



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

MEMORANDUM

TO: All Superintendents
All Division Heads
All Regional Directors
All Bureau Chiefs
All Personnel and Payroll Offices

FROM: Kelly Ahearn, Director of Personnel (*Sent Via Outlook*)

SUBJECT: Administration of Civil Service Attendance and Leave Policy Bulletins 2020-01, 2020-04 and 2020-05: Federal Emergency Paid Sick Leave Act (FEPSLA) & Emergency Family and Medical Leave Act (EFMLA) and the Federal Exclusion Provision

DATE: November 4, 2020

The Department of Civil Service recently published **Attendance and Leave Policy Bulletin 2020-05** (attached), **Attendance and Leave Policy Bulletin 2020-04** (attached), which are both clarification of a prior **Attendance and Leave Policy Bulletin 2020-01** (attached) issued in April 2020, entitled *Guidance Related to Recent State and Federal Law and Policy Changes Due to COVID-19*.

These Policy Bulletins provide guidance on State and Federal Laws related to employees leave during the COVID-19 public health crisis, specifically, New York State's implementation of the **Chapter 25 Laws of 2020**, which includes the State Paid Sick Leave Law; and the **Families First Coronavirus Response Act (FFCRA)**, which provides for the **Federal Emergency Paid Sick Leave Act (FEPSLA)** and expansion of benefits under the **Emergency Family and Medical Leave Act (EFMLA)**.

Chapter 25 of the Laws of 2020

Chapter 25 of the Laws of 2020, which is the *State Paid Sick Leave Law*, provides for quarantine leave, however, the Governor's Office of Employee Relations (GOER) directed that these quarantine benefits shall be provided to all state employees under the statewide GOER Policy only, outlined in the memorandum issued by my office on March 12, 2020, which provided guidance for employees under Precautionary or Mandatory Quarantine. The **Chapter 25 of the NYS Laws** also authorized *Paid Family Leave (PFL)* benefits for employees with minor children that are subject to mandatory quarantine or precautionary quarantine. However, the PFL provision is optional for public sector employers and New York State has opted *not* to implement this provision.

FFCRA - Federal Emergency Paid Sick Leave Act (FEPSLA or The Act)

The **Federal Emergency Paid Sick Leave Act (FEPSLA or The Act)** which will remain in effect until December 31, 2020, provides paid sick leave to individuals who are subject to quarantine or isolation, advised to precautionary-quarantine, or experiencing symptoms of COVID-19 and seeking a medical diagnosis. The Act also provides paid sick leave for employees who are taking care of individuals in certain categories or are caring for a minor child whose school or place of care has been closed for all in-person learning, or the childcare

provider is unavailable, due to COVID-19 precautions. As outlined in Policy Bulletin 2020-01, employee's pay on FEPSLA leave is calculated based on their regular daily rate of pay and subject to monetary caps.

Please refer to Policy Bulletin 2020-01, for detailed information on the categories of qualifying events, range of leave entitlement, and how employee's pay on FEPSLA leave is calculated by category. Eligible employees are required to provide documentation to support leave under this section. FEPSLA leave does not carry over and expires on December 31, 2020.

FFCRA - Emergency FMLA (EFMLA)

The federal Family and Medical Leave Act (FMLA) was revised to expand benefits for employees impacted by COVID-19. These new **Emergency FMLA (EFMLA)** benefits are a temporary expansion of benefits and will expire on December 31, 2020. The revisions modify current FMLA eligibility provisions and provide a new category of public health emergency leave related to the COVID-19 pandemic. This leave is available to eligible employees who must take leave to care for their minor children because the school or place of care for their children has been closed with no in person learning due to the COVID-19 public health emergency.

Please refer to Policy Bulletin 2020-01, for detailed information on eligibility criteria, range of leave entitlement, and how employee's pay on EFMLA leave is calculated. Please note that this new period of FMLA does not provide an additional 12 weeks of leave entitlement, but rather provides a new qualifying reason for which leave can be taken. Employees are still limited to a total of 12 weeks of FMLA for 2020. Eligible employees are required to provide documentation to support leave under this section.

Federal Exclusion Provision

The **Families First Coronavirus Response Act (FFCRA)**, provides employers the discretion to make exclusions via the "healthcare provider" or "emergency responder" provisions of the Acts. DOCCS has exercised that right under the "first responder" exemption to exclude employees with duties deemed essential to agency operations and is not approving FEPSLA and EFMLA leave for those employees.

Titles with duties deemed essential to agency operation include **but are not limited to**, all Department peace officers, medical staff, food service staff, plant operations staff, staff assigned to commissary operations, programming and rehabilitation; and all staff involved in Board of Parole activities and the parole revocation process.

Please note that ALL requests for leave associated with the FEPSLA and EFMLA from an employee performing essential duties *outside* of those defined as exempt from the leave above, must be reviewed by the Superintendent, Regional Director or Division Head *or their designee*, in consultation with the appropriate Assistant Director of Personnel in Central Office.

Administration of Leave

Following a confirmation from Central Office Personnel that either **FEPSLA** or **EFMLA** leave is approved as outlined above, the following procedures apply:

- Correctional Facility Employees – The Facility Personnel Office shall send an email to their Payroll and Timekeeping Offices reporting the category of leave approved and applicable date(s) associated with the leave. Additional email notifications will also be required for any change of status, i.e.: payroll change, return to work, etc., associated with the approved leave. A list of all applicable LATS codes is being provided to all facility timekeepers by separate distribution.
- Community Supervision staff, Central Office staff and Board of Parole staff – Human Resource Specialist 1, Donna Claydon, shall send an email to Central Office Payroll, reporting the category of leave approved and applicable date(s) associated with the leave. Additional email notifications will also be required for any change of status, i.e.: payroll change, return to work, etc., associated with the approved leave.

Questions

Any Facility Personnel Office staff who have questions related to administration of leave associated with FEPSLA and EFMLA, may be directed to their Central Office Personnel Representative. Correctional Facility timekeepers who have questions specific to LATS, please email the LATS mailbox at Doocs.sm.LATS@doocs.ny.gov .

Central Office & Community Supervision staff who have questions specific to the administration of the leave categories and LATS, should be directed to email Donna Claydon, Human Resource Specialist 1, at Donna.Claydon@doocs.ny.gov .

For questions related to the administration of payroll for the associated leaves and to ensure payroll transactions are in compliance with the most recent OSC payroll bulletin, please email the Central Office Payroll Unit mailbox at doocs.sm.bf.payroll@doocs.ny.gov