



FAMILIES FIRST CORONAVIRUS RESPONSE ACT POLICY

April 10, 2020

The following is The City of Lake Forest's policy implementing the Families First Coronavirus Response Act (FFCRA), and specifically the Family and Medical Leave Expansion Act (EFMLA), which amends the Family and Medical Leave Act and the Emergency Paid Sick Leave Act (EPSL).

Family and Medical Leave Expansion Act (EFMLA)

The Family and Medical Leave Expansion Act (Sec. 102(a)(1)(F)), provides that an employee who has been employed by the City for thirty (30) calendar days and who is unable to work or telework may be eligible and request a leave of absence to care for a son or daughter under age 18¹ due to a public health emergency which has resulted in the closure of an elementary or secondary school or the person or facility that had been providing child care services to the employee's child on a regular basis prior to the declaration of a public health emergency on January 31, 2020.

In order to qualify for this leave, the employee must:

1. Have worked for the City for thirty (30) calendar days at the time of the request.
2. Must not be identified by the City as an Emergency Responder. The City deems Emergency Responders to include all of the following positions:
 - City Manager
 - Department Directors
 - Sworn Police personnel
 - Sworn Fire personnel
 - Public Works employees
 - Parks, Forestry and Cemetery employees
 - Building Inspectors
3. Unable to Work (for purposes of childcare):
 - a. Must provide the following information:
 - i. The employee's name;
 - ii. The dates when leave is required;
 - iii. A statement that the Employee is unable to work because of the qualified reason for leave;
 - iv. The name and age of the child;
 - v. The name of the School, Place of Care, or Child Care Provider that has closed or become unavailable; and

¹ This Leave may also be available to care for a son or daughter older than 18, but only if the child has a disability and cannot care for himself due to that disability.

- vi. A representation that no other suitable person can care for the Son or Daughter during the period for which the Employee takes Paid Sick Leave or Expanded Family and Medical Leave.
 - b. City Review for Telework:
 - i. The City will review all applications for EFMLA benefits to determine whether the City can provide telework. Employees that are able to telework are not eligible for EFMLA benefits. The City may also consider restructuring the employee's work hours so that the employee is able to work without using EFMLA benefits.
4. Once the information set forth above is provided, the City will evaluate and discuss with the employee any alternate options or suggestions for enabling the employee to continue to perform work or telework in an alternate or flexible schedule. An employee may not refuse a work from home or telework assignment or refuse to work a modified schedule offered by the City and still be considered unable to work.
5. Once the determination is made that the employee is eligible for a leave under the EFMLA, the employee will be eligible to receive up to 12 weeks of leave, depending on how much FMLA leave the employee has used under the City's FMLA policy.
6. The first two weeks of leave under the Family and Medical Leave Expansion Act are unpaid. During the first two weeks of EFMLA leave, employees will ordinarily use paid sick leave under the Paid Sick Leave Benefit Act (if eligible) unless the employee elects to use his or her accrued benefit time.
7. If an employee is unable to work based upon any other FMLA qualifying conditions and/or qualifying conditions under the Paid Sick Leave Act, the employee must complete the Department of Labor's Certification of Health Care Provider Form for the employee, [Form WH-380-E](#), or their family member, [Form WH-380-F](#), as appropriate.
8. After the first two weeks of leave under the EFMLA, Sec. 102(a)(1)(F), an employee may be eligible for paid time off at the rate of two-thirds of the employee's regular rate of pay for the number of hours the employee would normally be scheduled to work. Employees will not be allowed to make up the difference through the use of other paid time off. The FFCRA limits the amount of required EFMLA to no more than \$200 per day and \$10,000 in total. The City has elected not to impose these daily pay caps at this time.
 - a. If an employee has a variable schedule and the City cannot determine the number of hours the employee would have worked in any week, then the number shall be determined based on:
 - i. the average number of hours the employee worked in the six months prior to the day leave was taken;
 - ii. OR, if the employee did not work for the six months prior to taking leave, the reasonable expectation of the employee at the time of hiring of the average number of hours per day the employee would normally be scheduled to work.
9. Intermittent Leave
 - a. Intermittent leave is allowed, with permission from the City, for expanded EFMLA leave. The City will consider the unique circumstances regarding the request for intermittent leave, such as the employee's availability to work remotely.

Paid Sick Leave Act (PSLA)

The Paid Sick Leave Act provides that an employee who is unable to work or telework may be eligible for emergency paid sick leave (EPSL).

