



“In cooperation with our citizens, we improve the quality of life for individuals, families and communities by fostering a healthy economy and environment.”

“Looking Forward with Purpose”

COMMISSIONER BRIEFING

April 7, 2020

*Families First Coronavirus Response Act (FFCRA)
Sue Luing, Human Resource Director*

Issue:

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19.

These provisions will apply from April 1, 2020 through December 31, 2020.

Discussion:

Both the Emergency Paid Sick Leave (EPSL) and the Emergency Family Leave and Medical Expansion Act (E-FMLA) contain exclusions for health care providers and emergency responders.

Included is the Paid Leave for Employees Exempt from the FFCRA during a Public Health Emergency policy, forms and resolution for your consideration.

Options:

Approve the Paid Leave for Employees Exempt from the FFCRA during a Public Health Emergency policy and forms.

Approve the FFCRA resolution.

Take no action

Recommendation:

Administration recommends board approval of the Paid Leave for Employees Exempt from the FFCRA during a Public Health Emergency policy and forms.

Approve the FFCRA resolution.

Nobles County
Paid Leave for Employees Exempt from the
Families First Coronavirus Response Act (FFCRA)
During a Public Health Emergency

Active Period: From April 1, 2020 to December 31, 2020, and during such period or periods of time therein that the Governor of Minnesota has declared a state of emergency due to COVID-19 to be in effect, the County Administrator shall have discretion to declare this policy as active and to de-active this policy.

FFCRA Exempt Employees: Nobles County, pursuant to the Family First Coronavirus Response Act (FFCRA) has determined that Health Care Providers and Emergency Responders are exempt from the provisions of that Act. The list of affected positions includes those set forth in the Department of Labor's guidance as well as those in the Minnesota Department of Labor and Industry's Critical Sector Worker listing as it applies to Health Care and Public Health workers, Law Enforcement, Public Safety and First Responders. For those exempted employees, the County will provide the paid leave benefits **as described below** during the Active Period.

I. Benefits to FFCRA Exempt Employees:

FFCRA employees who are *unable to work or telework* for one of the reasons set forth in 1-3 below, will be eligible for the benefits as described:

1. An employee subject to a Federal, State, or local quarantine or isolation order related to COVID-19 and provides documentation of such order;
2. An employee has been advised by a health care provider to self-quarantine related to COVID-19 and provides documentation of such advice;
3. An employee experiencing COVID-19 symptoms and seeking a medical diagnosis and provides information regarding the symptoms and identification of the health care provider, followed by the advice received within five business day

For (1)-(3) above, an exempt employee may eligible for up to 80 hours (two weeks) of employer paid leave. Part-time employees leave will be pro-rated based on the average number of hours worked in the last 2 weeks. Variable hours employees' leave will be based on the average over the past six months. The paid leave shall not exceed \$511 per day or \$5110 in aggregate. The leave is only available during the period of time needed for the purpose described. The leave shall not be added to the employee's leave bank.

II. Exceptional Circumstances Leave for Family Health Reasons

A. The County recognizes that there may be exceptional health related circumstances that warrant special individual consideration, as follows:

1. An employee caring for a spouse, parent or child, due reasons set forth in I (1-2) as it applies to that family member; or
2. Is caring for a son or daughter who is unable to attend Tier I care provided by the School District or other daycare due to the minor child's documented medical condition or other exceptional circumstances

- B. In the event that a FFCRA Exempt Employee requests leave due to one of the circumstances set forth in this section the County Administrator, Human Resources Director and County Attorney with input from the Department Head will determine:
- a. If the employee can telework;
 - b. The impact of the employee's absence on the critical operations of the Department;
 - c. Alternatives available to the employee; and
 - d. The length of the absence that can be granted, taking into account all relevant factors.

Documentation of ongoing need for leave may be requested at any time.

- C. In the event that the County Administrator, Human Resources Director, and County Attorney agree to grant Exceptional Circumstances Leave to a FFCRA Exempt employee, such leave will be as follows for such period of time that it has been granted:
- a. Up to a maximum of two week's at 2/3 pay (max. 80 hours, prorated for part-time) for the reason set forth in paragraph II A 1.
 - c. Up to a maximum of twelve weeks at 2/3 pay, prorated for part-time for the reason set forth in paragraph II A 2.
- D. If the needs of the County require the employee to return to work, authorization for Exceptional Circumstances leave may be rescinded at any time

The information requested on this form is intended to be used by the County in determining the eligibility and approval under the Family First COVID-19 Act. You are not legally required to provide any of the information on this form at this time. However, failure to provide complete, accurate information may result in the County being unable to process or approve the request. The information on this form which is classified as private data under the Minnesota Government Data Practices Act will not be released outside the County without your consent except as necessary for tax purposes or as otherwise required by state or federal law.

Emergency Family Leave and Medical Expansion Act (E-FMLA) and Emergency Paid Sick Leave Request

Effective April 1, 2020 through December 31, 2020

Name: _____ Date: _____

Unit: _____ Position Classification: _____

Hire Date: _____

Requested Leave Start Date: _____ Estimated Leave End Date: _____

Emergency Paid Sick Leave – *Up to 80 hours (two weeks) of employer paid sick leave; must be utilized prior to utilization of any other accrued leave. Part-time employees allotted emergency paid sick leave will be prorated based on the average number of hours worked in the last 2 weeks. For variable hour employees, the pay will be based on an average of hours worked in the prior six months. For (1)-(3) below, the leave shall not exceed \$511 per day or \$5110 in aggregate. For (4)-(6) below, the leave will be for 2/3 the employee's wages, up to a maximum of \$200 per day and \$2000 in aggregate.*

I hereby request Emergency Paid Sick Leave for the following reason: (check all that apply)

I am **unable to work (or telework)** and need leave because:

(1) I am subject to a federal, state, or local quarantine or isolation order related to COVID-19.

