

WESTMORELAND COUNTY

POLICY AND PROCEDURES

Subject: Emergency Family and Medical Leave

Policy Number: II.11 Effective Date: April 1, 2020

I. Purpose

The purpose of this policy is to establish procedures for Emergency Family and Medical Leave as a result of an amendment to the Family Medical Leave Act in response to the COVID-19 Pandemic as set forth in the Emergency Family and Medical Leave Expansion Act (“EFMLEA”) provisions of the Families First Coronavirus Response Act. Employees may be eligible for Emergency Family and Medical Leave, subject to eligibility requirements and other terms, conditions and restrictions. This policy will automatically expire on December 31, 2020.

II. Definitions

Child Care Provider. The term “child care provider” means a provider who receives compensation for providing child care services on a regular basis. The term includes a centerbased child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under State law as described in section 9858c(c)(2)(E) of Title 42; and satisfies the State and local requirements, including those referred to in section 9858c(c)(2)(F) of Title 42. Under the Families First Coronavirus Response Act (FFCRA), the eligible child care provider need not be compensated or licensed if he or she is a family member or friend, such as a neighbor, who regularly cares for the employee’s child.

Emergency responders. The term “emergency responders” means anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians,

paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual whom the highest official of a State or territory, including the District of Columbia, determines is an emergency responder necessary for that State's or territory's or the District of Columbia's response to COVID-19.

Health care provider. The term "health care provider" means anyone employed at any doctor's office, hospital, health care center, clinic, postsecondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions. This also includes any individual that the highest official of a State or territory, including the District of Columbia, determines is an emergency responder necessary for that State's or territory's or the District of Columbia's response to COVID-19.

Place of Care. The term "place of care" means a physical location in which care is provided for the employee's child while the employee works for the employer. The physical location does not have to be solely dedicated to such care. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.

Son or Daughter. The term "son or daughter" has the meaning given such term in section 101 of the FMLA (29 U.S.C. 2611). Accordingly, the term means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability.

III. Eligible Employees

An employee may be eligible for leave under EFMLEA if he or she has been employed by the County for at least 30 calendar days preceding the commencement of the leave. **Employees meeting the definition of emergency responders or health care providers are not eligible for EFMLEA.**

IV. Purposes of EFMLEA

An employee shall be eligible for a total of twelve (12) workweeks of job protected leave for a qualifying need related to a public health emergency.¹

A qualifying need related to a public health emergency includes situations where the employee is unable to work (or telework) due to a need for leave to care for a son or daughter whose school or place of care has been closed or whose child care provider is unavailable for reasons related to COVID-19. An employee has a need to take EFMLEA for this purpose only if no suitable person is available to care for his or her son or daughter during the period of leave.

A public health emergency means an emergency with respect to COVID-19 declared by a Federal, State or local authority.

V. Notice

When the need for EFMLEA is foreseeable, the employee shall provide as much advanced notice as practicable.

VI. Compensation

The first two weeks of EFMLEA leave is unpaid. During this time, an employee may elect to substitute any accrued vacation leave, personal leave, or sick leave for the unpaid EFMLEA.

Following the first two weeks of leave, the employee is eligible for paid EFMLEA at a rate of 2/3 of the employee's regular rate of pay not to exceed \$200 per day and \$10,000 in the aggregate.

In the event that an employee is eligible to take leave under both the EFMLEA and the Emergency Paid Sick Leave Act (EPSLA) provisions of the Families First Coronavirus Response Act, the benefits provided by the EFMLEA run concurrently with those provided under the EPSLA.

¹ In no instance will an employee be entitled to more than 12 weeks of combined FMLA and EFMLEA leave in any 12-month period.

VII. Use of Leave

An eligible employee does not need to use his or her EFMLEA leave entitlement in one block. EFMLEA leave may be taken intermittently or on a reduced schedule basis when necessary and only if the County and Employee agree.

VIII. Insurance Coverage

During EFMLEA leave, the County will continue the employee's health insurance coverage under the same terms and conditions as would have been provided if the employee had remained actively employed, provided the employee pays his or her portion of the employee contribution, if applicable, on a timely basis. The County will provide you with advance written notice as to how you will be responsible for your portion of the employee contribution, if applicable.

IX. Return to Work

Generally, employees are guaranteed to return to the same or an equivalent position (with equivalent pay, benefits and other terms) if they return to work prior to or immediately after exhausting their EFMLEA entitlement. Any employee may be denied restoration to the same or equivalent position if his or her position would have been eliminated and/or changed if he or she had remained continuously employed.

X. Leave Request

If you are an eligible employee and requesting leave, you must do the following:

- Call off through County call off. Make sure you include the dates you are calling off for and the qualifying reason for the emergency family and medical leave.
- Send an email to EmergencyLeave@co.westmoreland.pa.us.

As part of the request for EFMLEA, the employee must provide:

- The employee's name;
- Dates for which leave is requested;
- The qualifying reason for the leave;
- An oral or written statement that the employee is unable to work because of a qualified reason for leave;
- The name of the son or daughter being cared for;

- The name of the school, place of care or child care provider that has closed or become unavailable; and
- A representation that no other suitable person will be caring for the son or daughter during the period in which the employee takes EFMLEA.