



**Human Resources
Employee Benefits and Services Division**

Emergency Family Medical Leave Act (E-FMLA) and Emergency Paid Sick Leave (E-PSL) for COVID-19

Presentation for Supervisors and Managers

April 8, 2020

- Families First Coronavirus Responses Act (FFCRA) includes the new emergency benefits under the Family Medical Leave Act (FMLA) and Paid Sick Leave (PSL).

Emergency Paid Sick Leave

- Up to 80 hours (up to 2 weeks)
 - 6 qualifying reasons
- Full pay or 2/3 pay at regular rate of pay (depending on reason) - subject to maximums

Emergency FMLA

- Up to 12 weeks
- 1 qualifying reason
- First 2 weeks: unpaid
- Weeks 3-12: 2/3 regular rate of pay-subject to maximums

In addition to base rate of pay, regular rate of pay may include:

- Differentials pay such as:
 - Bilingual
 - Longevity
 - On call
 - Shift Differentials
- E-PSL & E-FMLA Calculator: coming soon

Effective April 1, 2020, employees are eligible for the Emergency Paid Sick Leave (E-PSL) and the Emergency Benefit Amount listed below if they meet one or more of the six qualifying reasons. Employee must be unable to work or telecommute as a result of the qualifying reason.

E-PSL Qualifying Reasons

- 1** Employee is subject to quarantine or isolation order
- 2** Employee has been advised by a health care provider to self-quarantine
- 3** Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis
- 4** Employee is caring for someone subject to a quarantine or isolation order
- 5** Employee is caring for own child if the child's school or place of care has been closed due to a public emergency
- 6** Employee is experiencing substantially similar conditions as specified by the U.S. Department of Health and Human Services

E-PSL Benefit Amount

Paid sick leave for reasons 1 - 3:

- Full-time employee: up to 80 hours, capped at \$511 per day (max. \$5,110)
- Part-time employee: up to average work hours over a 2-week period, capped at \$511 per day (max. \$5,110)

Paid sick leave for reasons 4 - 6:

- 2/3 of employee's regular rate of pay, capped at \$200 per day (max. \$2,000)

For time reporting in pay period 9, three new time reporting codes will be available for employees who qualify for E-PSL. For time reporting April 1 forward, employees qualifying for E-PSL should code time as follows:

E-PSL Qualifying Reasons

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E-PSL Time Reporting Codes (TRC)

TRC for reasons 1 - 3

- **EMPSL**

TRC for reasons 4 - 6

- **EMPSF**

TRC for Healthcare Workers and Emergency Responders for reasons 2 & 3

- **EMPHC**

Scenario for E-PSL reason #1: Full Time Employee out on leave for a quarantine order related to COVID-19

Emergency Paid Sick Leave (paid) – 2 weeks

- Employee's unable to telecommute as their job duties cannot be performed via telecommute
- Eligible immediately
- **EMPSL** code for own medical condition related to COVID-19
- Receive full regular rate of pay, capped at \$511/day
- Example: Employee works 8 hours a day
 $\$65 \times 8 \text{ hrs} = \520 (over \$511 daily cap)
 $\$511 / \$65 = 7.75 \text{ hrs}$ for per day (38.75 hours per week)
of **EMPSL**
Employee can code 0.25 own leave time per day (1.25/week) to maintain 100% pay.

- Employee may code/integrate own leave accruals
- Employees who fit the definition of non-essential employee and who are unable to telecommute may code Voluntary Time Off (unpaid) through April 30, 2020 to continue benefits
- Employee may be eligible for E-FMLA or traditional FMLA if experiencing one of the qualifying reasons and meeting the eligibility requirement

Scenario for E-PSL reason #2,#3,: Employee out on leave of absence for own illness related to COVID-19

12 WEEKS

Traditional FMLA Leave (unpaid) – up to 12 weeks

- Eligible if employee has worked 1,250 hours and has been with the County for more than 12 months before leave
- Up to 12 weeks of job-protected leave
- Apply for FMLA protection with The Standard
- Employee may be eligible for Emergency Paid Sick Leave or code/integrate own leave accruals

Emergency Paid Sick Leave (paid) – 2 weeks

- Eligible immediately
- Receive pay up to 80 hours, cap at \$511 per day

Short Term Disability (up to 52 weeks)

- Apply with Standard Insurance Company
- 7 days waiting period

Emergency Paid Sick Leave (E-PSL) – 2 weeks

- **EMPSL** code for own medical condition related to COVID-19
- Receive full regular rate of pay, capped at \$511/day
- Example: Employee works 8 hours a day
 $\$65 \times 8 \text{ hrs} = \520 (over \$511 daily cap)
 $\$511 / \$65 = 7.75 \text{ hrs per day}$ (38.75 hours per week) of **EMPSL**
Employee can code 0.25 own leave time per day (1.25/week) to maintain 100% pay.

