COVID-19 Leave of Absence Programs – Frequently Asked Questions (FAQs)

Revised 04/13/20

IMPORTANT UPDATES!

The Lee Health sponsored Emergency Leave of Absence Program is changing.

The modifications to the Lee Health Emergency Leave of Absence Program are as follows:

a. The Lee Health Emergency Leave of Absence (LOA) plan has been extended through the pay-period ending Saturday, May 9, 2020, with important modifications to the program.
b. Effective Sunday, April 26, the Lee Health Emergency LOA program converts from a partially-paid LOA program to an unpaid LOA program through Saturday, May 9, 2020.
c. Beginning Sunday, April 26, participants will be required to use PTO in excess of 40 hours while on the Lee Health Emergency LOA.
d. During the 2-week period, April 26 to May 9, Lee Health will pay both the employer-portion and employee-portion of benefits for those employees in the Lee Health Emergency LOA program who do not have sufficient PTO to cover that pay period.
e. The COVID-19 LOA Application Form (FM#2233) has been revised.
f. Employees participating in the Lee Health Emergency LOA program:
   • Must use PTO until minimum amount remains in PTO bank, but may choose to exhaust PTO
   • May continue to participate in tuition reimbursement
   • May participate in leave-sharing
   • May have ability to make withdrawals from their retirement account without penalty
   • May apply for Florida Unemployment Insurance Benefits
   • Will remain Lee Health Employees
   • Will receive same job protection as provided under the FMLA
   • The partial-pay provision of the Lee Health Emergency LOA program will NOT be extended beyond April 25, 2020

Questions Related to Emergency LOA Changes

1. Do employees already on the Lee Health Emergency LOA need to re-apply to be eligible for the Lee Health Emergency LOA extension through May 9, 2020?
   Answer: No. The extension date will be automatically/administratively applied for those individuals already on a Lee Health Emergency LOA.

2. If an employee is not currently on any Emergency Leave of Absence, but feels they now have a qualifying reason, can they still apply?
   Answer: Yes, employees can submit an application for Federal Paid Sick Leave which is for two weeks if the employee has not already received two weeks of pay and Federal Expanded FMLA at any time through December 31, 2020. The Lee Health Emergency LOA has been extended through May 9, 2020. The employee must complete a COVID-19 LOA APPLICATION form (FM2233).
• The form is available on-line on the front page of Intra Lee under COVID-19 Resources for Staff
• The employee may need to provide documentation, depending upon the qualifying reason.
• The employee’s leader will review application and confirm that the employee is not eligible for a telework arrangement and/or is non-essential (if applicable to LOA request).
• The form is routed to the HR Call Center by fax to 239-424-4082 or e-mailed to employeeservicecenter@leehealth.org and reviewed by Lee Health Leave of Absence experts.

3. **Will the partial-pay provision of the Lee Health Emergency LOA program be extended beyond April 25, 2020?**
   **Answer:** No, the Lee Health Emergency LOA partial-pay provision ends on April 25, 2020 and will NOT be extended.

4. **Does an employee need to use PTO when on a Lee Health Emergency LOA?**
   **Answer:** Yes, through pay-period ending on April 25, if the employee has more than 80 hours of PTO, the employee is required to use their PTO first to cover the Lee Health Emergency LOA. For the pay-period April 26 to May 9, 2020, the employee is required to use PTO to cover the Lee Health Emergency LOA until 40 hours remain in their bank.

5. **Are employees required to use PTO when on Federal Expanded Family Medical Leave?**
   **Answer:** ***Yes. This is new information.*** Employees who qualify for Federal Expanded Family Medical Leave will receive Federal Emergency Paid Sick Leave for the first two weeks at 2/3 the employee’s regular rate of pay, up to $200 a day. Thereafter, employees must use accrued Paid Time Off (PTO) during the remaining weeks of his / her Federal Expanded Family Medical Leave. Once accrued PTO is exhausted, the balance of the Federal Expanded Family Medical Leave will be paid at 2/3 the employee’s regular rate of pay, up to $200 per day.

