

Questions and Answers
Emergency Paid Sick Leave Act (EPSLA) and/or
the Emergency Family Medical Leave Expansion Act (EFMLEA) as
Enhanced by the State of Vermont – April 6, 2020 through June 6, 2020
Last Updated: 5/22/2020, 2:45 PM

If your use of COVID-19 related leave has been designated/authorized through May 9, 2020 or later, and the circumstances for your use of COVID-19 related leave have not changed, you are not required to submit an updated request. However, you may need to re-affirm your need for leave under EFMLEA and should continue to be in contact with your supervisor regarding your ability to work/telework.

The following is intended to provide general information to employees and supervisors regarding the Emergency Paid Sick Leave Act (EPSLA) and/or the Emergency Family Medical Leave Expansion Act (EFMLEA) and the enhancements/benefits provided by the State of Vermont. This information will be updated as needed.

Individual situations will vary. It is important that employees work with their supervisors when considering the use of any of the new COVID-19 related Time Reporting Codes (TRCs). Supervisors should contact the Department of Human Resources, Field Operations Representative assigned to support their Department/Agency with questions concerning the specifics of their situation – lists of teams can be found at <https://humanresources.vermont.gov/about-us/contact/hr-field-representative-locator>

Employees/Supervisors should refer to the accompanying documents for timesheet coding guidance, submitting leave requests, and required documentation that they will need to submit to support a leave request prior to requesting, using and/or authorizing the use of these new COVID-19 related TRCs.

LEAVE RELATED QUESTIONS

Q1 – Can I still use the COVID-19 Paid Not Worked TRC (CPNW)?

A1 – No, the CPNW code was no longer available after the end of an employee’s shift on Sunday, April 5, 2020.

Q2 – What can the new COVID-19 related leave TRCs be used for?

A2 – The new codes can be used by eligible employees in the following situations when the employee is unable to work/telework as a result of (please refer to the accompanying documents for timesheet coding guidance, submitting leave requests, and required documentation to support a leave request):

- a. caring for his or her child under age 18 whose school or place of care is closed or child care provider is unavailable due to a COVID-19 related reason
- b. providing care for his or her child age 18 or older with a disability and cannot care for themselves due to that disability, whose school or place of care is closed or child care provider is unavailable due to a COVID-19 related reason

Please note, in the following situations, the employee, unless authorized to telework, may not take intermittent leave due to the unacceptably high risk that the employee might spread COVID-19 to other employees when reporting to the employer’s worksite.

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- c. subject to a Federal, State, or Local quarantine or isolation order related to COVID-19
- d. advised by a health care provider to self-quarantine related to COVID-19
- e. experiencing COVID-19 symptoms and is seeking a medical diagnosis
- f. experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services (“the employee is, may be, or is reasonably likely to become, sick with COVID-19, or is exposed to someone who is, may be, or is reasonably likely to become, sick with COVID-19.”)
- g. caring for an individual who is subject to a Federal, State, or Local quarantine or isolation order related to COVID-19; or has been advised by a health care provider to self-quarantine related to COVID-19; or is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services (“the individual is, may be, or is reasonably likely to become, sick with COVID-19, or is exposed to someone who is, may be, or is reasonably likely to become, sick with COVID-19.”)

Q3 – When are the new COVID-19 related leave TRCs available for use?

A3 – The new codes are available for use beginning with the start of employee’s regular shift of work on Monday, April 6, 2020.

Q4 – Can the new COVID-19 TRCs be used before Monday, April 6, 2020?

A4 – No, the new codes are NOT available for use before Monday, April 6, 2020.

Q5 – If an employee’s absence qualifies for one of the COVID-19 related leaves, will they be required to use their own earned leave balances?

A5 – No, if the absence qualifies for a COVID-19 related leave, the employee has the option of using one of the new codes in place of their own earned leave balances.

Q6 – Where can I find a list of “other substantially similar condition specified by the U.S. Department of Health and Human Services”?

A6 – That list can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>.

Q7 – Can employees use any of the new COVID-19 related leave TRCs without first communicating with their supervisor?

A7 – No, employees must communicate with their supervisor, submit a leave request form, and provide documentation to support use of these codes.

Q8 – Will employees be required to request leave before using any of the new COVID-19 related leave

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TRCs?

A8 – Yes, employees must submit a leave request form and provide appropriate documentation to support use of the codes.

