



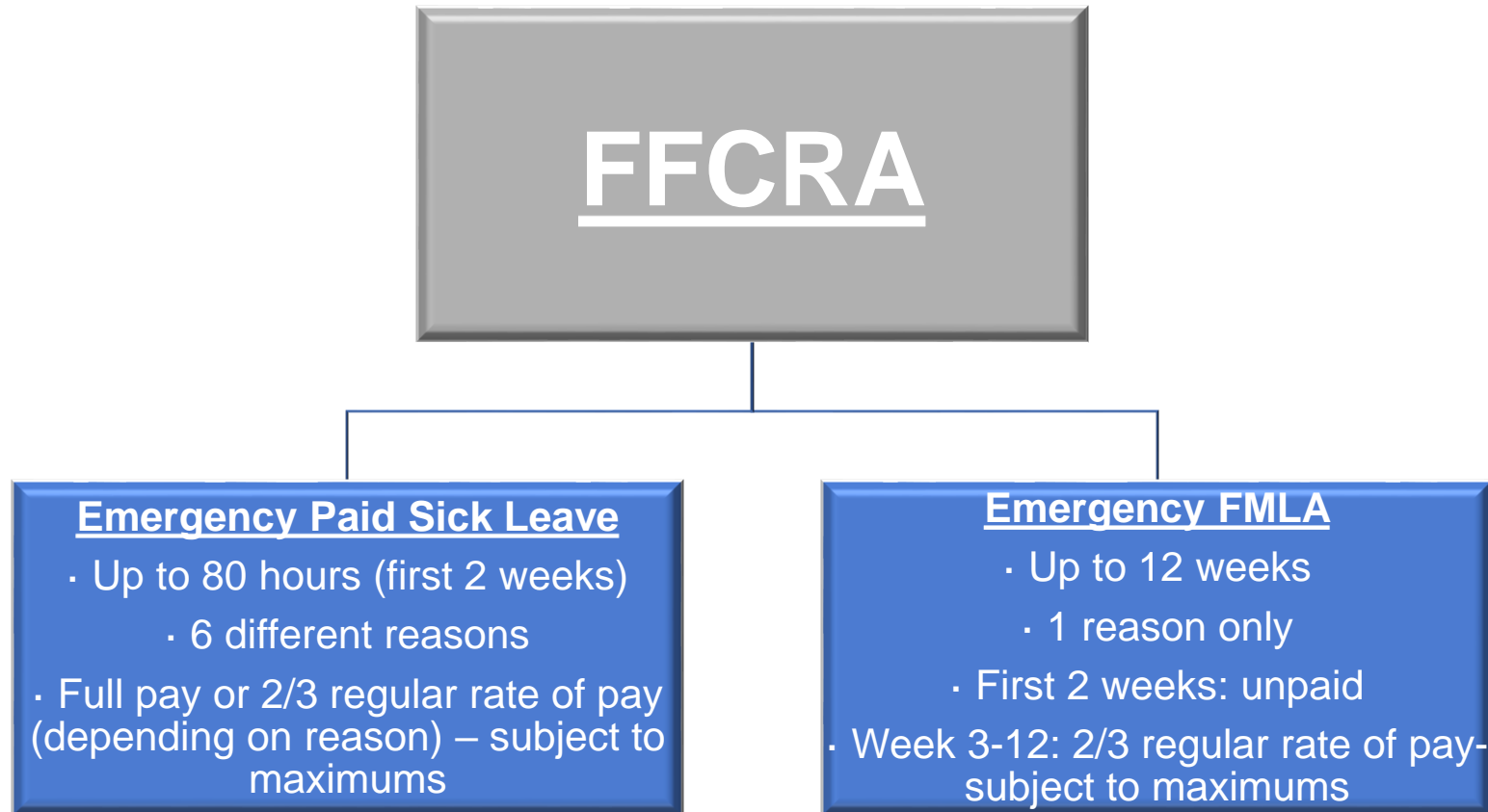
**Human Resources  
Employee Benefits and Services Division**

# E-FMLA and Emergency Sick Leave

## COVID-19

April 3, 2020

- Division C of bill H.R. 6201, which was passed as of 3/18/2020, includes several new paid leave provisions.



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

## Eligibility

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*

# Emergency Paid Sick Leave Act (E-PSL)

*Unlike E-FMLA, all employees may be eligible for E-PSL regardless length of employment*

Employee unable to work or telecommute because of one or more of the qualifying reasons for E-PSL related to coronavirus (COVID-19):

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

Benefits covered under E-PSL:

## 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)

Integration of own leave is allowed to maintain 100% pay

- Employees who are telecommuting (not reporting to a worksite), may use E-PSL (and/or E-FMLA) on an intermittent basis.
- Employees who qualify for E-PSL #5 below, may use E-PSL (and/or E-FMLA) if they are telecommuting and/or reporting to a worksite.