6. **What happens to an employee coming off a Federal Emergency Paid Sick Leave? What are their options?**
   **Answer:** Employees coming off a Federal Emergency Paid Sick Leave have the following options:
   a. Return to work, if possible (same or redeployed position)
   b. If eligible, apply for Lee Health Emergency LOA
   c. Submit a regular PTO Request via Kronos
   d. Apply for regular FMLA (Policy S09-04-278) or non-FMLA Leave (Policy S09-04-512)
   e. Apply for regular Lee Health Personal Leave of Absence (Policy S09-04-512)
   f. Participate in Leave-Sharing (Policy S09-04-223)
   g. Apply for Florida Unemployment Insurance Benefits including the extra $600/week provided in the federal CARES economic stimulus act

7. **What does a leader need to do when an employee is returning to work after a leave of absence?**
   **Answer:** The leader will need to be sure the employee has a “schedule” in Kronos.
8. What resources or support are available to employees who may be experiencing a financial or other hardship due to COVID-19?
Answer: Lee Health is coordinating with its trusted community partners to provide:
   - Employee Relief through United Way of Southwest Florida
   - Meals distributed through Public School District of Lee County
   - EAP counselling services
   - Other Employee Relief (Policy S09-04-223)

9. If employees elect the Lee Health Emergency LOA, are they eligible for unemployment compensation benefits?
Answer: In Florida, employees who are no longer receiving pay (or are receiving substantially less pay) due to COVID-19 may be eligible to receive unemployment compensation benefits.

SECTION I: OVERVIEW

10. What is the Federal Families First Coronavirus Response Act?
Answer: The Families First Coronavirus Response Act requires certain employers (like Lee Health) to provide its employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

11. When does the Federal Families First Coronavirus Response Act Take effect?
Answer: The Act is in effect from April 1, 2020 through December 31, 2020.

12. What COVID-19 related leaves of absence did the Federal Families First Coronavirus Response Act make available for Lee Health employees?
Answer: The federal government created an Emergency Paid Sick Leave and Expanded Family Medical Leave.

13. Is Lee Health providing an additional Leave of Absence (LOA) beyond what the Federal Government has provided?
Answer: Yes, Lee Health has a COVID-19 related Emergency Leave of Absence program for its employees.

14. What is the process for an employee to apply for an Emergency Leave of Absence?
Answer:
   a. Employee will complete a COVID-19 LOA APPLICATION form (FM2233) specifically for the COVID-19 Emergency.
   b. The form is attached and will also be available on-line on the front page of Intra Lee under COVID-19 Resources for Staff
   c. The employee may need to provide documentation, depending upon the qualifying reason.
   d. The employee’s leader will review application and confirm that the employee is not eligible for a telework arrangement and/or is non-essential (if applicable to LOA request).
e. The form is routed to the HR Call Center by fax to 239-424-4082 or e-mailed to employeeservicecenter@leehealth.org and reviewed by Lee Health Leave of Absence experts.

f. The Employee Service Center then sends a decision-notification email to the leader who then is responsible for communicating the decision to the employee.

**SECTION II: FEDERAL EMERGENCY PAID SICK LEAVE**

15. What are the qualifying reasons to apply for the Federal Emergency Paid Sick Leave?

**Answer:** Employee may be eligible to take leave if the employee is unable to work, including unable to telework, because the employee:

a. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

b. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; OR


d. Is caring for an individual who is subject to a quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

e. Is caring for a son or daughter whose school or other childcare provider has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.

f. Is experiencing any other substantially similar condition specified by the Department of Health and Human Services (HHS)

16. How much time off can an employee take for Federal Emergency Paid Sick Leave?

**Answer:** Full-time employees are eligible to receive up to 80 hours of Emergency Paid Sick time. The amount of time a Part-time/PRN employee is eligible to receive will depend upon their average hours typically worked over a two-week period.