In order to qualify for EPSL, the employee must:

1. Work for the City at the time of the request.
2. Must not be included by the City in the definition of an Emergency Responder. The City deems Emergency Responders to include the following positions:
 - City Manager
 - Department Directors
 - Sworn Police personnel
 - Sworn Fire personnel
 - Public Works employees
 - Parks, Forestry and Cemetery employees
 - Building Inspectors
3. Must be unable to work or telework for the following reasons:
 - a. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; or
 - b. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID- 19; or
 - c. The employee is experiencing symptoms of COVID- 19 and seeking a medical diagnosis; or
 - d. The employee is caring for an individual who is subject to an order as described in subparagraph (a) or has been advised as described in paragraph (b); or
 - e. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions; or
 - f. The employee is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.
4. Unable to work:
 - a. The City will review all applications for Paid Sick Leave Act benefits to determine whether the City can provide telework. Employees that are able to telework are not eligible for Paid Sick Leave Act benefits. The City may also consider restructuring the employee’s work hours so that the employee is able to work without using Paid Sick Leave Act benefits.
5. The employee must provide the City notice and the following information as soon as practicable after the first workday or portion of a workday for which an employee receives EPSL in order to continue to receive such leave:
 - a. The employee’s name;
 - b. The dates on which leave is requested;
 - c. The qualifying reason for leave;

- d. A statement that the employee is unable to work or telework as a result of the qualifying reason for leave; and
 - e. The following information, depending on the reason for the request for leave:
 - i. For reason 3(a), the name of the government agency that issued the quarantine or isolation order.
 - ii. For reason 3(b), the name of the physician who recommend the employee quarantine or isolate. If the employee has a serious health condition, the City may also require the employee to provide an FMLA medical certification form, [Form WH-380-E](#).
 - iii. For reason 3(c), the employee will be given leave subject to production of a note from a physician that the employee was examined by the health care professional as soon as possible. The City may excuse the requirement of a doctor’s note in extenuating circumstances. If the employee has a serious health condition, the City may require the employee to provide an FMLA medical certification form, [Form WH-380-E](#).
 - iv. For reason 3(d), the employee must provide either: the name of the government agency that issued the order, or the name of the physician, whichever applies. If the family member has a serious health condition, the City may also require the employee to provide an FMLA medical certification form, [Form WH-380-F](#).
 - v. For reason 3(e), the employee must provide: (1) the name and age of the child; (2) the name of the School, Place of Care, or Child Care Provider that has closed or become unavailable; and (3) a representation that no other suitable person is able to care for the Son or Daughter during the period for which the Employee takes Paid Sick Leave or Expanded Family and Medical Leave.
 - vi. For reason 3(f), if the employee has a serious health condition, the City may require the employee to provide FMLA certification Form [Form WH-380-E](#).
6. Employees eligible for paid sick leave benefits under the Paid Sick Leave Act will be paid as follows:
- a. Full-time employees under this policy are employees regularly scheduled to work at least 40 hours per week. Full-time employees will be paid for up to eighty (80) hours;
 - b. Part-time employees will be paid the average number of hours the employee worked during a two-week period.
 - c. If paid sick leave is requested for reasons set forth in paragraphs 3(a)(b) or (c), the employee will be paid their regular rate of pay. The Act has capped these payments at no more than \$511 per day and \$5,110 in total, but the City has elected not to impose these daily caps at this time.
 - d. If paid sick leave is requested for reasons set forth in paragraphs 3(d), (e), or (f), the employee will be paid no more than 2/3 of their regular rate of pay. Employees will not be allowed to make up the difference through the use of other paid time off.
7. Intermittent Paid Sick Leave
- a. For employees that are not eligible to work remotely:
 - i. Intermittent leave is allowed, with permission from the City, only for reason (e), caring for a child whose school or daycare is closed.
 - b. For employees that are able to work remotely:

