



HUMAN RESOURCES AND LABOR RELATIONS DEPARTMENT

1 S. Main Street, 6th Floor
Mount Clemens, Michigan 48043
Phone: (586) 469-5280 Fax: (586) 469-6974
Macombgov.org/HRLR

Mark A. Hackel
County Executive

Andrew S. McKinnon
Director
(586) 469-5114

Karlyn R. Semlow
Service Director
(586) 469-6160

Brian Jacks
Service Director
(586) 469-7248

Stephanie Dobson
Retirement Administrator
(586) 469-6223

Denise Krzeminski
Operations Administrator
(586) 469-7713

Rachel Chordash
Benefits Administrator
(586) 469-5573

To: County Staff

From: Andrew S. McKinnon, Director
Human Resources and Labor Relations

Date: September 1, 2020

Re: Update on the County's Continued Response to COVID-19

Over the past few weeks many of you have reached out with questions and concerns regarding the school year. As we have mentioned on several occasions, there is a complex regulatory web that surrounds parents with school aged children. Between the Governor's Executive Orders, the FFCRA and individual school plans, there is very little clarity. We appreciate your patience and hope the attached memo expresses our staff's options in a clear and concise manner.

As always, thank you for all that you do.



Mark A. Hackel
County Executive

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To: All Macomb County Employees

From: Andrew S. McKinnon, Director
Human Resources and Labor Relations

Date: September 1, 2020

Re: County's continued response to COVID-19

Good afternoon,

As we move into the school year, we want to continue to work alongside our staff to provide flexibility and opportunity, where we can, to help blunt the impact of Covid-19 and school restructuring. We understand that these are unprecedented times and we want to do as much as we can to try to assist our team in making it through this pandemic.

In this memo we will review a few of the ways the county has taken to respond to COVID-19 including COVID-19 hours, the Families First Coronavirus Response Act (FFCRA), and flexible working arrangements. The FFCRA does require a lengthy explanation and we don't want to overwhelm you, but the act is nuanced and we want to be clear as we are making some small deviations from the act.

The most current deviation from the act, and likely the most important for staff right now is the guidance that the Department of Labor ("DOL") recently issued. The DOL stated that employees may not utilize FFCRA for childcare if their school district offers any in person option, thus forcing parents to send kids to school even if they feel uncomfortable and there's a virtual option. This isn't the direction the county is taking. If there are both virtual and in person schooling options in a district, a staff member of Macomb County may elect the virtual option and use any available FFCRA leave time.

Please remember that some of our 24/7 operations must opt out of the FFCRA as they must maintain staffing levels. This is a tough decision for them to make, but a necessary one. They are also working with their staff to do what they can, but they aren't as able to be as flexible as some other departments. I have heard some people mention that we are not all in the same boat in this pandemic and I believe that's a good example. However, while we aren't all in the same boat, we are all riding out the same storm, so please be conscientious of those who don't have access to the FFCRA and give a little grace to those who have to make the tough decisions to opt out.

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Families First Coronavirus Response Act (“FFCRA” or the “Act”)

There are a number of answers at the Department of Labor (“DOL”) FAQ page located here: [DOL FFCRA FAQ](#). There is also IRS guidance that was in direct contradiction with the DOL and we have made some local modifications that improve upon the act. All of that combines for a very nuanced web of rules and regulations. We will attempt to clear some of that up here and if you have any additional questions please reach out to Human Resources and Labor Relations.

The FFCRA, what the county refers to as COVIDFed time, is effective from April 1, 2020, until December 31, 2020. This time can only be used for the following, and the numbers are significant so please pay attention to the numbers on the left hand side.

For very specific COVID-19 related reasons, an employee may take time off if the employee;

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

This is where the Act gets complicated. The Act provides for paid time off for the above reasons, but it does not provide full pay for all time off.

According to the act, reasons number 1, 2, and 3, allow an employee to be eligible for 80 hours at their full rate of pay, up to \$511.00/day. For reasons 4, 5, and 6, an employee is eligible for 80 hours at 2/3rds of their pay, up to \$200.00/day. In addition, for reason 5 there can be up to an additional 10 weeks for child care if there is no school or daycare available for a family and this is also capped at 2/3rds pay up to \$200.00/day.

Macomb County has decided, at this time, not to enforce the up to \$511.00/per day for reasons 1, 2, and 3. In addition, at this time, Macomb County has decided to allow for full pay for reasons 4 and 6 as well.

Because reasons number 1, 2, 3, 4 and 6 are pretty straightforward, we will spend the rest of our time in this section discussing reason 5 for utilizing FFCRA (Child Care). For reason 5, child care, the 10 week extension we have instituted the limitation of 2/3rds pay up to \$200/day starting on April 18, 2020, and going forward.

Because of the complexity, we are attempting to break it down below. As always please send questions as it is as hard to explain as it is to understand and the rules from the feds seem to keep changing.