17. How much is an employee paid for Federal Emergency Paid Sick Leave?

**Answer:** Paid sick leave is paid at 100% at the employee’s regular rate of pay for qualifying reasons a, b & c above, up to a maximum of $511/day, or 2/3 regular rate of pay for qualifying reasons d, e & f above, up to $200 daily.

18. Do employees need to use PTO when on Federal Emergency Paid Sick Leave?

**Answer:** No, an employee is not required to use PTO. An employee can choose to use PTO instead of receive the pay provided by the Emergency Paid Sick Leave.

19. Can an employee take two weeks of paid sick leave for self-quarantine and then another amount of paid sick leave for another reason under the Federal Emergency Paid Sick Leave Act?

**Answer:** No. An employee may only take up to two weeks—or ten days—(up to 80 hours for a full-time employee, or average hours per week over a typical two-week period for a part-time employee) of paid sick leave for any combination of qualifying reasons.

20. What if an employee has a documented exposure to COVID-19 at work and has been instructed to self-quarantine or self-isolate, will they be covered by Federal Emergency Paid Sick Leave?
Answer: Technically, yes. However, Lee Health’s Workers’ Compensation Program covers employees with a documented exposure at work and provides the employee with full pay while out of work due to the exposure. Because Lee Health’s Workers’ Compensation Program is more generous to employees who have a documented exposure at work, it is a better option than the Federal Emergency Paid Sick Leave.

SECTION III: EXPANDED FEDERAL FAMILY MEDICAL LEAVE

21. What are qualifying reasons to apply for Federal Expanded Family Medical Leave?
   Answer: An employee is entitled to take Expanded Family Medical Leave if the employee has been employed for 30 calendar days and is unable to work, including unable to telework, because the employee has a genuine need to care for a son/daughter (under age of 18) whose school or place of care is closed due to COVID-19.

22. How much time off can an employee take for Federal Expanded Family Medical Leave?
   Answer: Up to twelve weeks, including the two weeks of Federal Emergency Paid Sick Leave.

23. How much is an employee paid for Federal Expanded Family Medical Leave?
   Answer: The first 2 weeks are unpaid under Federal Expanded Family Medical Leave, but that is because the first 2 weeks are covered by Emergency Paid Sick Leave. Then the remaining 10 weeks are paid at 2/3 the employee’s regular rate of pay for the number of hours the employee would normally be scheduled to work, up to $200 daily. However, employees on Expanded Family Medical Leave must use all accrued Paid Time Off (PTO) during his/her Expanded Family Medical Leave. Once accrued PTO is exhausted, the balance of the Expanded Family Medical Leave will be paid at 2/3 the employee’s regular rate of pay, up to $200 per day.

24. If the employee qualifies for leave due to the need to care for a child whose school or place of child care is closed, does the employee receive Federal Paid Sick Leave, Expanded Federal Family Medical Leave, or both?
   Answer: If the employee has worked at least 30 calendar days, then the employee is eligible for both types of leave. The Federal Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first two weeks of Expanded Federal Family and Medical Leave, which are otherwise unpaid unless the employee elects to use accrued PTO. After the first two weeks, the employee must use PTO until exhausted and, then, will receive 2/3 of regular rate of pay for the hours the employee would have been scheduled to work (up to $200 daily).

25. Who is a son or daughter?
   Answer: A “son or daughter” is the employee’s own child, which includes biological, adopted, or foster child, stepchild, a legal ward, or a child for whom the employee stands in “loco parentis”—someone with day-to-day responsibilities to care for or financially support a child. A “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.
26. Can an employee qualify for Expanded FMLA if the employee has already used some or all of their leave under the Family and Medical Leave Act (FMLA)?

