

POSTAL WORKER WEST

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SPECIAL UPDATE EDITION

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USPS ISSUES NEWER VERSION OF EMERGENCY LEAVE GUIDANCE

WASHINGTON DC– Postal headquarters has issued an updated Guidance on the Families First Coronavirus Response Act (FFCRA) leave. As reported in the April 12th edition of *Postal Worker West* the Union anticipated management would be updating their guidance.

The 'new' guidance issued seems to be more restrictive as to application, which is typical of managements' leave philosophy. The following is the USPS Supervisor Check List issued on April 14th and the USPS Q&As. (some points with emphasis added)

FFCRA Emergency Paid SL Supervisor Checklist

The FFCRA allows up to 80 hours of Emergency Paid Sick Leave (EPSL) based on one of the six qualifying reasons.

For all qualifying reasons, the Employee is REQUIRED to provide:

- ◆ Employee's name information) **and;**
- ◆ Date(s) for which leave is requested; ◆ Oral or written statement that the Employee is unable to work because of the qualified reason for leave.
- ◆ Qualifying reason for the leave (Reason Number only; no medical infor-

This information may be documented on the PS 3971 Request for or Notification of Absence.

Additional documentation is required depending on the qualifying reason the employee identifies. Any and all documents related to EPSL MUST be maintained locally, for four (4) years. Those additional document requirements, as well as, Postal specific guidance to these qualifying reasons, are set forth below. [and on following pages]

Note: Supervisors must document in writing any required information provided orally by an employee.

For how long must I have been employed with the Postal service to be eligible for these new types of leave?



All employees, regardless of tenure, are immediately eligible for EPSL if they have a qualifying reason to take such leave. Employees who have been employed by the Postal Service for 30 or more days are eligible to take FMLA leave for the qualifying reason related to the closure of a child's school or place of care.

I am a non-career employee; do I have access to these new benefits? *Yes, eligibility criteria for these new types of leave make no distinction based on career or non career status.*

Are part-time employees eligible to receive these benefits? *Yes, part-time employees are eligible to receive these benefits. However, part-time employees are only eligible for leave equal to the number of hours they are scheduled to work, or, if you have a variable schedule, the average number of hours worked over the preceding six months.*

[continued on next page]

EPSL SUPERVISOR CHECKLIST continued....

Qualifying Reasons For EPSL

Reason 1: Employee is subject to a Federal, State or Local quarantine or isolation order related to Coronavirus Disease 2019 (COVID-19).

Guidance: Because the Postal Service provides an essential federal government service as part of the nation's critical infrastructure, postal employees are generally not subject to Federal, State, or local quarantine or isolation order related to COVID-19. That being the case, application of this qualifying factor is not automatic in the Postal Service. We will continue to handle application of this qualifying factor as we had prior to the passage of the FFCRA and **liberally grant** EPSL to employees **who believe** they have an individual circumstance for which taking this leave is appropriate. Any questions regarding this provision should be forwarded to Human Resources.

Documentation: In the unlikely event that circumstances dictate that a Postal Service employee is eligible for EPSL for Reason 1, the employee would be required to provide, in writing or orally, the name of the government entity that issued the quarantine or isolation order.

Reason 2: Employee has been **advised** by a health care provider to self-quarantine related to COVID-19.

Documentation: The employee is required to provide, in writing **or orally**, the name of the health care provider who advised the employee to self-quarantine. Depending on the circumstances, this health care provider **may be the District OHNA**. This information should be provided to the District OHNA and kept as an employee medical record per Management Instruction EL-860-1998-2.

Reason 3: Employee is experiencing COVID-19 symptoms and is seeking medical diagnosis.

Guidance: Employees **MAY NOT** take EPSL if they **unilaterally** decide to self-quarantine for an illness without medical advice, *even if they have COVID-19 symptoms*. If an employee becomes ill with COVID-19 symptoms, they take EPSL **ONLY** to seek a medical diagnosis or... [continued on page 3]



How do I qualify for Emergency Paid Sick Leave?

1. *You are subject to a Federal, State or local quarantine or isolation order related to COVID-19.*
2. *You have been advised by a health care provider to self-quarantine due to concerns about COVID-19.*
3. *You are experiencing COVID-19 symptoms and are seeking a medical diagnosis.*
4. *You are caring for an individual subject to an order described in 1. above or self-quarantine as described in 2.*
5. *You are caring for your child whose school or place of care is closed (or a child care provider is unavailable due to COVID-19 related reasons).*
6. *You are experiencing any other substantially-similar condition specified by the US Dept of Health and Human Services.*



I am subject to a stay-at-home order where I live. Can I take EPSL based on qualifying reason 1?

