize leave pursuant to EPSLA or EFMLEA until such time that they were normally scheduled to return to work.

4.6. Additional Information.

4.6.1. Should you have any questions, see additional information on the U.S. Department of Labor website:
www.dol.gov/agencies/whd/pademic