- 1) First 2 weeks of utilization under reason 5, the employee has the ability to utilize their time and receive pay as follows:
 - a) The employee may elect to use COVIDFed time and receive 2/3rds pay up to \$200.00 per day for any particular day or days within the first two weeks
 - i) This time cannot be supplemented with paid time off banks
 - b) If the employee elects not to use their COVIDFed time, they must utilize paid time off banks (COVID-19, Sick Leave, PTO, Comp) for any day or days that they don't use COVIDFed and they will receive full pay but also be charged a full day of paid time off
 - c) If the employee elects not to use COVIDFed time and they have no paid time off banks, they will go into dock status without the risk of discipline
- 2) Up to an additional 10 weeks may be utilized for reason 5:
 - a) The additional 10 weeks will be paid at 2/3 the employee's daily wage, up to a maximum of \$200 per day
 - i) As stated above, time off banks cannot be used to supplement the remaining 1/3rd pay
 - b) Instead of receiving 2/3 pay, an employee may utilize COVID-19, PTO, Sick Leave or COMP time in order to receive full pay for any particular day or dates and the paid time off bank will be charged for the full day
 - i) The utilization of paid time off banks will not extend the 12 weeks period of leave time
 - c) If electing to utilize paid time off, as described in 2(b) above, once that time is exhausted, the employee will receive 2/3 pay for the remainder of the 10 weeks

NOTE: an employee may utilize reason 5 for 12 weeks. A week is defined as a one calendar week no matter the number of days requested off in that week. The calendar week will begin on Saturday and end on Friday. Further, an employee's request will only be authorized until the end of a stay in place order, or the conclusion of a directive closing the place where the child is attending school or daycare.

In addition to clarifying the utilization of FFCRA time above, we also want to remind everyone of some of the questions we received last spring, the most common are answered below:

- **Does the Governor's Stay at Home order qualify as a Federal, State, or local quarantine or isolation order related to COVID-19 allowing for employees to utilize reason 1?** No, due to our status as a governmental employer, any employee required to report to work by their immediate supervisor can report and therefore, the Governor's current order doesn't qualify for reason 1.
- **Should an employee use COVIDFed time or COVID-19 time?** It is the employee's choice, but if an employee qualifies for COVIDFed it is much more restrictive and it goes away as of December 31, 2020, it may be best to use that time.

- **If an employee uses COVIDFed time, is there a daily cap for wages or percentage or will they still receive their full pay?** As of April 18, 2020, COVIDFed will be capped at 2/3 pay or \$200 per day, whichever is less, for reason. All other reasons will be the regular daily wage.
- **Does using either of these leaves impact health benefits?** No, at this time the county is doing everything it can to protect employee health care benefits for as long as it can during this pandemic.
- **Please explain the stipulations on how and when a member can use the extended 10 weeks after both COVID banks have been used?** As mentioned above, an additional 10 week extension is available for child care only, only for dependent children under 18 and only if the employee is the only one who can provide that care. Also, the number of weeks is only provided until the end of a child's school year or some other date that is verifiable. Someone who hasn't yet had a child, cannot say that there's no child care available as there's no way to know the future. Further, we don't verify past the end of the school year as we don't know the future and what may be available after April 30/ the end of the school year.

Below is also a refresher of the rules on using COVID 19 time and COVIDFED time:

Guidance for using COVIDFed time is below:

- COVIDFED time is available for use from April 1, 2020 until December 31, 2020.
- COVIDFED is available for every full time employee regardless of when they have been hired.
- COVIDFED is available for all part time employees regardless of start date and the amount of time an average of the hours worked per week.

How do Employees use COVID-19 and COVIDFED time:

- COVID-19 time can be used for:
 - COVID-19 related absences, including;
 - their own illness; or,
 - higher risk of serious illness; or,
 - to care for a family member who is ill; or,
 - if an employee is unable to find suitable childcare; or,
 - any personal reason related to the COVID-19 virus.
- COVID-19 time does not have to be accompanied by any medical or other documentation
- Since April 1, 2020, employees can use COVIDFED time for the following reasons:
 - Federal, state or local quarantine or isolation order related to coronavirus.

- Healthcare provider advice to self-quarantine to reduce concerns related to coronavirus.
 - Seeking medical diagnosis due to symptoms of coronavirus.
 - Care for a family member subject to a quarantine or isolation order or HCP self-quarantine advice (described in the first two bullets above).
 - Caring for the employee's son or daughter if their school or place of care has been closed, or their child care provider is unavailable, due to coronavirus.
 - Employee earns 2/3rds of their salary up to \$200/day
 - 10 week maximum
 - The employee is experiencing any substantially similar condition specified by the Secretary of Health and Human Services.
- COVIDFED time must be accompanied by documentation as required by the act.
 - After an employee has exhausted all COVID-19 and COVIDFED time, they will then be allowed to utilize any accrued time off (Sick, PTO, etc.) they may have available to them.
 - Employees will not be allowed to elect to go into dock status in lieu of using accrued time.

Finally, we want to remind everyone of the Governor's directive that people who can work remotely must do so. This continues to be the basis for us to encourage employees to work offsite. While offsite work may help assist with pulls on our time at home, it's important that staff are able to dedicate their time to accomplishing their assigned tasks. That has caused for both our managers and our staff to get creative. To date our collective bargaining groups, our elected officials, department heads, managers and supervisors have all been working well together to offer the kind of flexibility needed to meet this pandemic and the unique needs of each employee. We will continue to encourage this type of collaboration and do all we can as an executive team to help support it.

Finally, please always remember that we have our employee assistance program ("EAP") at the ready for anyone who might need it. The EAP is confidential no-cost support and it can be accessed by dialing 1-888-333-6269.

Thanks for your time in reviewing this memo, thanks for your work and dedication to this county and the people who reside here and thanks for making Macomb County a better place to be.

Take care of yourselves and each other.