(See Guidance for Reason 1 on the left side for the answer to this question)

I am an employee. I become ill with COVID-19 symptoms, decide to quarantine myself for two weeks, and then return to work. I DO NOT seek a medical diagnosis or the advice of a health care provider. Can I get paid for those two weeks under the FFCRA?

Generally NO. *If you become ill with COVID-19 symptoms, you may take EPSL ONLY to seek a medical diagnosis OR if a Health Care Provider otherwise advises you to self-quarantine. IF YOU TEST POSITIVE for the virus associated with COVID-19 or are advised by a health care provider to self-quarantine, you MAY continue to take EPSL.*

YOU MAY NOT TAKE EPSL if you **unilaterally** decide to self quarantine for an illness **WITHOUT** medical advice even if you have COVID-19 symptoms. **NOTE** that you **MAY NOT** take Emergency Paid Sick Leave if you become ill with an illness not related to COVID-19

EPSL SUPERVISOR CHECKLIST continued....

Reason 3 continued from page 2:if a health care provider otherwise advises them to self-quarantine. If the employee tests positive for the virus associated with COVID-19 or is advised by a health care provider to self-quarantine, they may continue to take EPSL. *If an employee is OTHERWISE ILL, THEY MAY CHOOSE to use ACCRUED leave to stay home.*

Documentation: The employee is REQUIRED to provide, in writing OR ORALLY, the standard four (4) points of information outlined at the top [of the left column on page 1].

Reason 4: Employee is caring for an individual subject to an order described in Reason 1 or self-quarantine as described in Reason 2.



Guidance: A Postal Service employee MAY be eligible for this qualifying reason if he or she is PRIMARILY responsible for the care of an individual, including but not limited to an immediate family member or a person who regularly resides in the employee's home, who is subject to such an order.

A Postal Service employee MAY also qualify for leave if he or she is caring for an individual, including BUT NOT LIMITED TO, an immediate family member or a person who regularly resides in the employee's home, who has been ADVISED by a health care provider to self-quarantine related to COVID-19.

Documentation: The employee is REQUIRED to provide, in writing OR ORALLY, the Standard Four (4) points of information [as outlined on the left column on top of page 1].

If any employee BELIEVES he or she qualifies because the employee is primarily responsible for the care of an individual subject to a quarantine or isolation order, the employee would be REQUIRED to provide in writing or ORALLY, the name of the government entity that issued the quarantine or isolation order.

If an employee believes he or she qualifies because the employee is caring for an individual who has been ADVISED by the health care provider to self-quarantine, the employee is REQUIRED to provide, in writing or orally, the name of the health care provider who advised that individual to self-quarantine.

How do I complete my 3971 Leave Request with this new leave type?



For qualifying reasons **1-3**, for "Type of Absence" select "Other" box and write in **code 077-19**; for remarks you will write "**Emergency Paid Sick Leave-Self.**"

For qualifying reasons **4-6** for "Type of Absence " select "Other" box and write **code 081-19** for remarks you will write "**Emergency Paid Sick Leave-Other.**"

Is Emergency Paid Sick leave full paid leave?

It depends on your individual compensation. The FFCRA contains statutory caps on the rate of compensation an employee may receive for EPSL.

For qualifying reasons 1-3. EPSL is capped at no more than \$511/day, or \$5,110 In the aggregate. If your rate of pay does not exceed the statutory cap for your qualifying reason, you WILL receive full pay for these hours.

*For qualifying reasons 4-6, EPSL **will be paid at not less than 2/3 of your rate of pay, but is capped at no more than \$200/day, or \$2,000 in the aggregate.***

How much EPSL am I eligible to receive?

Qualifying employees are ENTITLED to 80 hours of EPSL.

If you are a part-time employee with a normal weekly schedule, you are entitled to Emergency Paid Sick Leave up to the number of hours you are normally scheduled to work over a two week period.

If you are a part-time employee with a variable schedule AND HAVE WORKED for the Postal Service for at LEAST SIX MONTHS, you still are entitled to EPSL. You are entitled to EPSL up to the number of hours equal to fourteen times the number of agreed upon hours you would work at your time of hiring, on average for each calendar day. If no such agreement exists, you are entitled to EPSL up to the number of hours equal to fourteen time the average number of hours per calendar day you were scheduled to work over the duration of your employment (including hours for which you took leave of any type).



Are an employee's OT hours included in the 80 hours of EPSL?

Yes, an employee's normally scheduled OT hours can be included in their EPSL. However, an employee's EPSL hours cannot exceed 80 hours in total for the two week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80

Does EPSL reduce my current accrued leave balances?

NO. EPSL is Postal Service-funded leave that does not affect an employee's regular sick leave or annual leave balances.

Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the FMLA?

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

Can I take 80 hours of EPSL for my self-quarantine and then another amount of EPSL leave for another qualifying reason under the Emergency Paid Sick Leave Act?

NO. The total number of hours for which you receive paid sick leave is capped at 80 hrs. under the EPSL Act. However, you can elect to use your own leave after the 80 hrs. has expired if you still need to stay out of work as a result of COVID-19.

Can I use Emergency Paid Sick Leave INTERMITTENTLY?

NO, if you are required to report to a worksite and are taking EPSL for qualifying reasons 1-4 ...Once you begin taking EPSL for one or more of these qualifying reasons, you MUST continue to take EPSL each day until you either (1) use the full amount of EPSL, OR (2) no longer have a qualifying reason for taking EPSL. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such EPSL as necessary to keep you from spreading the virus to others.

IF YOU REPORT to a worksite and are taking EPSL for qualifying reason 5, or you are able to work remotely, you may be able to take EPSL intermittently if you are able to agree with your manager on a schedule in which you are able to perform the functions of your position while taking this type of leave intermittently. However, in the absence of an agreement between you and your manager to use EPSL intermittently, you will still be permitted to take it all at once.

EPSL SUPERVISOR CHECKLIST

Reason 5. Employee is caring for his/her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons:

Documentation: For this qualifying reason the employee is required to provide the following documentation:

- ◇ Name of the Son or Daughter being cared for;
- ◇ Name of the School, Place of Care, or Child Care Provider that has closed or become unavailable; **AND**
- ◇ An **oral or written** statement that no other suitable person will be caring for the Son or Daughter during the period for which the Employee takes EPSL or Expanded Family and Medical Leave.



Guidance: This qualifying reason also applies to FMLA Leave Expansion. An employee may choose use paid EPSL for the first two weeks of unpaid FMLA leave, which may otherwise be **unpaid**, for this new qualifying reason. Reference FMLA Leave Expansion checklist for more information.

Reason 6: Employee is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Guidance: As of April 14, 2020, no such conditions have been specified. Thus, it is **not** an appropriate qualifying reason for Emergency Paid Sick Leave.

NOTE:

“If an employee requests leave for reasons related to COVID19, such leave should be treated as scheduled (as opposed to unscheduled) leave.

Leave taken for COVID-19 related reasons from February 29, and May 17, 2020 may not be cited, in discipline for failing to maintain an assigned schedule under ELM 511.43”

D. A. Tulino, VP Labor Relations
USPS

**FMLA
Checklist
Q&A**



FMLA is expanded if the employee meets qualifying condition five (5) the following regulations apply. > an employee only needs 30 days of employment to qualify for expanded benefits. > the usual 12 weeks of FMLA is not expanded > the first two weeks are **not** paid, but you can use LWOP , SL or AL you have accrued to cover the 2 week period. You may also use the 80 hrs of EPSL to cover the first 2 weeks; but if used here, [you] would not be able to use it for any other qualifying reason or combination of reasons. > the remaining 10-weeks of FMLA for the indicated qualifying reasons is paid leave– without charge to any contractual paid leave available to the employee; but it is paid at 2/3 the regular rate of pay with a cap of \$200 per day and \$12,200 for the ten weeks. > all of the regular FMLA rules and benefits remain unchanged when FMLA is taken for any reason other than qualifying reasons five.

Employees who qualify and use these types of leave may not be removed, disciplined, or discriminated against for lawfully exercising their rights to the emergency paid sick leave of the expanded family and medical leave act.

How do I qualify for the expanded FMLA paid leave benefits? *To qualify for this new qualifying reason under the FMLA, you must be taking care of a child whose school or place of care is closed due to the pandemic.*

Can I get expanded FMLA paid leave benefits to take care of my disabled adult child? *Yes, but only if your son or daughter; ward, foster-child for whom you are in 'loco parentis', is incapable of self-care because of a mental or physical disability.*

I thought I could only take FMLA leave if I have been employed by the Postal Service for a specific period of time. Are there different eligibility rules for this type of leave? *Yes. Employees who have been employed by the Postal Service for 30 days or more days are eligible to take expanded FMLA leave for the qualifying reason related to the closure of a child's school or place of care. For all other reasons under the FMLA, the pre-existing eligibility rules still apply.*

Does this new qualifying reason entitle me to a new 12-week period under the FMLA? *No. Each employee is still entitled to 12 weeks of FMLA leave per year, regardless of reason. If you have already exhausted your FMLA leave for this leave year, you are not entitled to take FMLA leave for this new qualifying reason related to COVID-19. If you have exhausted only part of your FMLA leave entitlement , you can take any remaining FMLA leave for this new qualifying reason.*

