April 17, 2020

**NOTICE TO EMPLOYERS REGARDING FEDERAL PAID LEAVE PROGRAMS FOR YOUR EMPLOYEES**

We recently sent you a notice to post in your home about the new federal Paid Leave benefits for employees. We are writing to provide you with additional information regarding how your Personal Care Attendants (PCAs) can access the Paid Leave benefits and your rights under the federal programs. Please note that **your individual budget will not be used to pay for the benefits.** Under the Federal Leave Programs your PCAs may utilize this benefit at no cost to you. The benefit payments to PCAs are in addition to the funds you have to pay for hours of support.

1. **What Are The New Federal Leave Programs?**

The federal government recently passed the Families First Coronavirus Response Act (Act). The Act created two Paid Leave programs: (1) Paid Sick Leave directly related to COVID 19 - up to two weeks (80 hours) of Paid Time-Off. This benefit is available to all PCAs no matter how long they have worked for you; and (2) Expanded Family and Medical Leave (EFMLA) directly related to COVID-19 - up to 12 weeks off. Two weeks unpaid and 10 weeks Paid Time-Off. However, the Paid Sick Leave and Expanded FMLA benefits are designed to work together so that Paid Sick Leave can be taken at the same time as Expanded FMLA and provide pay during the two unpaid weeks under the Expanded FMLA program. This overlap in benefits allows PCAs to receive 12 weeks of paid time off if they qualify for Expanded FMLA*.*  Expanded FMLA is only available to PCAs who have worked for you for at least 30 days. Both of these benefits are available to PCAs from April 1, 2020 - December 31, 2020. PCAs may be eligible to use both programs for a combined 12 weeks to 14 weeks off.

1. **Are My PCAs Eligible for Paid Leave Benefits?**

As an employer with under 500 employees you must offer the Paid Leave programs to your PCAs.

Your PCAs may be able to use both programs. There are six ways that your PCA can qualify for Paid Sick Leave and one way that your PCA can qualify for Expanded FMLA.

The eligibility criteria for the Paid Sick Leave and Expanded FMLA programs are slightly different, but both require that the reason for taking the leave be directly related to COVID-19. See the attached detailed program bulletin for a complete review of eligibility criteria.

1. **How Long Can My PCA Be Out On Leave?**

*Paid Sick Leave* may be taken for up to six different COVID-19 related reasons. A PCA may take up to 2 weeks Paid Sick Leave (up to 80 hours) if they qualify.

*The Expanded FMLA Program* provides up to 12 weeks off, the first 2 weeks are unpaid and the remaining 10 weeks are paid. However, the Paid Sick Leave and Expanded FMLA benefits are designed to work together so that Paid Sick Leave can be taken at the same time as Expanded FMLA and provide pay during the two unpaid weeks under the Expanded FMLA program. This overlap in benefits allows PCAs to receive 12 weeks of paid time off if they qualify for Expanded FMLA*.*  This can only be used for childcare reasons related to COVID-19.

*If your PCA qualifies for both the Paid Sick Leave and Expanded FMLA* – Generally, if the PCA is taking leave due to childcare reasons related to COVID-19 the PCA could be out on leave for up to 12-14 weeks, depending on how the time is used.

1. **How Do My PCAs Request Paid Leave?**

The PCA must do the following to receive paid leave:

1. Verbally inform you the day they plan to begin taking leave that they will be out on leave and identify the reason for the leave. Employers are not permitted by law to require advanced notice of leave but PCAs may provide advanced notice as a courtesy if they wish.
2. Contact your FI and inform them that one of your PCAs will be taking leave and provide the FI with the required information. PCAs should Email or call the FI to learn what required information and documentation is needed to request paid leave.

Allied Community Resources: Phone (866) 275-1358 or E-mail covid19@alliedgroup.org

Sunset Shores: Phone 1-800-887-0647 enter 206 during message or E-mail covid19@sunsetshoresfi.com

**Action You Need to Take**: After the PCA tells you they are taking leave, the PCA should be directed to inform the FI. The FI will then contact you with more information. See below.