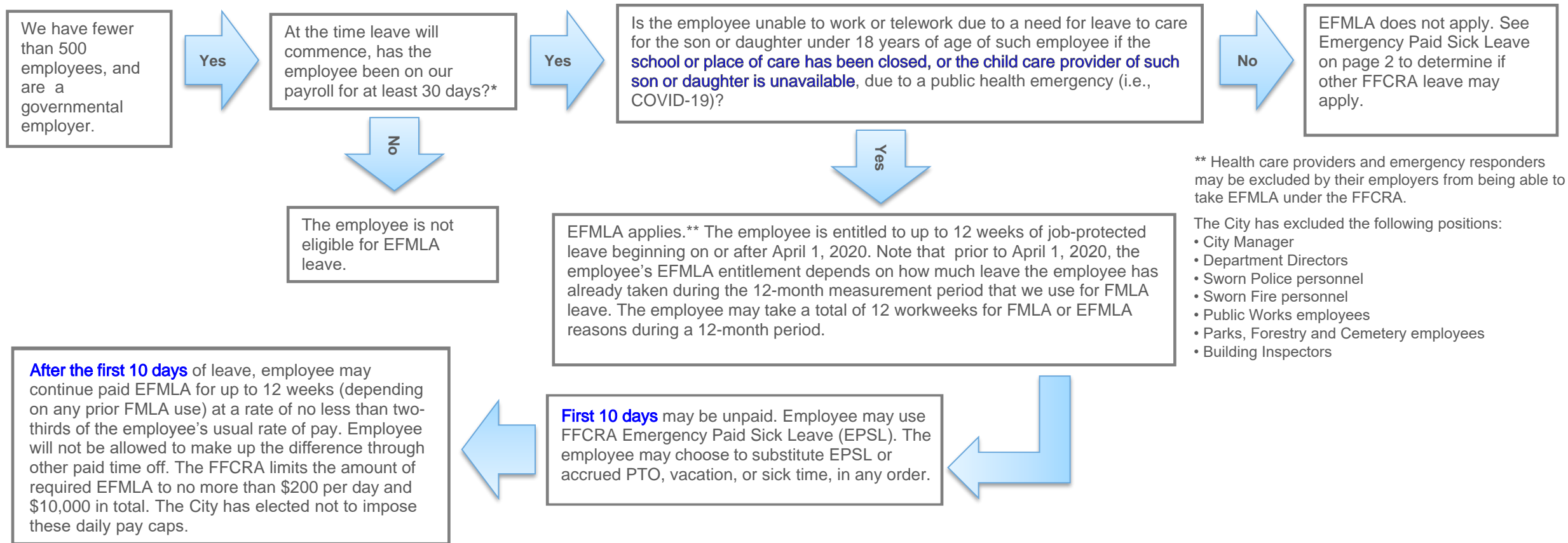
Families First Coronavirus Response Act – EFMLA and EPSL

- i. Intermittent leave is allowed, with permission from the City, for Emergency Paid Sick Leave. The City will consider the unique circumstances regarding the request for intermittent leave, such as the employee’s availability to work remotely and the reason for the request.
8. Paid sick leave shall end the next scheduled workday after the need for leave ends or once the employee has exhausted the benefits under this Policy.
9. Employees should use their Paid Sick Leave Benefits before using their accrued benefit time under the City policy.
10. Benefits under this policy end on December 31, 2020.



Families First Coronavirus Response Act (FFCRA) Leave

Family and Medical Leave Expansion Act (EFMLA)



** Health care providers and emergency responders may be excluded by their employers from being able to take EFMLA under the FFCRA.

The City has excluded the following positions:

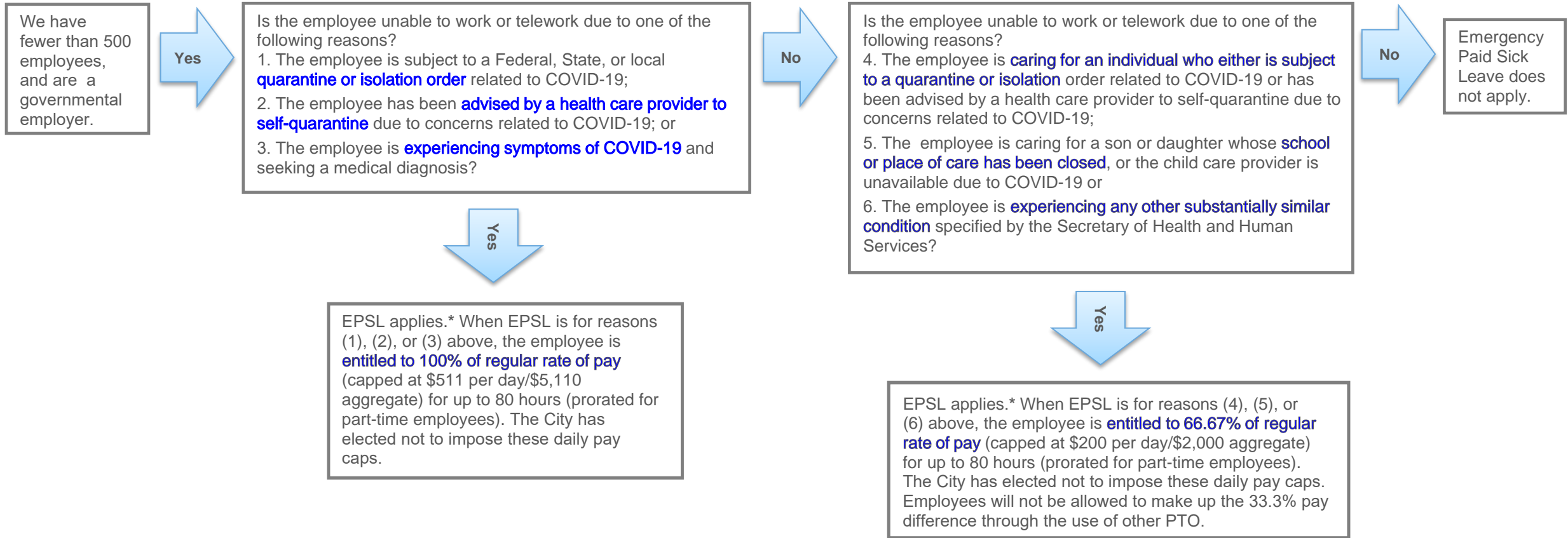
- City Manager
- Department Directors
- Sworn Police personnel
- Sworn Fire personnel
- Public Works employees
- Parks, Forestry and Cemetery employees
- Building Inspectors