- Please provide the name of the government agency that issued the order, the date of the order and its duration:

- Are you able to telework? If yes, please provide the days and times each week:

- If no, please indicate why you cannot do so.

(2) I have been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.

- Please provide the name, address and title of the health care provider that made the recommendation, the date of the recommendation and the recommended length of the self-quarantine:

- Are you able to telework? If yes, please provide the days and times each week:

- If no, please indicate why you cannot do so:

(3) I am experiencing symptoms of COVID-19 and seeking a medical diagnosis.

- Please state when the symptoms commenced, a general descriptions of the symptoms leading you to believe it is COVID-19, and the name and address of the health care provider you are seeking a diagnosis from.

(4) I am caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).

- Please provide the name of the individual you are caring for, your relationship to this individual, the name government agency that issued the order or the health care provider who made the recommendation, the date of the order or recommendation and the duration of the order or recommendation:

- ---

- Are you able to telework? If yes, please provide the days and times each week:

- If no, please indicate why you cannot do so.

(5) I am caring for my son or daughter due to the school or place of care for my son or daughter being closed, or the childcare provider of my son or daughter is unavailable, due to COVID-19 related reasons.

- Please provide the name(s) and age(s) of the child(ren) that you will be caring for, and for each, state the name of the school and/or day care provider who is unavailable due to COVID-19:

- Is there any other person available to care for the child(ren)?

- Is more than one person taking E-FMLA or E-Sick Leave to care for the child(ren)?

- Are you able to telework? If yes, please provide the days and times each week:

- If no, please indicate why you cannot do so.

(6) I am experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

- Identify the conditions specified by the United States Secretary of Health and provide the information set forth under #3, above:

If I am requesting leave for 4, 5, or 6, above, I request to use my accumulated paid [annual leave, extended sick bank if applicable] time to make up the remaining portion of my pay 2/3 pay.

Employee Signature

Emergency Family Leave and Medical Expansion Act (E-FMLA) – *First 10 days of leave will be unpaid and thereafter, up to 10 weeks will be partially paid not to exceed 2/3 of your regular rate of pay. This amount shall in no event exceed \$200 per day or \$10,000 over the ten week period. Part-time employees allotted emergency paid sick leave will be pro-rated based on the average number of hours worked in the last 2 weeks. For variable hour employees, the pay will be based on an average of hours worked in the prior six months. Other employee accumulated leave (vacation, PTO), if any, may be used concurrently with E-FMLA to cover 100% of wage replacement. You must have been employed for a minimum of 30 days.*

Check only if applicable:

This request is being made in accordance with the Emergency Family Leave and Medical Expansion Act Leave (E-FMLA) related to a public health emergency, with respect to being **unable to work (or telework)** due to a need to care for my son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency (COVID-19).

- Please provide the name(s) and age(s) of the child(ren) that you will be caring for, and for each, state the name of the school and/or day care provider who is unavailable due to COVID-19:

- Is there any other person available to care for the child(ren)?

- Is more than one person taking E-FMLA or E-Sick Leave to care for the child(ren)?

- Are you able to telework? If yes, please provide the days and times each week:

- If no, please indicate why you cannot do so.

I request to use my accumulated paid [annual leave, extended sick leave bank if applicable] time to make up the remaining portion of my pay 2/3 pay.

Employee Signature

RESOLUTION NO. 202019
RESOLUTION REGARDING
FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

WHEREAS, Nobles County has authorized the maximum number of employees to work from home during the period of that Governor Walz’s Stay-at-Home order and any extension to it remain in effect; and

WHEREAS, the Nobles County Board of Commissioners has previously authorized the full payment of salaries and benefits to employees who have work hours reduced due to a stay at home order from the COVID-19 pandemic; and

WHEREAS, the Families First Coronavirus Response Act (FFCRA) provides certain paid leave options for employees who are unable to work or telework; and

WHEREAS, the FFCRA allows employers of Health Care Providers, including public health, and Emergency Responders, to exempt such positions from the provisions of the FFCRA; and

WHEREAS, the Nobles County Board of Commissioners feels that it is important to provide paid leave to Health Care Providers and Emergency Responders in COVID-19 health related circumstances;

NOW, THEREFORE, for the reasons stated, the Nobles County Board of Commissioners hereby resolves as follows:

1. As of the date of this Resolution all Nobles County All Health Care Providers and Emergency Responders, as defined by the Department of Labor , Governor Walz’s Executive Order 20-20 and the Minnesota Department of Employment and Economic Development (DEED), Critical Worker Exemptions for Executive Order 20-20 are deemed exempt from the Families First Coronavirus Response Act; and
2. Paid Leave will be provided to Exempt Employees under certain circumstances as set forth in the “Employees Exempt from the Families First Coronavirus Response Act (FFCRA) During a Public Health Emergency” temporary policy which is hereby adopted and shall expire on December 31, 2020 unless rescinded at an earlier date.

Adopted by the Nobles County Board of Commissioners this 7th day of April, 2020.

Attest:

Board Chair

CERTIFICATION

STATE OF MINNESOTA)

(ss

COUNTY OF NOBLES)

I, Tom Johnson, County Administrator of said County of Nobles, do hereby certify that I have compared the foregoing copy with the original resolution adopted by the County Board on the 7th day of April 2020 and now remaining on file and of record in my office and that the same is a correct transcript and of the whole of such original.

Witness my hand and official seal this
_____ day of _____
2020.

SEAL

Tom Johnson, County Administrator
Nobles County, Minnesota