DATE: April 8, 2021
TO: Top Management
FROM: Mark Washington, City Manager
SUBJECT: City Manager Administrative Order 2021-02: Extension of Emergency Paid Sick Leave (EPSL) and Expanded Family Medical Leave (EFMLA)

Under provisions of the American Rescue Plan Act (ARPA) passed in March 2021, employers may extend certain leave provisions originally offered through the Families First Coronavirus Protection Act of 2020 (FFCRA). As part of our commitment to employee health and safety, the City of Grand Rapids is providing extension of these benefits from April 1 through September 30, 2021.

Emergency Paid Sick Leave (EPSL)
The ARP allows employers to provide up to 80 hours of paid sick time for employees based on certain conditions related to the COVID-19 pandemic. This benefit went into effect on April 1, 2021 and is not retroactive. Any leave provided under previous FFCRA requirements is considered expired and employees will have access to a new bank of hours under ARPA with several additional qualifications. This applies to all City employees, regardless of duration of employment.

1. This benefit provides up to 80 hours of paid sick leave at the employee's regular rate of pay if the employee is unable to work because:

   a. The employee is subject to quarantine or isolation pursuant to a Federal, State or local government order or the advice of a health care provider;
   b. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
   c. The employee is caring for an individual subject to quarantine or isolation pursuant to a Federal, State or local government order or the advice of a health care provider; or
   d. The employee is caring for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19
i. In recognition of the unique circumstances, the City of Grand Rapids is interpreting this to include circumstances where a school may be open but providing virtual-only instruction, or where a caregiver has elected a virtual option for schooling.

2. The ARP adds the following allowances for use of EPSL:
   
   a. The employee is seeking or awaiting the results of a diagnostic test for, or medical diagnosis of, COVID-19, provided that the employee has been advised of a potential exposure or the City has requested that the employee obtain such test or diagnosis;
   b. The employee is obtaining immunization related to COVID-19; or
   c. The employee is recovering from an injury, disability, illness or condition related to an immunization for COVID-19.

3. To provide for additional flexibility, the City will allow employees to combine EPSL with telework/alternative work schedules where the work requirements may allow for such an arrangement.

4. Emergency responders/employees working in essential functions must receive prior authorization from their supervisor and Labor Relations before utilizing EPSL for reasons other than 1(a-b) or 2(a) above.
   
   a. “Essential functions” has been defined by the Department of Labor as “…law enforcement officers, correctional institution personnel, firefighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.”
   b. If an employee is uncertain of their status as an essential worker, they should verify with their supervisor and Labor Relations.

5. This benefit will apply to part-time employees based on their average number of hours worked.

6. Any employee wishing to utilize EPSL should do so through normal leave request processes.

7. Aside from this benefit, the City will continue to allow the use of an employee’s accrued leave for issues related to COVID-19.
8. These rules may be subject to updates and modification based on new or updated federal laws and/or future guidance provided by the US Department of Labor.

**Applicability of Federally-Mandated Expanded FMLA Provisions (EFMLA)**
The ARPA provides for continuation of expanded FMLA eligibility originally outlined in the FFCRA. This benefit went into effect on April 1, 2021 and is not retroactive. This applies for any employee who has worked for the City for at least 30 days prior to April 1, 2021.

1. This benefit is available to any employee who is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.
   a. The City of Grand Rapids is interpreting this to include circumstances where a school may be open but providing virtual-only instruction, or where a caregiver has elected a virtual option for schooling.

2. Under new ARPA provisions, there is not a 10-day prerequisite to receiving EFMLA benefits provided the leave is for a qualifying event.

3. This benefit does not increase the 12-week limit on EFMLA eligibility. Any EFMLA hours taken under the FFCRA apply against the 12-week cumulative cap for this benefit.

4. Emergency responders/employees working in essential functions must receive prior authorization from their supervisor and Labor Relations before utilizing this extended FMLA leave benefit.
   a. "Essential functions" has been defined by the Department of Labor as "...law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility."
   b. If an employee is uncertain of their status as an essential worker, they should verify with their supervisor and Labor Relations.

5. This benefit is paid at 2/3 the employee's regular rate of pay.

6. EFMLA may be taken on an intermittent basis through September 30, 2021 as childcare/schooling may require. To ensure continuity of services, we...
encourage that any intermittent EFMLA taken for the purposes of childcare/schooling should be regularly scheduled and agreed upon with the employee’s supervisor.

7. Employees seeking to use the expanded FMLA benefit should do so using the standard FMLA procedures through Labor Relations.

8. These rules may be subject to updates and modification based on new or updated federal laws and/or future guidance provided by the US Department of Labor.

ENCOMPASS EAP Resources
Employees are reminded that there are a range of services available through ENCOMPASS WorkLife Services that may help in navigating through care options, including:

- Licensed childcare centers
- Licensed in-home childcare providers
- Licensed tutoring centers
- Licensed afterschool/before-school programs
- Other enrichment programs available in the employee’s area (camps, classes)

Employees may contact an ENCOMPASS work-life specialist to learn more about these programs and others that can provide support for families.

You are directed to implement these changes by Monday, April 12, 2021. Please work with your Deputy City Manager, Assistant City Manager or Managing Director to resolve any questions or concerns.

cc: Eric DeLong
    Doug Matthews
    Allison Farole