

Colorado Healthy Families Workplaces Act

Questions and Answers for Employees

December 2020

Eligibility

1. When does the Colorado Healthy Families Workplaces Act (HFWA) take effect?

The new HFWA law takes effect January 1, 2021.

2. How do I qualify for paid sick leave under HFWA?

You qualify for HFWA Leave by working for Kaiser Permanente (KP) in Colorado on or after January 1, 2021. Also, if you are a non-union or represented short hour, per diem and KP temporary employee who does not participate in a KP paid time off program, then you may be entitled to new leave accruals and protections per the HFWA.

3. Does HFWA Leave apply to all employees who work in Colorado?

No. Employees currently receiving paid leave benefits through KP already receive more paid time off than the amount an individual can accrue under HFWA leave, so these employees will not experience any change in the amount of paid time off accrued; however, they will be able to use their KP-provided paid leave benefits for all reasons allowed under the HFWA, and receive the protections described in Q #12 below.

4. For what reasons can HFWA Leave be used?

Eligible Colorado employees may use accrued HFWA leave to be absent from work for the following reasons:

- The employee has a mental or physical illness, injury, or health condition that prevents them from working; needs a medical diagnosis, care, or treatment related to such illness, injury, or condition; or needs to obtain preventive medical care; or
- The employee needs to care for a family member who has a mental or physical illness, injury, or health condition; needs a medical diagnosis, care, or treatment related to such illness, injury, or condition; or needs to obtain preventive medical care; or
- The employee or family member has been the victim of domestic abuse, sexual assault, or harassment and needs to be absent from work for purposes related to such crime;

- OR -

- **Public Health Emergency Supplemental Leave:** A public official has ordered the closure of the employee's place of business, or the school or place of care of the employee's child, due to a public health emergency, necessitating the employee's absence from work.

5. Who is considered an eligible family member?

Qualifying family members are:

- a) Immediate family (related by blood, adoption, marriage, or civil union); or
- b) Anyone else for whom the employee is responsible for providing or arranging health or safety related care

Amount of HFWA Leave

6. How can I determine how much HFWA Leave I have accrued?

Effective the first pay period of 2021, you will begin receiving bi-weekly notifications that will provide your HFWA Leave and Public Health Emergency (PHE) Supplemental Leave hours balances.

7. How much paid sick leave can I accrue?

Eligible employees accrue one hour for every 30 hours worked, up to 48 hours per year (*up to 80 in a public health emergency*), starting on the first day of work.

- **If you are an overtime-exempt employee** – you will accrue HFWA Leave as if you work 40 hours weekly, even if you work more
- **If you are a non-exempt employee** – you will accrue paid leave equally for all hours worked, whether or not the hours are overtime

8. Does HFWA leave carry over into the next year?

Yes. Any unused accrued HFWA Leave, up to 48 hours per benefit year, carries over for use in a later year – but you cannot use more than 48 hours in any one year.

Taking Time Off

9. When can I use HFWA Leave?

You are entitled to use HFWA Leave only after meeting the qualifications and accruing enough HFWA leave time to use for one of the stated purposes of the law (*refer to question #4*).

10. Does the new HFWA Leave affect Extended Sick Leave (ESL) benefits?

No. Employees may use their KP accrued paid time off for HFWA Leave needs, up to the point when ESL benefits may be used, or the circumstances otherwise qualify for using ESL. ESL, which is provided in addition to paid time off, can be used for any illness or injury that keeps you away from work longer than three (3) continuous calendar days, or on the first day of a hospitalization, or if undergoing an outpatient surgery. Visit HRconnect at kp.org/hrconnect to find out more about your ESL benefits.

11. Am I required to give advanced notice of the need to take HFWA Leave?

Yes. Employee notice “as soon as practicable” is required, but only when needing leave is “foreseeable,” such as for an appointment scheduled in advance, unless the employer is closed.

12. Can adverse action be taken against me for lawfully taking or requesting HFWA Leave?

No. KP is prohibited from denying an employee the right to use accrued sick days, discharging, threatening to discharge, demoting, suspending, or in any manner discriminating against an employee.