* Employees who wish to begin leave on April 1, 2020, must have been on your payroll as of March 2, 2020. Note that an employee may be entitled to FMLA-protected leave prior to April 1, 2020 (see page 3). An employee who was laid off any time after March 1, 2020, will be eligible for paid Public Health Emergency Leave and Paid Emergency Sick Leave if he or she is then rehired.



Families First Coronavirus Response Act (FFCRA) Leave

Emergency Paid Sick Leave (EPSL)

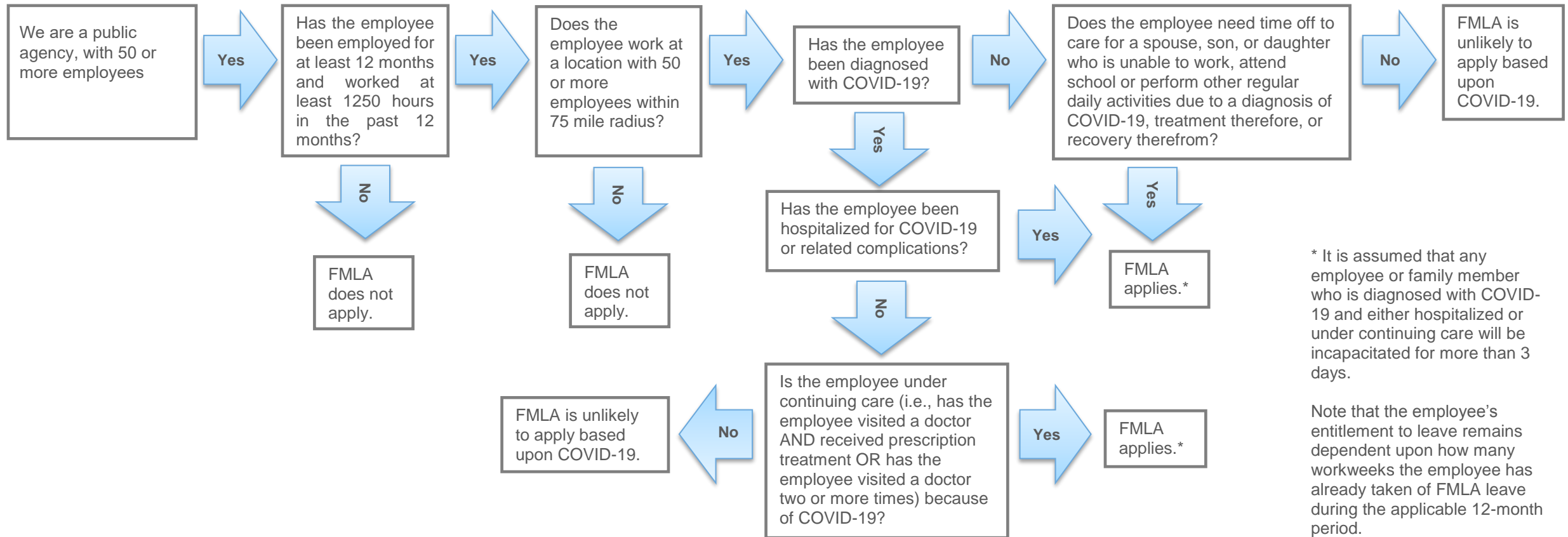


* Emergency Paid Sick Leave applies in addition to any other employer-paid time off. An employee who was laid off any time after March 1, 2020, will be eligible for Paid Emergency Sick Leave if he or she is then rehired by you. See page 1 for the list of positions excluded from being able to take Emergency Paid Sick Leave under the FFCRA.



Families First Coronavirus Response Act (FFCRA) Leave

Family and Medical Leave Act Leave (FMLA) and COVID-19



* It is assumed that any employee or family member who is diagnosed with COVID-19 and either hospitalized or under continuing care will be incapacitated for more than 3 days.

Note that the employee's entitlement to leave remains dependent upon how many workweeks the employee has already taken of FMLA leave during the applicable 12-month period.