

MSU Human Resources Q & A as of 3/31/2020

1. If someone is on FMLA+ do they still get paid Holidays?
 - a. Yes. It would be at 100% of their normal rate for those days.
2. If they are on this FMLA+ will their retirement contributions be at 2/3?
 - a. Yes. Because retirement contributions are based on a percentage and not a flat amount, these amounts would reflect the 2/3 payments.
3. For contracted employees, does the benefit end with their contract?
 - a. Yes, the FMLA+ is only for regularly scheduled hours. So, if their contract ends 5/15, they would not have any regularly scheduled hours. This FMLA+ is scheduled to last through December 30, 2020, so there may be some additional eligibility in the fall.
4. Can I take the FMLA+ if my spouse (or child's other parent) is taking it?
 - a. If one parent is home, then the other parent does not need to be home (except maybe in a situation where there are children with high disability-related needs). If an employee is attempting to use FMLA+ when they don't need to (they can telework, there is another parent or caregiver at home, etc.) the university can tell them they need to work. If they choose not to, it would be a conduct/job abandonment issue.
5. Who gets the final decision on whether an employee can telework?
 - a. The employer has the final decision, however, it should be made after communication with the employee.
6. Can the FMLA+ be used intermittently?
 - a. Yes, but only with prior permission from your supervisor.
7. May I take my COVID paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?
 - a. It depends on why you are taking COVID paid sick leave and whether your employer agrees. Unless you are teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:
 - You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 - You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 - You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 - You are caring for an individual who either 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; or
 - You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
8. If my employer is open, but furloughs me on or after April 1, 2020 (the effective date of the FFCRA), can I receive COVID paid sick leave or expanded FMLA?
 - a. No. If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take COVID paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

9. If my employer reduces my scheduled work hours, can I use COVID paid sick leave or expanded family and medical leave for the hours that I am no longer scheduled to work?
- a. No. If your employer reduces your work hours because it does not have work for you to perform, you may not use COVID paid sick leave or expanded family and medical leave for the hours that you are no longer scheduled to work. This is because you are not prevented from working those hours due to a COVID-19 qualifying reason, even if your reduction in hours was somehow related to COVID-19.
10. If I elect to take COVID paid sick leave or expanded family and medical leave, must my employer continue my health coverage? If I remain on leave beyond the maximum period of expanded family and medical leave, do I have a right to keep my health coverage?
- a. If your employer provides group health coverage that you've elected, you are entitled to continued group health coverage during your expanded family and medical leave on the same terms as if you continued to work. If you are enrolled in family coverage, your employer must maintain coverage during your expanded family and medical leave. You generally must continue to make any normal contributions to the cost of your health coverage. See WHD Fact Sheet 28A: <https://www.dol.gov/agencies/whd/fact-sheets/28a-fmla-employee-protections>.

If you do not return to work at the end of your expanded family and medical leave, check with your employer to determine whether you are eligible to keep your health coverage on the same terms (including contribution rates). If you are no longer eligible, you may be able to continue your coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

11. Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?
- a. If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, if your employer was covered by the FMLA prior to April 1, 2020, your eligibility for expanded family and medical leave depends on how much leave you have already taken during the 12-month period that your employer uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current 12-month period determined by your employer, you may take the remaining portion of leave available. If you have already taken 12 workweeks of FMLA leave during this 12-month period, you may not take additional expanded family and medical leave.

For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.