Employee is caring for own child if the child's school or place of care has been closed due to COVID-19 related reasons

## Healthcare Worker & Emergency Responder:

- Only eligible for E-PSL if meets qualifying reason 2 or 3



Employee has been advised by a health care provider to self-quarantine



Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis

- May be eligible for traditional FMLA and/or Disability Benefits if eligibility below is met:
  - Worked 1,250 hours and has been with the County for more than 12 months before leave
  - Has own serious medical condition

# Scenario #1: Employee out on leave to take care of child due to school / place of care closure caused by COVID-19 (E-PSL reason #5 & E-FMLA)

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

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

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
- 55% of weekly wages, up to \$1,300 for up to 52 weeks
- Employee may integrate leave balance to maintain 100% pay



# Scenario #3: Employee out on leave for a quarantine order related to COVID-19 (E-PSL reason #1)

## Emergency Paid Sick Leave (paid) – 2 weeks

- Employee's unable to telecommute as their job duties cannot be performed via telecommute
- Eligible immediately
- Receive pay up to 80 hours, cap at \$511 per day

- 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 conditions and meeting the eligibility requirement

# Voluntary Time Off – Expanded

Voluntary Time Off provisions have been temporarily extended (Expanded VTO) to allow employees to continue to their benefits 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 subsidy, they will need to mail their payment to the Employee Benefits and Services Division

An employee statement may be requested for E-FMLA and/or E-PSL, pursuant to federal guidelines.

## For quarantine, self-quarantine or isolation order:

- Provide a statement (e-mail or letter) which includes the name of the government entity ordering quarantine or the name of the health care professional advising self-quarantine, and
- If the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee

## For child's school closure or child care is unavailable:

- Provide a statement (e-mail or letter) that includes all of the following:
  - Name and age of the child (or children) to be cared for,
  - Name of the school that has closed or place of care that is unavailable,
  - 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,
  - A statement that special circumstances exist requiring the employee to provide care for a child older than age 14 during daylight hours.

All requests for proof shall be made in compliance with the Labor Code and other law

Supervisors are encouraged to use appropriate discretion when requesting doctor's note in light of COVID-19's impact to the health care system

Contact your Department Human Resources Officer for questions

# Time Reporting Codes (TRC)

There are four TRC codes tied to emergency leave provisions:

Emergency Family Medical Leave (EMFML)

Emergency Paid Sick Leave (EMPSL & EMPSF)

Emergency Paid Sick Leave Healthcare/Emergency Responder (EMPHC)



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

- Differentials Pay
  - Bilingual Pay
  - Longevity Pay
  - On call
  - Shift Differentials
- E-PSL & E-FMLA Calculator: coming soon

# TRC Example #1: Employee out on leave to take care of child due to school / place of care closure caused by COVID-19 (E-PSL reason #5 & E-FMLA)

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.

# TRC Example #2: Employee out on leave of absence for own illness related to COVID-19 (E-PSL reason #3)

## 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



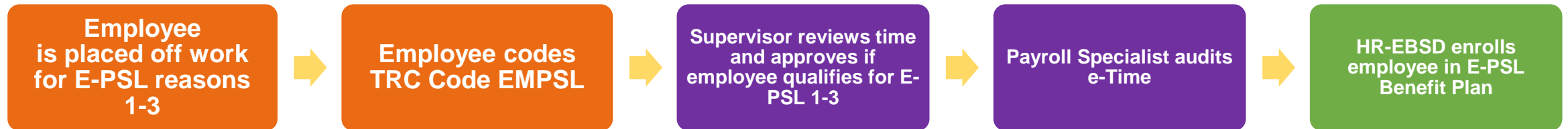
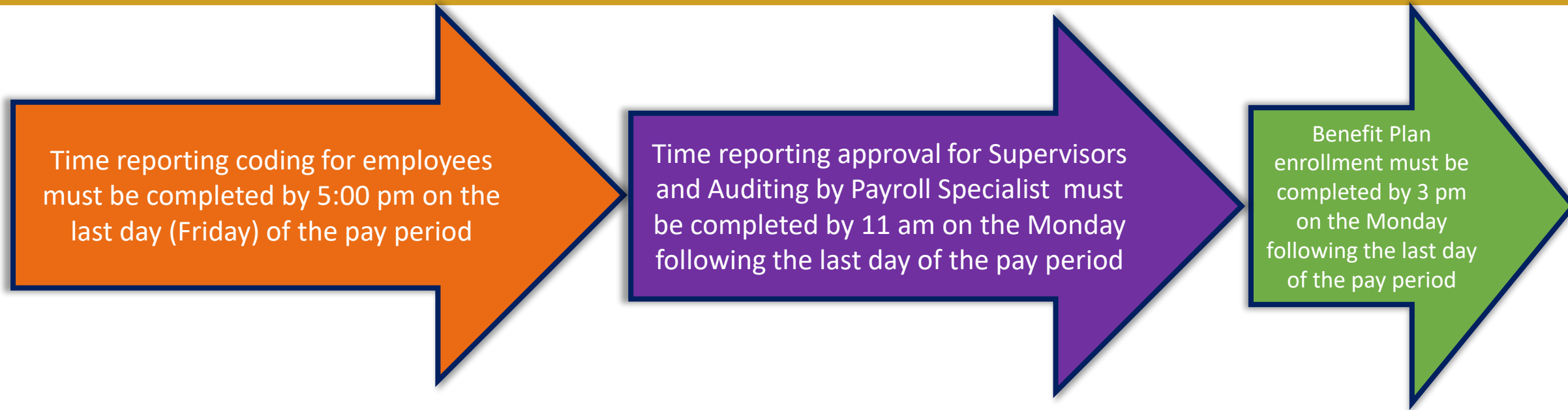
# TRC Example #3: Employee out on leave for a quarantine order related to COVID-19 (E-PSL reason #1)

