



CITY OF BILLINGS
OFFICE OF CITY ADMINISTRATOR
Chris A. Kukulski
P.O. BOX 1178 BILLINGS, MONTANA 59103
Phone: (406) 657-8433 Fax: (406) 657-8390

Administrative Order No. 142

From: Chris A. Kukulski, City Administrator

Date: March 31, 2020

Re: Family First Coronavirus Response Act (FFCRA): Emergency Paid Sick Leave Act (EPSL)

The novel coronavirus (COVID-19) pandemic has developed into a public health emergency throughout the United States and in Montana. The health and well-being of our employees and community members is our top priority.

The U.S. Senate passed the Families First Coronavirus Response Act (H.R. 6201) on March 18, 2020, and the law is effective April 1, 2020.

The following describes the expanded benefits and process for applying the new law, EPSL.

Eligible Employees

All permanent employees in an active assignment status at the time of the qualifying need to use leave are eligible for emergency paid sick leave, unless otherwise excluded. There is no waiting period for EPSL; it is immediately available to all probationary and permanent employees.

Emergency Responders

Employers of an employee who is a healthcare provider or an emergency responder may elect to exclude such employee from the Emergency Paid Sick Leave Act. To ensure our essential services are operational, the *City of Billings* emergency responders listed here are not eligible to use EPSL for qualifying reason (5) listed below.

- Police Department
- Airport Police
- Fire Department
- Airport Fire (ARFF)
- 911 Dispatchers
- Solid Waste Division
- Water Reclamation Facility
- Water Treatment Plant
- Distribution and Collection Division

Emergency Paid Sick Leave provides employer paid sick time "to the extent the employee is unable to work (or telework) due to a need for leave because of any of these qualifying reasons:

- (1) The employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19.
(A Shelter in Place order does not qualify as a quarantine or isolation.)
- (2) The employee has been advised by a healthcare provider to self-quarantine due to concerns related to 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 who is subject to an order described in (1) or self-quarantine (2).
- (5) The employee is caring for his or her son or daughter whose school or place of care is closed, or the childcare provider is unavailable, due to COVID-19 precautions. *(Emergency responders are excluded from this qualification.)*
- (6) The employee is experiencing "any other substantially similar condition" specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Shelter in Place Order:

Precautionary protective orders, including shelter in place orders, are not a qualifying reason for EPSL benefits set forth in the Families First Coronavirus Response Act.

The first provision of the EPSL states that: "An employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because: (1) The employee is subject to a Federal, State, or local **quarantine or isolation** order related to COVID-19 . . ."

The Centers for Disease Control and Prevention ("CDC") defines quarantine and isolation as:

- Quarantine: "[S]eparating and restricting the movement of individuals who are *reasonably believed to have been exposed to a communicable disease*, but are not yet ill."
- Isolation: "[S]eparating and restricting the movement of *individuals who have been exposed to a communicable disease and are symptomatic* from those who are not sick."

Number of Hours

Employees who are regularly scheduled for shifts of 40 hours per week are eligible to receive 80 hours of EPSL. Part-time employees are eligible to receive paid sick leave based on the average number of hours per week the employee would normally be scheduled.

Calculation of Pay

For leave reasons (1), (2), or (3): You are entitled to pay at your regular hourly rate, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

For leave reasons (4), (5), or (6): You are entitled to pay at 2/3 your regular hourly rate, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

Notice and Documentation

Employees who meet the qualifying need should complete the EPSL - Request Form. Email the completed form and any supporting documentation to: FMLA@billingsmt.gov and to your supervisor. The eligibility and administration of the EPSL is determined and managed by Human Resources. Human Resources will respond by email to the employee and the supervisor listed on the form regarding approval status and how to code for payroll.

Carry-over and Expiration

EPSL does not accrue year after year, nor is it payable upon separation of service. Unless extended, this policy expires on December 31, 2020, in accordance with the Families First Coronavirus Response Act.

This Administrative Order and EPSL - Request Form will be available on the City website:

<https://ci.billings.mt.us/417/Forms-and-Resources>

This Administrative Order shall be effective on April 1, 2020.

Dated this 31st day of March 2020.



Chris A. Kukulski, City Administrator
City of Billings