Short Term Disability (up to 52 weeks)

- Apply with The Standard Insurance Company
- 7 days waiting period and benefits pay at 55% of weekly wages, up to \$1,300 for up to 52 weeks
- First week of STD may overlap with E-PSL benefit and STD benefit may be reduced
- Employee may integrate own leave balance to maintain 100% pay
- Employees who fit the definition of non-essential employee and who are unable to telecommute may code Voluntary Time Off (unpaid) through April 30, 2020 to continue benefits

Time Reporting Companion Codes (TRCC) for Healthcare Workers and Emergency Responders

Purpose - For HealthCare Workers and Emergency Responders for E-PSL reasons 2 & 3 only, for anytime reported through 3-31-20, the time reporting companion code should be coded alongside time for paid leave times (e.g. Sick, Vacation, etc.) as well as approved unpaid leave time (e.g. WOPSK, VTO), to track leaves used as a result of the COVID-19 pandemic.

Note: This code should NOT be used alongside TRC codes associated E-PSL.

Companion Codes:

COVHC - Coded by employee if meets the following:

- Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

**these values are not tied to pay and will not affect earnable compensation*

Documentation Requirements for Emergency Paid Sick Leave (E-PSL Reasons 1-3 & 6)

An employee statement may be requested for E-PSL, pursuant to federal guidelines. All requests for proof shall be made in compliance with the Labor Code and other law. Below are some E-PSL documentation guidelines. Contact your Department Human Resources Officer for questions.

Reason 1 (employee subject to quarantine order)

- The name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine, and,

Reason 1 (employee subject to isolation order)

- Older adults (65+) with a history of a medical condition (e.g. cancer) or a comprised immune system
- Individuals with compromised immune systems
- Individuals who have serious chronic medical conditions (e.g. Heart disease, Diabetes, Lung disease)

Reason 2, 3, & 6

- A note from a health care provider excusing the employee from work due to concerns related to COVID-19. Supervisors are encouraged to be mindful on restricting the use of E-PSL based on the impact to the health care system. For more information related to the patient screening information from the County health plan carriers, please visit the HR-EBSD website at <http://cms.sbcounty.gov/hr/Benefits/BenefitCampaigns/CoronavirusResources.aspx>

Documentation Requirements for Emergency Paid Sick Leave (E-PSL Reasons 4)

An employee statement may be requested for E-PSL, pursuant to federal guidelines. Below are some E-PSL documentation guidelines. Contact your Department Human Resources Officer for questions.