## Emergency Paid Sick Leave (paid) – 2 weeks

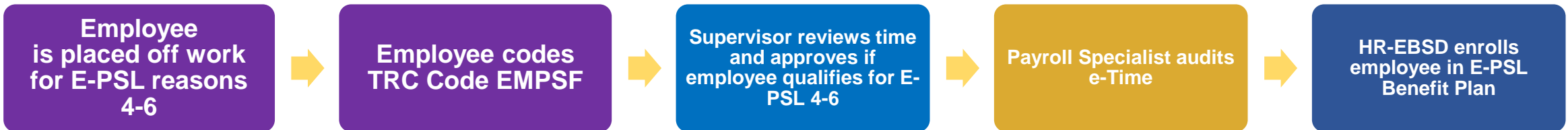
- **EMPSL** code for own medical condition related to COVID-19
- Receive full regular rate of pay, capped at \$511/day
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- Employee may code/integrate own leave accruals
- Employees who fit the definition of non-essential employee and who are unable 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

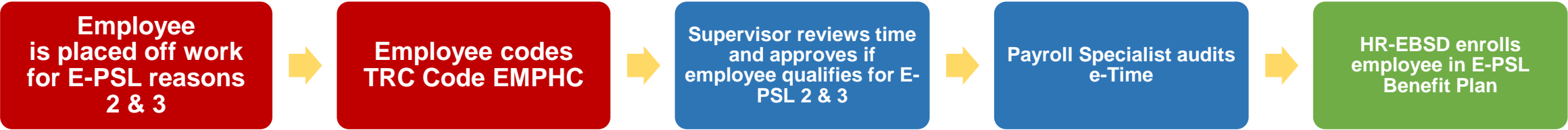
# Emergency Paid Sick Leave Reasons 1-3



# 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 eTime



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

# 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:

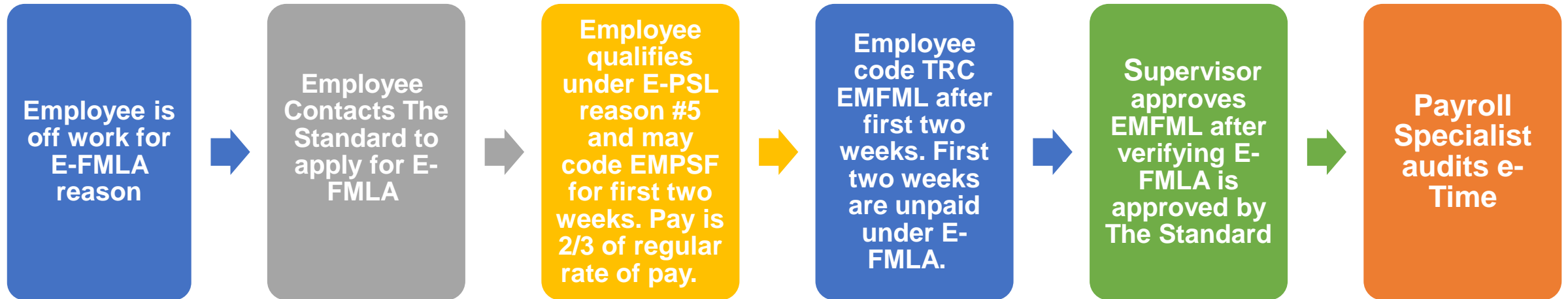
- Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

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

# Emergency Family Medical Leave Act (E-FMLA) Time Reporting

Effective April 1, 2020, employees are eligible for the Emergency Family Medical Leave (E-FMLA) if they meet the qualifying reason below. Employee must be unable to work or telework as a result of the one qualifying reason.

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



# 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.



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](http://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](mailto:AbsenceQuestions@Standard.com)

## Coronavirus Resources

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