

**FAQ’s on Intermittent Use of Emergency Paid Sick Leave and Expanded FMLA**

April 3, 2020

Per recent clarification from the Department of Labor (DOL), DeLong’s, Inc. (hereafter referred to as “the Company”), has amended the policy regarding intermittent use of Emergency Paid Sick Leave and expanded leave under the Family and Medical Leave Act (FMLA).

This document is intended to be a summary of the full FMLA and Sick Leave policy. Please refer to that policy for full details.

Intermittent use of Expanded FMLA

The expanded (paid) portion of FMLA applies **only** to being unable to work or telework because you are caring for your child whose school or place of childcare is closed (or childcare provider is unavailable) due to COVID-19 issues.

The first 10 days of leave are **unpaid**. After the initial 10days, this leave is paid at 2/3 of an employee’s regular rate of pay, up to a max of $200 a day, or $25.00 per hour. Emergency sick leave may be used to cover the 10-day unpaid period.

This leave may only be used intermittently when:

* The employee has been approved for and is able to perform a significant amount of their duties via telework and has submitted a schedule for ongoing intermittent leave to HR. The schedule must be approved by the employee’s supervisor, applicable manager, and HR, or
* The employee has submitted a schedule for ongoing intermittent leave to HR and the schedule has been approved by the employee’s supervisor, the Production Manager, and HR.
* Employees will be entitled to utilize this leave for up to two (2) qualifying leave incidents that are not of a periodic or schedulable nature. Additional unscheduled leave will not be entitled to intermittent use under this policy.

Leave in these situations must be taken in full or half-shift increments: four (4) hours for First Shift and five (5) hours for Second Shift.

Intermittent use of Emergency Sick Leave

Emergency paid sick leave may **only** be used on an intermittent basis if you are unable to work or telework because you are caring for your child whose school or place of childcare is closed (or childcare provider is unavailable) due to COVID-19 issues. For all other reasons, the leave must be used in full-shift increments.

If an employee returns to work prior to exhausting their 80-hour emergency sick leave entitlement, they would be entitled to use any remaining emergency sick leave for a new qualifying absence occurring before December 31, 2020.

If an employee returns to work after exhausting their 80-hour emergency sick leave entitlement, they will not be entitled to any additional emergency paid sick leave hours, even if they have another qualifying absence before December 31, 2020.

**FAQ’s**

Do I still have to call in and report my absence?

**Yes.** All normal call-in requirements still apply for unscheduled absences. Due to record keeping requirements under this new legislation, it is very helpful if all employees using expanded FMLA or emergency paid sick leave report these absences per our Attendance and Time Policy. This will also help ensure your time is coded correctly.

What is an approved schedule for intermittent use?

**It can depend.** For example, if an employee can only find secondary care for their child on Mondays, Wednesdays, and Fridays, they would need to turn in a request for intermittent schedule for taking leave on Tuesdays and Thursdays. The employee would need to submit that request to HR. The approval decision will be made between the employee’s supervisor, applicable manager, and HR. HR will notify the employee of the approval decision. If approved, this employee would take intermittent emergency sick/expanded FMLA on Tuesdays and Thursdays, and work Mondays Wednesdays, and Fridays.

What is unscheduled intermittent use?

**This leave is does not occur on a predictable schedule.** Unlike the example above, this is leave that is taken without a set schedule. An example would be, if an employee has found secondary care, but that care falls through, and the employee needs to take leave for an unknown period of time to locate other care. Under our policy, an employee would be able to use leave up to two times for such an unscheduled situation.

Can I take this intermittent sick leave in any amount?

**No.** The smallest increment for which sick leave may be used is a half-shift (4 hours on First Shift and 5 hours on Second Shift).

Can I take this intermittent expanded FMLA leave in any amount?

**No.** Unscheduled expanded FMLA may only be used in half-shift (4 hours on First Shift and 5 hours on Second Shift) or full-shift increments. An approved intermittent schedule may be permitted to take leave in smaller amounts, but that would be pending approval from the Company.