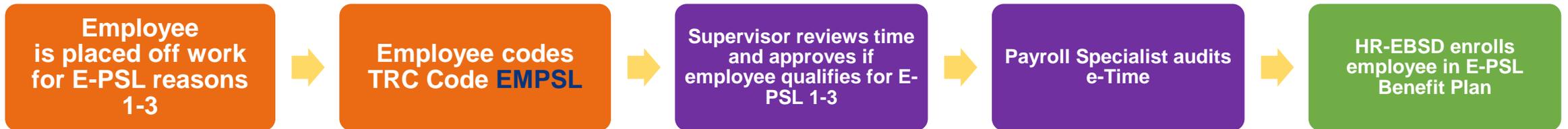
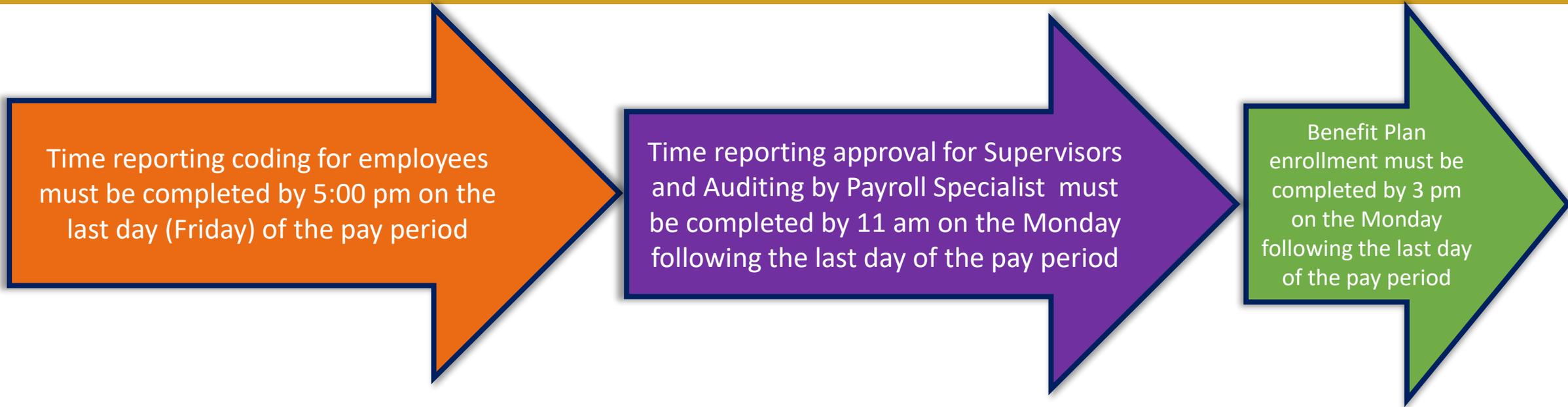
Reasons 4 (employee caring for individual subject to quarantine order)

- If the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.

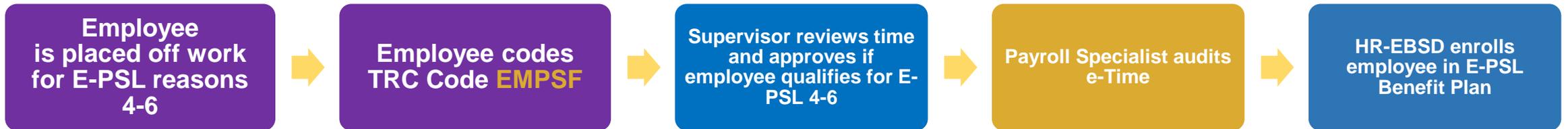
Reason 4 (employee caring for individual subject to isolation order)

- Older adults (65+) with a history of a medical condition (e.g. cancer) or a compromised immune system
- Individuals with compromised immune systems
- Individuals who have serious chronic medical conditions (e.g. Heart disease, Diabetes, Lung disease)

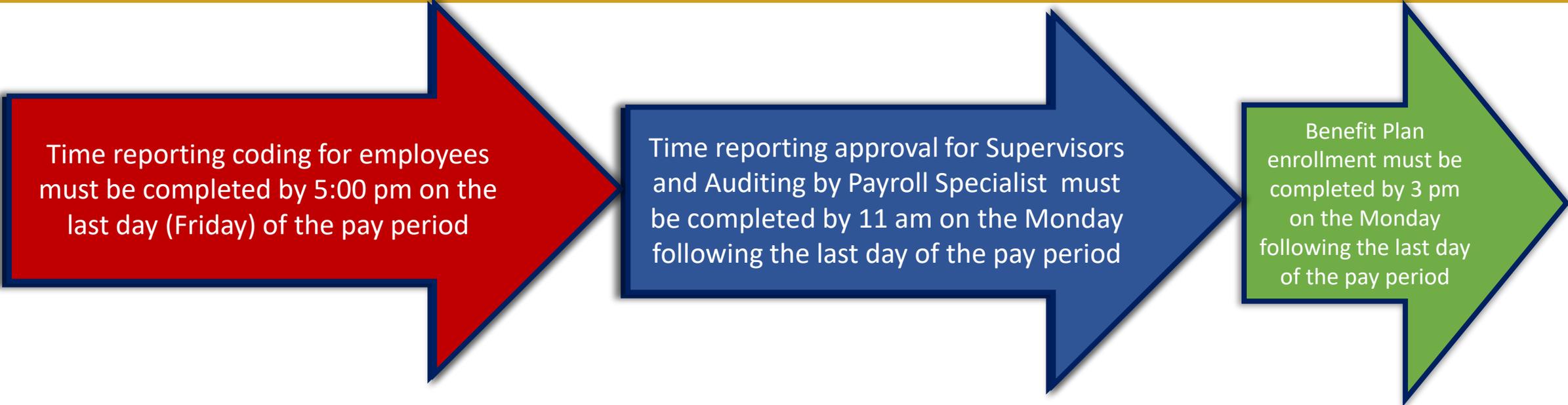
Emergency Paid Sick Leave Reasons 1-3



Emergency Paid Sick Leave Reasons 4-6



Emergency Paid Sick Leave Reasons 2&3 for Healthcare Workers and Emergency Responders



Time Coding for Departments not using e-Time



*Exception County Fire interface file for Fire Suppression will follow the 11 am, Monday deadline.