If I am not a full-time employee, how many hours of this type of leave am I entitled to? *It depends on the nature of your schedule. If you have a normal regular schedule, you are eligible for the number of hours per week you are normally scheduled to work. If you have a variable schedule, you are eligible for the number of hours equal to the average number of hours you were scheduled to work over the preceding six month period, including the hours for which you used any type of leave*

Is all leave under the FMLA now paid leave? *No, only expanded FMLA leave associated with caring for a covered child whose school or child care provider is closed is considered a qualifying reason for this new type of paid expanded FMLA leave.*

[Can I use expanded FMLA leave for this new qualifying reason intermittently? *It is up to your manager if you can agree*]



Western Area VP Responds

DENVER– In extra ordinary dialogue the Western Area VP and Western Region Coordinator entered into a frank discussion on varied issues of concern.

While most of the exchange was over the protocols involved with the current health crisis there was also fair discourse on improving communications. “I will take Mr. Graves at his word and I will work with the DMs to troubleshoot,” said Regional Coordinator Omar Gonzalez. The issues involving information not shared with local unions were not resolved and have been elevated to the HQ level and are pending.

WHAT IS TO OCCUR IN A POSITIVE CASE



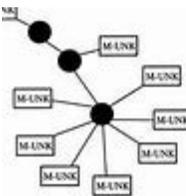
With nearly 15,000 COVID-19 related filed postal cases nationwide and more than 2,115 cases (not all positive) in the Western Region at press time, concerns have been raised on what management is to do after an unfortunate employee tests positive.

The process begins before a positive is confirmed. Supervisors should have informed employees how to report a positive test.

When an employee, family member, or any other employee informs management of a confirmed COVID-19 case, but does not yet have independent (e.g. medical or health depart.) confirmation, the employee is suppose to be asked to fill out medical info authorization Form 2488. Managers then request such confirmation from a medical provider or Health Dept. or OHNA (postal nurse). If the employee is hospitalized the family is asked for assistance to get that independent confirmation.

Contact Tracing & Cleaning

The immediate supervisor is contacted to identify public workplaces the employee reasonably may have visited in the last 5 days such as, rest rooms, breakrooms, vehicles, work cases, machines etc.



Management must then ensure that those areas are cleaned per established Maintenance Management Orders , specifically MMO-31-20. And a Stand Up Talk (SUT) is provided to all employees in that section/unit/office. This is additional cleaning over and beyond the daily cleaning that is to occur at the end of each tour of duty.

The employee's name is added to the COVID-19 Tracker. An effort is to be made to determine the names of close contact (6 ft –10 mins.) and the Public Health official is to be contacted to seek a workplace close-contact investigation. If they can not or do not respond within 48 hours the OHNA should proceed with the close contact investigation which begins with determining the 'last day at work' and close contacts with co-workers during the last 7 days at work and other inquiries.

Employees who came in close contact with that employee are contacted and close contact is verified and a series of questions as to symptoms are made. If verification is made of close contact, those employees should be told they should self-quarantine for 14 days or otherwise not report for work.



**Effective April 21st
cloth face coverings
or masks are now
mandatory!**

USPS has modified the policy on face covering to require all employees to wear them in the following situations:

- When there is a local or state covering order or directive in place; **OR**
- When an employee who does not deal directly with the public and cannot achieve or maintain social distancing in the workplace.

Surgical mask/face covering may be requested from your supervisor or you may bring your own to work and use it while on duty.

COVID-19 SUT34

The HR Manager is to be contacted and told of the number of workers to be quarantined and those names are added to the COVID-19 Tracker.

If it is the Public Health official that has confirmed the case and conducted an investigation into workplace exposure management is to contact that official, note what employees were likely exposed and if those employees were ordered or should be ordered to self-quarantine. And a report is made to the HR manager. Contact is made with the supervisor to identify public workplaces the employee has visited within the last 5 days. And cleaning is to be done per the MMO.



A Matter of Public Health

Infections by law are reportable and it is the Health Department that has legal jurisdiction, as well as, the responsibility to conduct investigations. The postal nurse is obligated by postal policy to notify the local health dept. of a positive COVID-19. If the Health Department does not respond within 36-48 hours the OHNA conducts a postal investigation.

"During this health crisis we try hard to partner with management. But, we also have an obligation to enforce our contract especially involving safety, health and leave. We need to know from our members when masks, gloves and cleaning is not provided," said Regional Coordinator Omar Gonzalez. "The deadly virus crisis does not ensure a change in conduct of abusive/indifferent supervisors so we need to keep on top of issues. **We can't do it without our members reporting issues and practicing safety,**" said Omar