1. Ensure that proper proof of eligibility is submitted to the FI.

After Hearing from Your PCA, The Fiscal Intermediary Will Do the Following:

1. Contact you to verify authorization of leave. If the FI does not reach you in-person, a message will be left informing you that one of your employees has filed for Paid leave. The message will specify:
	1. the name of the employee requesting the leave;
	2. the type and duration of leave applied for; and
	3. inform you that you do not need to take any action unless you want to deny the leave by claiming an exemption as the employer of a health care worker. Specifically, you will be instructed that you have 24 hours to call the FI and inform them if you desire to deny Paid Leave through the exemption process.
2. Review the documentation/reason for the requested leave provided by the PCA.

 (3) Pay the leave benefit(s) to the PCA upon review and approval of documentation.

1. **Do I Have to Approve Paid Leave? If so, How Do I Do That?**

If the PCA meets the eligibility criteria for the Paid Family Leave Programs then they are entitled to the benefits. However, the federal law allows employers of health care workers to claim an exemption and not authorize paid leave. PCAs are health care workers and, therefore, as the employer of a health care worker you do have the right to deny paid leave. The U.S. Department of Labor has issued the following statement in regards to the health care provider exclusion: **“To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the Families First Coronavirus Act”**. As a reminder, the money for the paid leave does not come from your individual budget. It is a benefit that is fully paid by the federal government.

Your Fiscal Intermediary will call you as soon as the PCA informs them of their intention to take leave and request your verbal authorization.

**(6) How Do I Know If My PCA Meets the Eligibility Criteria for the Paid Leave Programs?**

Your Fiscal Intermediary will handle this for you. Once the FI is notified of the PCA’s intention to take Paid Leave and your authorization is confirmed, the FI will work with the PCA to obtain the needed documentation/verification. If upon review, the FI does not believe the PCA meets the eligibility criteria, the FI will e-mail (or mail if no e-mail is available) a notice of denial to the PCA and also send a copy to you. The FI will also immediately contact you and explain why the PCA does not qualify so that you can call the PCA and discuss their return to work. You may request that the FI contact the PCA for you.

1. **If My PCA Takes Paid Leave Will That Affect My Individual Budget?**

No. Paid Leave is a federal program that uses additional federal funding. It does not come out of your individual budget.

1. **Do I Need to Submit Timesheets for My PCA to Receive Paid Leave?**

No. You and/or your PCA do not need to submit timesheets to receive payment through the federal Paid Leave programs.

 **(9) If My PCA Takes Paid Leave Can Another PCA Work More Than 40 Hours Per Week for Me?**

Yes. During the COVID-19 outbreak PCAs may be approved for more than 40 hours per week under certain circumstances. If you need a PCA to work overtime, for both DDS and DSS services please contact your Case Manager immediately. If you are uncertain about how to contact your DSS case manager or access agency, you should choose the number below that is closest to where you live:

Eastern CT: 1-860 885-2960

Northeast CT: 1-860 589-6226

Northwest CT: 1-800-870-1852

Western CT: 1-203 465-1000

Southwest CT: 1-203 333-9288

South Central CT:1-203 752-3040

 **(10) My PCA Took Leave And Now I Do Not Have Care. What Do I Do?**

You should have a back-up plan that you can access. If you find yourself without care, immediately contact your Case Manager.

**(11) I Want More Details. How Do The Paid Leave Programs Work? What Benefits Will My PCA Receive?**

See the attached Detailed Program Bulletin for more information.

**Federal Paid Leave Programs – Employer Bulletin**

**April 17, 2020**

**Purpose of This Employer Bulletin**

The purpose of this Employer Bulletin is to provide additional detailed information on the two federal Paid Leave programs that may be available to your employees.

**SUMMARY OF BENEFITS**:

The recently enacted federal Families First Coronavirus Response Act (Act) created two Paid Leave programs for employees who work for employers with less than 500 employees and some government entities. These benefits are available to employees from April 1, 2020 to December 31, 2020.