**Answer:** An employee may take a total of 12 work-weeks for FMLA or expanded family and medical leave reasons during a rolling 12-month period. Thus, if an employee has already taken 3-weeks of FMLA leave during the current 12-month period, the employee may take the remaining 9-weeks for expanded family medical leave. If an employee has already taken 12 work-weeks of FMLA leave during this rolling 12-month period, the employee may not take additional expanded family and medical leave.

**SECTION IV: LEE HEALTH SPONSORED EMERGENCY LEAVE OF ABSENCE**

27. What are the qualifying reasons for applying for the Lee Health Emergency Leave of Absence?

**Answer:** An employee is eligible to take a Lee Health Emergency Leave of Absence if the employee is unable to work, including unable to telework, and requests a leave of absence for the following reasons:
   a. The employee exhausted Paid Sick Leave but is still experiencing the same qualifying condition and is unable to return to work;
   b. The employee or an immediate family member with whom the employee lives is in a COVID-19 high-risk group as defined by the CDC;
   c. Federal, state or local authorities issued a “stay-at-home” order applicable to the employee; or
   d. The employee performs non-essential job role (job duties that are not essential to the continuity of Lee Health’s operations during the current pandemic state of emergency) and/or is not otherwise redeployed.

28. How much leave can an employee take under Lee Health’s Emergency Leave of Absence?

**Answer:** The Lee Health Emergency Leave of Absence program will extend through May 9, 2020, with the understanding that the employee may be recalled back to work upon reasonable notice and that the Lee Health Emergency Leave of Absence may be extended or modified.

29. How much is an employee paid while on a Lee Health Emergency Leave of Absence?

**Answer:** The employee is paid 2/3 their regular rate of pay for the number of hours the employee would normally be scheduled to work, up to $200 daily, through April 25, 2020. **Effective Sunday, April 26, the Lee Health Emergency Leave of Absence (LOA) program converts from a partially-paid LOA program to an unpaid LOA program through Saturday, May 9, 2020.**

30. Does an employee need to use PTO when on a Lee Health Emergency Leave of Absence?

**Answer:** Yes. Through April 25, 2020, if the employee has more than 80 hours of PTO, the employee must use their PTO first to cover the Lee Health Emergency Leave of Absence until 80 hours remain in their PTO bank. **Effective April 26, 2020, if the employee has accrued more than 40 hours of PTO, the employee must use PTO first to cover the Lee Health Emergency Leave of Absence until 40 hours remain in their PTO bank.**
SECTION IV- GENERAL LOA QUESTIONS

31. Do I need to inform employees of their right to take paid sick leave under the Act?
   **Answer:** Yes, employers will need to post a notice of the requirements of the Families First Coronavirus Response Act (DOL Poster is attached).

32. When can an employee start taking a COVID-19 related Leave of Absence?
   **Answer:** April 1, 2020

33. Are employees who are considered essential to direct patient care eligible to apply for an Emergency Leave of Absence?
   **Answer:** Yes. Employees essential to direct patient care may be eligible for Federal Emergency Paid Sick Leave, Expanded Federal Family Medical Leave, and the Lee Health Emergency LOA.

34. Do employee benefits continue while an employee is on one of the 3 Emergency LOAs?
   **Answer:** When the employee is on a Federal Emergency Paid Sick Leave or Federal Extended Family Medical leave, the employee’s current benefit deductions and contributions will be unchanged. During the 2-week period, April 26 to May 9, Lee Health will pay both the employer-portion and employee-portion of benefits for those employees in the Lee Health Emergency LOA program who do not have sufficient PTO to cover that pay period. Employees do not accrue PTO while on a LOA.

35. How is an employee’s “regular rate of pay” calculated for purposes of the Emergency LOAs?
   **Answer:** For employees with variable rates of pay, the employee’s regular rate is computed for each workweek and generally consists of all non-overtime compensation paid to the employee, divided by the number of hours worked in that workweek. The regular rate of pay is the average calculated over a period of 6 months prior to the date leave commences. If the employee receives different rates, such as a shift differential, these wages will be included. The Human Resources Department will work closely with the Payroll Department on these calculations.

