



MEMORANDUM

Date: April 16, 2020

To: Water Utility Commission

From: Lynn

Re: Families First Coronavirus Response Act (FFCRA) Policy Approval

In response to the current COVID-19 Pandemic, two important leave benefits have been enacted to ease the burden of the current pandemic on employees and their families.

The Emergency Paid Sick Leave Act provides 80 hours of paid sick leave, in addition to our current Extended Sick Leave benefit, and the Emergency Family Medical Leave Act extends paid leave benefits to employees who need to provide childcare during school and daycare shutdown.

This policy language has been reviewed and approved by Rob Buikema, of Buelow Vetter. We will ask for your approval of both policies at our April meeting.

Please contact Dan or me if you have any questions prior to the meeting.

Recommended Motion: Approve policy 202.4a: FFCRA– Extended Paid Sick Leave (EPSL) and policy #202.8a: FFCRA–Emergency Family Medical Leave Act Expansion (EFMLA) as mandated by the Families First Coronavirus Response Act.

Enc.

Families First Coronavirus Response Act (FFCRA) Policies

Proposed: April 16, 2020

Statement of Policy

It is the policy of the WAUKESHA WATER UTILITY to comply with the requirements of the Federal Families First Coronavirus Response Act (FFCRA). The FFCRA provides employees with Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave (EFMLA) for those affected by the COVID-19 pandemic, from **April 1, 2020 through December 31, 2020**.

1) Emergency Paid Sick Leave (EPSL)

Policy # 202.4a

Emergency paid sick leave will be available for an employee who is unable to work or work remotely because:

1. The employee is subject to a federal, state, or local **quarantine or isolation** order related to COVID-19;
2. The employee has been **advised by a health care provider to self-quarantine** because of COVID-19;
3. The employee is **experiencing symptoms of COVID-19 and is seeking a medical diagnosis**;
4. The employee is **caring for an individual** subject (or advised) to quarantine or isolation;
5. The employee is **caring for a son or daughter whose school or place of care is closed**, or childcare provider is unavailable, due to COVID-19 precautions; or
6. The **employee is experiencing substantially similar conditions** as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Eligibility for EPSL

All employees, regardless of their tenure with the organization, with full-time or part-time status are eligible to receive this benefit.

Paid Benefits for EPSL

Eligible employees will receive up to two weeks of paid sick leave. **This 80 hour bank of ESPL is distinct and separate from the Utility's normal PTO and ELB leave banks.**

- Full-time employees (scheduled to work 40 or more hours per week): 80 hours at their regular rate of pay, subject to caps and reasons noted below.
- Part-time employees (scheduled to work less than 40 hours per week): the number of hours that the employee works, on average, over a two week period, subject to caps and reasons noted below.

Payments are capped at \$511 a day (\$5,110 in total) for dealing with an employee's own illness or quarantine (reasons 1, 2 and 3 above). Employees who are caring for an individual affected by COVID-19 and those whose children's schools or childcare providers have closed (reasons 4, 5 and 6 above) receive up to two-thirds of their pay, and that benefit is limited to \$200 a day (\$2,000 in total).

Return to Work Following EPSL

Employees are required to follow guidelines established by the [Centers for Disease Control and Prevention](#) as it relates to ceasing home isolation practices. Employees should discuss the circumstances of their return to work with the Utility if they have questions or concerns related to this guidance.

2) Emergency Family Medical Leave Act (EFMLA) Expansion

Policy 202.8a

Employees will be entitled to take up to 12 weeks of job-protected leave if an employee is unable to work (or remote work) **due to caring for the employee's son or daughter because the child's school or place of care has been closed or his or her childcare provider is unavailable due to the public health emergency.** This is an additional reason to use FMLA, but does not expand the total 12 weeks of FMLA available in a twelve month period. If an employee has already used their regular FMLA for qualifying reasons, they would not be eligible for an additional 12 weeks under the EFMLA.

Eligibility for EFMLA

Under this policy, full-time and part-time employees who have been on WAUKESHA WATER UTILITY payroll for 30 days, prior to taking the leave, are eligible for leave.

Paid Benefits for EFMLA

The EFMLA provides for a combination of unpaid and paid leave.

- The first 10 days of EFMLA may be unpaid. An employee may choose to take any existing pay benefit (i.e. PTO, ELB pay) during the 10-day unpaid period, or the 10 days may be paid under emergency paid sick leave, if taken for a qualifying reason.
- After ten days of unpaid leave, employees are entitled to 10 weeks of job-protected leave at **two-thirds their usual pay**. Part-time employees are entitled to be paid two-thirds of their usual pay based on the average number of hours worked for the six months prior to taking the leave. **Employees may choose to supplement this 2/3 pay with available PTO.**
- The cap of the paid leave entitlement for employees is \$200 per day (\$10,000 in the aggregate).

Notifying the Utility of the Need for FFCRA Leave

Employees should request their need for emergency paid leave as soon as possible, by notifying their immediate manager or human resources and filling out a request form indicating the specific qualifying reason and date of requested leave. If an employee is incapacitated, the employee's representative should give verbal notice as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide sufficient information regarding the reason for an absence for the company to know that protection and benefits may exist under this policy.

Insurance Benefit Continuation During FFCRA Leave

Coverage under group health insurance will continue while on leave, but employees must continue to pay their portion of the premium. Other employment benefits [*such as group life insurance, AD&D, etc.*] will also be continued during the leave, as long as the employee continues to pay any required contribution. Payment arrangements will be discussed with individuals upon their request for leave.

Certification for FFCRA Leave

Generally, the company will require certification to verify the qualifying reason for the leave. Employees should be prepared to provide documentation such as a copy of any quarantine or isolation order, or written note by a health care provider advising self-quarantine, or a notice of closure of school or childcare provider (i.e. email, notification on website, or news article).

We understand that requesting healthcare provider documentation may place additional burdens on our medical community during this pandemic, therefore if an employee is unable to obtain this documentation, at a minimum, the name, address, and phone number of your treating healthcare provider must be provided. The Utility also reserves the right to request additional documentation completed by your healthcare provider or childcare provider (as applicable) in situations where there is reason to believe an employee has fraudulently obtained leave or paid benefits.

Intermittent Leave

For employees working on the premises, intermittent leave will only be permitted for the qualifying reason related to caring for their minor child whose school or place of care is closed, or childcare provider is unavailable.

For employees working remotely, intermittent leave will be permitted if the employee is unable to work his or her normal schedule of hours. The employee and employer will come to an agreement on a schedule that provides for the least amount of disruption to an employee's job. For EFLMA purposes, the total amount of leave taken should not exceed the 12 weeks defined earlier in this policy.

Rights Upon Return from FFCRA Leave

An employee who takes leave under this policy may be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist.

The law provides that an employee has no greater rights upon a return from leave than the individual would have had if s/he had continued to work. Therefore, an employee may be affected by a layoff, reorganization, furlough, change in job duties or other change in employment if the action would have occurred had the employee remained actively at work.