

# Notice of Eligibility and Rights & Responsibilities

## (Emergency Family and Medical Leave Expansion Act) - PAGE 1 OF 3

Effective: 4/1/20  
Expires: 12/31/20

In general, to be eligible an employee must have worked for an employer for at least 30 calendar days preceding the leave, in accordance with the Emergency Family and Medical Leave Expansion Act ("Emergency FMLA Leave") under the Families First Coronavirus Response Act. This form provides employees with information regarding their rights and responsibilities for taking Emergency FMLA Leave as defined therein.

### [Part A – NOTICE OF ELIGIBILITY]

TO: \_\_\_\_\_  
Employee

FROM: \_\_\_\_\_  
Employer Representative

DATE: \_\_\_\_\_

On \_\_\_\_\_, you informed us that you needed leave beginning on \_\_\_\_\_ for the following Reason(s):

- \_\_\_\_\_ (1) To care for a son or daughter under 18 years old because the child's school has closed due to a public health emergency;
- \_\_\_\_\_ (2) To care for a son or daughter under 18 years old because the child's place of care has closed due to a public health emergency;
- \_\_\_\_\_ (3) To care for a son or daughter under 18 years old because the child's childcare provider is unavailable due to a public health emergency.

This Notice is to inform you that you:

\_\_\_\_\_ Are eligible for Emergency FMLA leave (See Part B below for Rights and Responsibilities)

\_\_\_\_\_ Are **not** eligible for Emergency FMLA leave, because:

\_\_\_\_\_ You have not met the Emergency FMLA's 30 calendar day length of employment requirement.

As of the first date of requested leave, you will have been employed approximately \_\_\_ days towards this requirement.

If you have any questions, contact \_\_\_\_\_ or view the Families First Coronavirus Response Act Paid Sick Leave and Expanded Family and Medical Leave Poster in \_\_\_\_\_.

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## **[PART B-RIGHTS AND RESPONSIBILITIES FOR TAKING EMERGENCY FMLA LEAVE]**

As explained in Part A, you meet the eligibility requirements for taking Emergency FMLA leave and still have Emergency FMLA leave available in the applicable period of April 1, 2020 to December 31, 2020.

**However, in order for us to determine whether your absence qualifies as Emergency FMLA Leave, you must return the following information to us as no later than 10 days after the commencement of your Emergency FMLA Leave, or as soon as practicable thereafter if you have a reasonable excuse for doing so. If sufficient information is not provided in such a timely manner, we reserve the right to deny you further Emergency FMLA Leave and to request reimbursement of all money paid to you as Emergency FMLA Leave, if any.**

In order to certify your Emergency FMLA Leave for Reason (1) and/or Reason (2), you must provide proof of your child's current enrollment in a school and/or place of care that has closed due to a public health emergency with respect to COVID-19 (commonly known as the coronavirus) declared by a federal, state, or local authority ("Public Health Emergency"). Examples include, but are by no means limited to, a recent report card from your child's school or a tuition invoice from your child's daycare center.

In order to certify your Emergency FMLA Leave for Reason (3), if your child's childcare provider is associated with a placement service or agency or similar entity, you may provide the name and contact information of the placement service or agency or similar entity and information sufficient to verify that the childcare provider provides care for your child and is unavailable due to a Public Health Emergency.

If your child's childcare provider is self-employed or a friend or family member, you may provide the name and contact information of the childcare provider and information sufficient to verify that the childcare provider provides care for your child and is unavailable due to a Public Health Emergency.

**If it is discovered that you have made knowing misrepresentations in furtherance of obtaining certification for your Emergency FMLA Leave, we reserve the right to deny you further Emergency FMLA Leave, request reimbursement of all money paid to you as Emergency FMLA Leave, if any, and to take disciplinary action up to and including termination of employment.**

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If your leave does qualify as Emergency FMLA leave you will have the following responsibilities while on Emergency FMLA leave

(only checked blanks apply):

\_\_\_\_\_ Contact \_\_\_\_\_ at \_\_\_\_\_ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day (or, indicate longer period, if applicable) grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during Emergency FMLA leave, and recover these payments from you upon your return to work.