36. Do employees need to have been employed for a certain length of time or work a certain number of hours to be eligible for one or more of the Emergency Leaves?
   **Answer:** All employees are eligible for Federal Emergency Paid Sick Leave and Lee Health's Emergency Leave of Absence as of their first day of employment. Employees must be employed for 30 calendar days to qualify for the Federal Expanded Family Medical Leave.

37. What if an employee has been with Lee Health for less than 30 days and is now quarantined? What leaves are available to he/she/they, if any?
   **Answer:** The employee will be eligible for Federal Emergency Paid Sick Leave and Lee Health’s Emergency Leave of Absence. However, if the employee is quarantined due to a documented exposure at work, the employee will be coded in Kronos by the leader using the Disaster Pay code. If the employee tests positive for COVID-19 it is covered by Lee Health’s Workers’ Compensation (WC) program and WC staff will ensure the employee is paid his/her full rate of pay for work time missed.
38. What about Lee Health’s already existing Short Term and Long Term Disability Plans and Leaves of Absence and Family Medical Leave policies? Are these still in place?  
Answer: Yes, those remain in effect. The 3 Emergency LOAs are limited to covering the conditions specified for each COVID-19 related Emergency LOA.

39. Are the leaves retroactive?  
Answer: No. The leaves are not retroactive. The Federal Emergency Paid Sick Leave and the Federal Expanded Family Medical Leave covers the period between April 1 and December 31, 2020. The Lee Health Emergency Leave of Absence covers the period between April 1 and May 9, 2020, subject to early recall upon reasonable notice, modification and/or extension.

40. Will the employee be expected to perform any special timekeeping/pay-code requirements in Kronos while on an Emergency Leave of Absence?  
Answer: Human Resources is working closely with the Payroll Department to apply the 4 new pay codes which have been developed for use during the COVID-19 Emergency. Lee Health will be administering the 3 different Emergency Leaves of Absence and coding them appropriately.

Aetna will continue to administer Lee Health’s Short Term Disability and Long Term Disability Plans, as well as traditional Family Medical Leave. Aetna will not administer Emergency Leaves of Absence.

41. Are overtime hours worked by employees included when calculating pay for an Emergency Leave of Absence?  
Answer: The Paid Sick Leave Act caps leave at 80 hours for a two-week period (with a daily pay limit of $511 or $200 depending upon qualifying reason). However, neither the Lee Health Emergency LOA or the Expanded Family Medical Leave have a cap on hours (but both have a daily pay limit of $200). Rather, the Lee Health LOA and the Expanded Family Medical Leave provide that employees are paid 2/3 regular rate of pay ($200 daily cap) for the number of hours the employee would normally be scheduled to work. Accordingly, if an employee works overtime, the calculation to determine the number of hours scheduled will include overtime hours.

Example: Employee has been employed for 6 weeks and is scheduled to work every other Saturday (88 hours per pay period) as follows: Week 1 of pay period is 48 hours and Week 2 of pay period is 40 hours. Calculation: 48+40+48+40+48+40=264/6 weeks=44 hours per week on average. Therefore, employee will receive 2/3 regular rate of pay for 44 hours (but no more than $200 per day).

Please note, however, that pay does not include the premium for overtime hours under any Emergency Leave of Absence. Accordingly, an employee’s overtime premium is not used to calculate the employee’s regular rate of pay for purposes of calculating the amount of the paid leave benefit.

42. Does an employee have a right to return to work after taking an Emergency Leave of Absence?  
Answer: An employee is generally entitled to be restored to the same or an equivalent position. However, the employee is not protected from employment actions that would have affected them regardless of whether they took a leave of absence.
We realize this is a great deal of new information. Questions about COVID-19 Emergency Leaves of Absence should be directed to your HRBP, your HR Employee Relations Consultant or the HR Call Center at 239-424-3500.

We are Lee Health Strong! Thank you.