



COUNTY ADVISORY BULLETIN

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EXPIRATION OF PAID EMPLOYEE COVID-19 LEAVE & TEMPORARY FMLA

Prepared by the County Risk Sharing Authority (CORSA)
December 28, 2020

As all members are aware, in March 2020, Congress implemented legislation providing eligible employees two (2) weeks of emergency paid sick leave for specific, COVID-related matters. Further, an additional ten (10) weeks of paid family leave was made available to certain eligible employees in the event their child's school or childcare provider was closed, or otherwise unavailable, as the result of COVID-19. The laws providing those additional benefits expire on December 31, 2020. Although Congress recently passed new legislation providing assistance during the COVID pandemic, Congress did not enact legislation continuing emergency paid sick leave and/or paid family leave benefits due to COVID-related conditions.

Because Congress has not acted to extend the emergency paid sick leave benefits, many members are asking... "now what?" The following is a summary of employer considerations regarding COVID-related leave as 2021 approaches.

- Review the County's Temporary Emergency Paid Sick Leave and FMLA COVID-19 Policy. If the County adopted CORSA's or CCAO's model policy, no action is necessary as both policies included explicit expiration dates of December 31, 2020. In the event the County's policy is silent as to an expiration date, employees should be notified that the additional benefits expire on December 31, 2020. Further, counties may wish to remind employees who have may have childcare issues that they will obligated to arrange for childcare beginning January 1, 2021, or that they will be required to utilize other forms of leave.
- Review county leave policies. All elected officials, department heads and supervisors should review, with the assistance of the Prosecutor, legal counsel, and/or Human Resources, leave policies contained in the Policies and

Procedures Manual to consistently respond to employee absences due to COVID-19. Employees requiring time-off due to COVID-19 may be eligible to use sick leave, vacation leave, personal leave, compensatory time (if available) Family Medical Leave and/or an unpaid leave of absence. If no other leave is appropriate, but an employer has health and safety concerns, paid administrative leave may be appropriate. Employers may also wish to review their collective bargaining agreements regarding leave that may be available. In order to minimize the risk of an employee complaint, supervisors should be reminded to implement all policies consistently.

- Consider implementing a Teleworking Policy for employees that are unable to come to work, but are able to work from home. CORSA and CCAO provided a sample Teleworking Policy previously. There are many considerations to permitting employees to telework, but that may be an effective option to minimize the risk of disruption.
- Continue to monitor the services provided, the agency budget and employee/public safety issues. Although vaccines will be more readily available in 2021, COVID-19 will continue to impact the workplace in 2021. Therefore, counties would be wise to continue to follow any safety protocols that have been implemented.
- Stay tuned. As they have since March 2020, CORSA and CCAO will continue to provide updates and recommendations to its members on matters related to COVID-19 as new information becomes available.

This County Advisory Bulletin and attachments are not legal advice nor should they be construed as legal advice. We recommend you consult your Prosecutor or legal advisor should you require a legal opinion.