\_\_\_\_\_ You will be required to use your available paid \_\_\_\_\_ sick, \_\_\_\_\_ vacation, and/or \_\_\_\_\_ other leave AFTER the first 10 days of your Emergency FMLA absence, IN ADDITION TO paid leave that you shall receive under the Emergency Family and Medical Leave Expansion Act, up to and including your regular rate of pay. This means that you will receive your paid leave and the leave will also be considered protected Emergency FMLA Leave and counted against your Emergency FMLA Leave entitlement.

**If and when the circumstances of your leave change--i.e., your child's school and/or place of care is no longer closed due to a Public Health Emergency, and/or your child's childcare provider is no longer unavailable to a Public Health Emergency--and you are accordingly able to return to work, you will be required to notify us at least two workdays prior to the date you intend to report for work.**

If your leave does qualify as Emergency FMLA leave you will have the following rights while on Emergency FMLA leave:

- You have a right under the Emergency Family and Medical Leave Expansion Act for up to 12 weeks of leave beginning April 1, 2020 and ending December 31, 2020. The first 10 days of Emergency FMLA leave is unpaid; provided, however, that during these initial 10 days you may be eligible for paid leave pursuant to the Emergency Paid Sick Leave Act under the Families First Coronavirus Response Act at the rate of two-thirds your regular rate of pay, up to and including \$200 per day and \$2,000 total. After this initial 10 day period, Emergency FMLA Leave becomes paid leave at the rate of two-thirds your regular rate of pay, up to and including \$200 per day and \$10,000 total.
- Your health benefits must be maintained during any period of Emergency FMLA Leave under the same conditions as if you continued to work.
- If we have 25 or more employees, you are entitled to reinstatement to the same or equivalent position upon return from Emergency FMLA Leave unless the position held at the time Emergency FMLA Leave begins no longer exists due to economic conditions or other operating conditions caused by a Public Health Emergency as defined above. In the event your position no longer exists due to such economic or other operating conditions, We must make reasonable efforts to restore you to a position with equivalent employment benefits, pay, and other terms and conditions of employment. If no such position is immediately available, we must make reasonable efforts to contact you if and when an equivalent position becomes available for up to one (1) year after the date on which the qualifying need relating to the Public Health Emergency ends or the date that is 12 weeks after the date on which your Emergency FMLA Leave begins, whichever occurs earlier. (If your leave extends beyond the end of your Emergency FMLA entitlement, you do not have return rights under the Emergency Family and Medical Leave Expansion Act.)
- If you do not return to work following Emergency FMLA leave for a reason other than the continuation, recurrence, or onset of the qualifying Reason, or Reasons, which would entitle you to Emergency FMLA Leave, or other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your Emergency FMLA leave.
- If we have not informed you above that you must use accrued paid leave up to and including your regular rate of pay after the first 10 days of your Emergency FMLA Leave entitlement, you have the right to have \_\_\_\_\_ sick, \_\_\_\_\_ vacation, and/or \_\_\_\_\_ other leave run concurrently with your Emergency FMLA Leave after this initial 10 day period, provided you meet applicable requirements of the leave policy. You may, but are not required to, use accrued paid leave up to and including your regular rate of pay during the first 10 days of your Emergency FMLA Leave. This includes the right to supplement paid leave for which you may be eligible pursuant to the Emergency Paid Sick Leave Act during the first 10 days of your Emergency FMLA Leave up to and including your regular rate of pay.  
Applicable conditions related to the supplementation of Emergency FMLA Leave with additional paid leave are referenced or set forth below.

If you do not meet the requirements for taking additional paid leave, you remain entitled to take partially paid Emergency FMLA Leave as described above.

\_\_\_\_\_ For a copy of conditions applicable to sick/vacation/other leave usage please refer to \_\_\_\_\_ available at: \_\_\_\_\_.

\_\_\_\_\_ Applicable conditions for use of paid leave: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as Emergency FMLA Leave and count towards your Emergency FMLA Leave entitlement. If you have any questions, please do not hesitate to contact:**

\_\_\_\_\_ at \_\_\_\_\_.