Q9 – Will employees be required to provide documentation to support their use of the new COVID-19 related leave TRCs?

A9 – Yes, employees must provide appropriate documentation to support use of the codes.

Q10 – Can employees who are authorized and able to work/telework use the new COVID-19 related leave TRCs?

A10 – Unless prevented from working/teleworking for one of the qualifying reasons, employees who are authorized and able to work/telework are expected to work and would not use the codes.

Q11 – Can an employee who is sick for a non-COVID-19 reason use the new COVID-19 related leave TRCs?

A11 – No, if the absence is not for a qualifying COVID-19 related reason, the employee would not use the codes and would use their earned paid leave, as appropriate.

Q12 – Can an employee who is currently absent for an illness/injury that is not the result of COVID-19 use the new COVID-19 related leave TRCs?

A12 – No, if the absence is not for a qualifying COVID-19 related reason, the employee would not use the codes and would use their earned leave balances, as appropriate.

Q13 – Can an employee who has been authorized to work/telework, who is not sick; not in self-isolation; does not have an underlying health condition, but doesn't want to work use the new COVID-19 related leave TRCs?

A13 – No, if the absence is not for a qualifying COVID-19 related reason, the employee would not use the codes and would be expected to work unless authorized to use their earned leave balances by their supervisor or manager.

Q14 – Can an employee who is absent from work due to FMLA and/or Parental Leave use the new COVID-19 related leave TRCs?

A14 – No, if the FMLA and or Parental Leave is not for a qualifying COVID-19 related reason, the employee would not use the codes. They would instead code the standard FMLA TRCs using their earned leave balances, or the unpaid FMLA code as appropriate.

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Q15 – Can an employee who is unable to work/telework and who has a qualifying FMLA event that also is for a COVID-19 related reasons use the new COVID-19 related leave TRCs?

A15 – Yes, after submitting a request for leave and supplying supporting documentation.

Q16 – Can an employee who is not sick but has been quarantined or is self-isolating use the new COVID-19 related leave TRCs?

A16 – If they are subject to a federal, state or local quarantine or isolation order or has been advised to do so by a healthcare provider and are unable to telework.

Q17 – Can an employee who is unable to telework but is staying home because of concerns with their own underlying health condition use one of the new COVID-19 related leave TRCs?

A17 – Not unless it was for a qualifying COVID-19 related reason.

Q18 – Can an employee who is teleworking and has children at home whose school or place of care is closed or child care provider is unavailable use one of the new COVID-19 related leave TRCs?

A18 – Employees who are teleworking should communicate with their supervisors about flexing their workday to allow for teleworking. Existing/Regular Time Reporting Codes should be used for hours spent teleworking. Hours these employees are NOT able to telework due to time spent caring for their children who would have otherwise been attending a school or place of care that is now closed due to a COVID-19 related reason could use one of the new codes.

Q19 – Can an employee who is not able to telework and has children at home whose school or place of care is closed or child care provider is unavailable use one of the new COVID-19 related leave TRCs?

A19 – Yes, for any hours they would have worked during which their child would have been attending school, childcare and/or an after-school program.

Q20 – Can an employee who is filling in for an immediate family member, to provide child care, whose children are home whose school or place of care is closed or child care provider is unavailable use one of the new COVID-19 related leave TRCs?

A20 – No.

Q21 – Can an employee who comes to work but is sent home by management for COVID-19 related reasons use the new COVID-19 related leave TRCs?

A21 – Yes, if they are unable to telework.

Q22 – Can an employee, who is authorized to telework, who has an underlying medical condition(s), use

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the new COVID-19 related leave TRCs?

A22 – Yes, if they have been advised by a health care provider to self-quarantine related to COVID-19, or are experiencing COVID-19 symptoms and seeking a medical diagnosis, or are experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services, they could use the new codes for any hours they are unable to telework.

Q23 – Can employees, whose positions do not support telework, who have underlying medical condition(s), use the new COVID-19 related leave TRCs?

A23 – Yes, if they have been advised by a health care provider to self-quarantine related to COVID-19, or are experiencing COVID-19 symptoms and seeking a medical diagnosis, or are experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Q24 – Can an employee, who is authorized to telework, who resides with an individual who has an underlying medical condition(s) for which self-isolation is recommended, but does not require care, use the new COVID-19 related leave TRCs?