Emergency Family & Medical Leave Expansion Act (E-FMLA)

Eligibility for E-FMLA

An employee must be employed by the County for 30 days prior to commencement of the leave of absence

An employee is unable to work (or telecommute) due to care for their child (under the age of 18) if the child's school or place of care has been closed due to a public health emergency

Benefits Covered

Up to 12 weeks of job-protected leave and benefits continuation

After first 2 weeks of unpaid leave, employee will receive 2/3 of regular rate of pay, up to \$200 per day (maximum \$10,000)

Concurrent to Traditional FMLA

For example: an employee is currently on FMLA for a serious health condition and then their child's school closes due to a public health emergency, the employee would not receive more than 12 weeks total for both reasons.

CFRA doesn't cover child care issues caused by COVID 19.

Employees should contact The Standard Insurance Company to apply for E-FMLA

Scenario for E-PSL reason #5 & E-FMLA: Employee out on leave to take care of child due to school / place of care closure caused by COVID-19

12 WEEKS

Emergency FMLA Leave (unpaid) – 2 weeks

- Eligible after 30 days of employment
- Apply for E-FMLA protection with The Standard
- Unpaid for the first 2 weeks, however, can use Emergency Paid Sick Leave or code/integrate own leave accruals, e.g. sick, vacation or holiday

Emergency FMLA Leave (paid) – after 2 weeks

- Receive 2/3 of pay for regular rate of pay, cap at \$200 per day, up to 10 weeks
- Can integrate own leave to maintain 100% pay

Emergency Paid Sick Leave (paid) – 2 weeks

- Eligible immediately
- Receive 2/3 of regular rate of pay, up to 80 hours for full-time employee, capped at \$200 per day
- Can integrate own leave to maintain 100% pay

TRC Example E-PSL reason #5 & E-FMLA: Employee out on leave to take care of child due to school / place of care closure caused by COVID-19

12 WEEKS

Emergency FMLA Leave (unpaid) – first 2 weeks

- Unpaid for the first 2 weeks, however, can use Emergency Paid Sick Leave or code/integrate own leave accruals, e.g. sick, vacation or holiday

Emergency Paid Sick Leave (E-PSL)

- **EMPSF** code for family reason
- Receive 2/3 of regular rate of pay, capped at \$200/day
- Example: Employee works 8 hours a day
 $\$38.32 \times 8 \text{ hrs} \times 2/3 = \204.38 (exceed \$200 daily cap)
 $\$200 / \$38.32 = 5 \text{ hrs per day (25 hours per week) of EMPSF}$
Employee can code 3 hrs own leave time per day (15 hours per week) to maintain 100% pay.

Emergency FMLA Leave (E-FMLA) – after 2 weeks

- **EMFML** code for E-FMLA
- Receive 2/3 of pay for regular rate of pay, capped at \$200/day
- Example: Employee works 8 hours a day
 $\$38.32 \times 8 \text{ hrs} \times 2/3 = \204.38 (exceed \$200 daily cap)
 $\$200 / \$38.32 = 5 \text{ hrs per day (25 hours per week) of EMFML}$
Employee can code 3 hrs own leave time per day (15 hours per week) to maintain 100% pay.