The first program provides employees with up to two weeks of Paid Leave due to any one of six reasons related to the COVID-19 virus. The amount of leave an employee is entitled to is based on the number of hours the employee normally works in a week, up to maximum of 80 hours over a two per period. **This benefit is available to all employees no matter how long they have worked for you.**

The reasons that qualify an employee to receive the two weeks of Paid Leave and the amount they are eligible to receive in pay are as follows:

1. An employee is subject to a Federal, State or local quarantine or isolation order relative to COVID-19 (100% of pay up to $511 per day);
2. An employee has been advised by a health care provider to self-quarantine related to COVID-19 (100% of pay up to $511 per day);
3. An employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis (100% of pay up to $511 per day);
4. An employee is caring for an individual subject to an order described in reason #1 or self-quarantine as described in reason #2 (2/3 of pay up to $200 per day);
5. An employee is caring for his or her child whose school or place of care is closed (or care provider is unavailable due to COVID-19 related reasons (2/3 of pay up to $200 per day); or
6. An employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services (2/3 of pay up to $200 per day).

The second program provides employees with up to 10 weeks of Paid Leave for the following reason:

1. An employee is caring for his or her child whose school or place of care is closed (or care provider is unavailable due to COVID-19 related reasons (2/3 of pay up to $200 per day).

**This second Paid Leave program is only available to your PCAs who have worked for you for at least 30 days.**

**Through the combination of the two Paid Leave programs, a PCA can be eligible for up to 12 weeks of Paid Leave.**

**PROCESS FOR PCAS TO REQUEST PAID LEAVE AND DOCUMENTATION**:

A PCA must first request the Paid Leave from you. Second, the PCA must contact your FI and inform them that they will be taking leave and provide the FI with the required information and documentation - Allied Community Resources: Allied Community Resources: Phone (866) 275-1358 or E-mail covid19@alliedgroup.org or Sunset Shores: Sunset Shores: Phone 1-800-887-0647 enter 206 during message or E-mail covid19@sunsetshoresfi.com. The FI will instruct the PCA to provide them with the following documentation:

1. PCA’s name;
2. Date(s) for which leave is requested;
3. Qualifying reason for the leave (see the six reasons above for the two week Paid Leave programs and the one reason for the 10 week Paid Leave program);
4. Oral or written statement that the PCA is unable to work because of the qualified reason for leave.

The following additional documentation is required based on the qualifying reason for the leave:

* If a PCA’s qualifying reason is that they are subject to a Federal, State or local quarantine or isolation order they also need to provide the name of the government entity that issued such order.
* If a PCA’s qualifying reason is that they have been advised by a health care provider to self-quarantine they also need to provide the name of the health care provider who issued such advice.
* If a PCA’s qualifying reason is that they are caring for an individual subject to a quarantine or isolation order or who has been advised by a health care provider to self-quarantine they also need to provide either the name of the government entity that issued such order or the health care provider that issued such advice.
* If a PCA’s qualifying reason is that they are caring for their child whose school or place of care is closed they also need to provide: 1) the name of the child being cared for; 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 will be caring for their child during the period for which the PCA takes Paid Leave.

**YOUR RIGHTS UNDER THE PAID LEAVE PROGRAMS**:

Under the Act, employers have the right to exclude, on a case-by-case basis, Paid Leave benefits from employees who are determined to be health care providers or emergency responders. PCAs are considered health care providers under the Act. Please note that the U.S. Department of Labor has issued the following statement in regards to the health care provider exclusion: **“To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the Families First Coronavirus Act”.**

**INDIVIDUAL BUDGETS**:

Please note that your individual budget will not be affected in anyway if your PCAs utilize Paid Leave benefits under the federal Act. **The amount paid for Paid Leave benefits will not reduce your individual budget.**

**FOR MORE INFORMATION**:

For more information, please visit the State’s dedicated Frequently Asked Questions (FAQ) document for Medicaid Consumers Self-Directing Their Own Services and their Nonagency-Based Home Care workers available on the PCA Workforce Council web site <https://portal.ct.gov/pcaworkforcecouncil/>. The FAQ document will be updated regularly as needed. If your specific question is not addressed in the FAQ please e-mail your question to PCACouncil@ct.gov and include “COVID-19 Question” in the subject line.