A24 – No, unless the individual has been advised by a health care provider to self-quarantine related to COVID-19, or are experiencing COVID-19 symptoms and seeking a medical diagnosis, or are experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Q25 – Can employees, whose positions do not support telework, who reside with individual who has an underlying medical condition(s) for which self-isolation is recommended, but do not require care, use the new COVID-19 related leave TRCs?

A25 – No, unless the individual has been advised by a health care provider to self-quarantine related to COVID-19, or are experiencing COVID-19 symptoms and seeking a medical diagnosis, or are experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services; or they have been authorized not to report to work by their employer.

Q26 – Can an employee who is absent from work on military leave or who is currently required to report for duty with the National Guard as part of the response to COVID-19 use the new COVID-19 related leave TRCs?

A26 – No, these employees should code either paid or unpaid military leave as applicable.

Q27 – Are the new COVID-19 related leave TRCs “good time” for overtime?

A27 – No, the codes are not considered as time actually worked for overtime eligibility.

Q28 – Will use of the new COVID-19 related leave TRCs impact my bi-weekly annual and sick leave

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accruals and/or quarterly personal leave awards?

A28 – No, the use of these new codes will not negatively impact leave accruals and/or quarterly personal leave awards.

Q29 – Will an employee’s original probationary period be extended due to the use of the new COVID-19 related leave TRCs?

A29 – Yes.

Q30 – Can Temporary employees use the new COVID-19 related leave TRCs?

A30 – Yes, if they have been employed for at least 30 calendar days prior to their request for leave.

- a. Temporary employees with a regular schedule would code the new COVID-19 related leave TRCs for any regularly scheduled hours they would have otherwise worked.
- b. Temporary employees who are sporadic and/or do not have a regular schedule will be able to code an average of the regular hours worked over the past three (3) months, up to a maximum of forty (40) hours per week. These employees should check with their supervisor and/or Human Resources.

Q31 – Can an employee who is on Workers’ Compensation (“WC”) use the new COVID-19 related leave TRCs?

A31 – No.

Q32 – Will an employee who has received an award from the Sick Leave Bank retain that award while also using the new COVID-19 related leave TRCs?

A32 – No, the award will be returned to the Sick Leave Bank and the employee would use the new codes.

Q33 – Are the new COVID-19 related leave TRCs available for use by those who are on temporary relief from duty (“TRD”)?

A33 – No, these employees would continue coding TRD, unless the employee is unavailable to the State due to qualifying reason that would support use of the new codes.

Q34 – Can an employee who comes to work but is sent home by management due to a lack of work use the new COVID-19 related leave TRCs?

A34 – Yes, if they are unable to telework.

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NON-LEAVE RELATED QUESTIONS

Q1 – Which employees are eligible for the \$1.50 per hour premium for direct, in person, face-to-face contact with a member of the public?

A1 – Employees who are:

- assigned to work in a Correctional Facility, regardless of department
- assigned to work in the Vermont Psychiatric Care Hospital, regardless of department
- assigned to work in the Middlesex Adolescent Program, regardless of department
- assigned to work in the Vermont Veterans’ Home, regardless of department
- working for Department of Corrections Probation and Parole Division
- working in the Agency of Human Services when they have direct, in person, face-to-face contact with a member of the public during their work hours
- members of Sworn Law Enforcement when they have direct, in person, face to face contact with a member of the public during their work hours
- employees of the Vermont Department of Health who are obtaining samples from individuals for COVID19 testing

Q2 – What hours are eligible for the \$1.50 per hour premium?

A2 – Employees would code \$1.50 per hour for any hours actually worked in one of the listed facilities or for any hours actually worked when they had direct, in person, face to face contact with a member of the public

Q3 – Which employees are eligible for the 20% COVID19 positive (COVID19+) premium pay?

A3 – Employees who are:

- assigned to work in facilities whose primary function is to provide care to COVID19+ individuals (COVID19+ facility)
- assigned to units, within a non-COVID19+ facility, whose function is to provide care to COVID19+ individuals
- have direct person to person contact with a COVID19+ individual during their work hours
- conducting COVID19 related direct testing in the Vermont Department of Health Laboratory

Q4 – Can an eligible employee code the \$1.50 and the 20% premium pay for the same hours?

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A4 – No.

NOTE: Employees of the Judicial and Legislative Branches as well as Municipal employees should contact their Human Resources offices with questions pertaining to absences from work related to COVID-19.