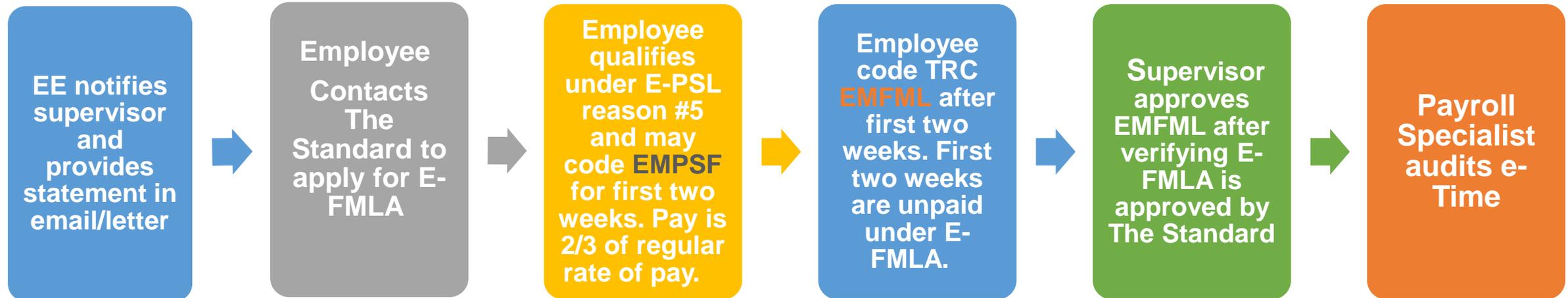
Documentation Requirements for Emergency Family Medical Leave Act (E-FMLA) & Emergency Paid Sick Leave (E-PSL) #5

An employee statement may be requested for E-FMLA and/or E-PSL #5, pursuant to federal guidelines. Below are some E-PSL & E-FML documentation guidelines. Please note, employees that are designated as Healthcare Workers or Emergency Responders do not qualify for E-FMLA or E-PSL #5. Please contact your Department Human Resources Officer for questions.

- In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include:
- The name and age of the child (or children) to be cared for,
- The name of the school that has closed or place of care that is unavailable, and
- A representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and,
- With respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

Emergency Family Medical Leave Act (E-FMLA)

Effective April 1, 2020, employees are eligible for the Emergency Family Medical Leave (E-FMLA) if they are unable to work (or telecommute) due to care for their child (under the age of 18) if the child's school or place of care has been closed due to a public health emergency. For E-FMLA, the Time Reporting Code is EMFML.



E-FMLA & E-PSL Request for Extended Sick and Special Leave and Leave Integration

E-FMLA: A Request for Extended Sick and Special Leave (RESSL) will be required for employees who meet the one qualifying reason for E-FMLA, but a Leave Integration Form is not required.

E-PSL: Neither a RESSL or Leave Integration Form is required for an employee who meets one of the six qualifying reasons for E-PSL. However, if an employee's situation develops into a serious medical condition or traditional FMLA qualifying reason, RESSL and Leave Integration forms will be required. Employee may also need to file a claim with The Standard for short-term disability benefit and/or traditional FMLA protection.

Voluntary Time Off – Expanded

Voluntary Time Off provisions have been temporarily extended (Expanded VTO) to allow employees to continue to receive the County's contributions towards their benefit premiums through April 30, 2020.

- Employee can code VTO in any combination with or without paid leave hours
- Prorated for part-time employees

Note: Traditional VTO provisions apply to all employees who do not meet the eligibility requirements under Expanded VTO

Eligibility:

- Employee is considered non-essential, unable to telecommute and has not been re-deployed

Requirements:

- Expanded VTO must be taken in .25 hour increments
- Use of Expanded VTO requires direct supervisor approval and determination of eligibility
- Probationary employees are permitted to use Expanded VTO assuming eligibility is met

Expanded VTO

Differences from Traditional VTO:

- There are no leave balance requirements
- Expanded VTO is not limited to 80 hours until April 30
- No paper form is required

Next Steps Upon Approval:

- Employee can code VTO directly into EMACS
- If employee has not coded enough hours to cover their portion of a benefit premium, they will need to mail their payment to the Employee Benefits and Services Division

Employee may be eligible and apply for Unemployment Benefits for the following reasons related to COVID-19

Subject to a quarantine required by a medical professional or state or local health officer

Child's school is closed due to COVID-19

Reduced work hours due to COVID-19

For more information refer to the [Employment Development Department \(EDD\) website](#).

Standard - File E-FMLA & STD

- Call the Standard at 844-239-3560;
- Go to www.standard.com and choose I am an individual
- Create login:
 - Company ID: County of San Bernardino
 - Username: This is your last name + the last 4 digits of your SSN
 - Password: If this is your first time reporting an absence, you will enter the word “password” as your password
- Claim status update & follow-up:
 - Temporary email box: AbsenceQuestions@Standard.com

Coronavirus Resources

- <https://cms.sbcounty.gov/hr/Benefits/BenefitCampaigns/CoronavirusResources.aspx>