Public Health Emergency (PHE)

13. How am I provided HFWA Leave hours during a PHE?

You are immediately provided the additional HFWA Leave hours allowed for a PHE, which supplements whatever HFWA Leave you accrued before the PHE, with enough Supplemental Leave to assure you can take leave in the following amounts:

1. **If you normally work 40 or more hours**, 80 hours of total leave.
2. **If you normally work under 40 hours in a week**, the greater of the number of hours you:
 - a. are scheduled for work or paid leave in the upcoming 14-day period, or
 - b. actually work on average in the 14-day period prior to the declaration of the PHE

14. How soon can I use HFWA Leave hours for a PHE and for what reasons?

You can use the Supplemental HFWA Leave immediately upon the declaration of the PHE, until four (4) weeks after the end of the PHE, for any of the following reasons:

1. needing to self-isolate due to either being diagnosed with, or having symptoms of, a communicable illness that is the cause of the PHE;
2. seeking a diagnosis, treatment or care (including preventive care) of such an illness;
3. being excluded from work by a government health official, or by an employer, due to having exposure to, or symptoms of, such an illness (whether or not you are actually diagnosed with the illness);
4. being unable to work due to a health condition that may increase susceptibility or risk of such an illness; or
5. caring for a child or other family member in category (1), (2) or (3) or whose school, childcare provider, or other care provider is unavailable closed or providing remote instruction due to the emergency.

15. Do I continue to accrue my non-PHE HFWA Leave hours during a PHE?

Yes. You retain your accrued non-PHE HFWA Leave rights during a PHE. You will continue earning accrued HFWA Leave at your regular rate, up to 48 hours per year.

16. How do I use my HFWA Leave during a PHE?

You may use Supplemental Leave for any of the PHE qualifying condition reasons listed in question #14 before using accrued HFWA Leave, if the reason for leave would qualify for both.

Documentation and Notice Requirements

17. Do I have to show documentation for HFWA Leaves? If so, what type of documentation?

Yes.

1. Documentation will be required where the leave is **four (4) or more consecutive days** you would have ordinarily worked, but not for PHE leave.
2. The required documentation includes:
 - a. For leave for **health-related needs**: If you received services (including remotely) from a provider for the HFWA Leave need, a document from the provider indicating a HFWA-qualifying purpose will suffice. If you did not receive provider services or cannot obtain a provider document in time or without added expense, you can provide your own writing that your leave was for a HFWA need.
 - b. For leave for **safety-related needs** (domestic abuse, sexual assault, or criminal harassment): The same rules explained in 2a above apply, except that also, if applicable, you can provide a legal document indicating a safety need for the leave (e.g., a restraining order or police report).
3. Any such documentation KP receives will be treated as confidential medical records.
4. If your documentation is deficient, KP will:
 - a. notify you within seven (7) days of either receiving the documentation or your return to work (or separation, if you do not return); and
 - b. provide at least seven (7) days to cure the deficiency after being notified.

18. Do I need to provide notice if I take HFWA Leave?

Yes. The HFWA law requires notice “as soon as practicable”, but only when needing leave is “foreseeable,” such as for an appointment scheduled in advance, unless the employer is closed.

Coding and Tracking Time

19. If I am a short hour, per diem or KP Temporary employee and I request HFWA Leave and have available HFWA hours, what absence type do I use to code my time in Absence Management on HRconnect?

The absence type to use if you are a non-benefited employee is 'Accruing Colorado PSL.'

20. If I'm a benefited employee who was previously non-benefited and I have unused, accrued HFWA Leave hours, and take time off using those hours, what absence type do I use in Absence Management on HRconnect to code my time?

The absence type to use in Absence Management if you are currently a benefited employee with unused, accrued HFWA leave hours is 'Non-accruing PSL.'

21. What absence type do I use to code time for a public health emergency (PHE)?

For PHE Supplemental Leave, the absence type used to code your time is 'Absence COVID PSL'

22. If I am a non-union full-time or part-time employee and I use my KP paid time off for sick leave that would also qualify as protected sick leave under HFWA, what absence type do I use to code my time in Absence Management on HRconnect?

The absence type that you select in Absence Management as a non-union full or part-time employee, is the specific KP paid time off that you request to use. The absence type for HFWA Leave is still being determined. In the meantime, your HFWA leave hours will need to be manually tracked.

23. How do I find out how many hours of HFWA leave I have available?

In Absence Management on HRconnect, go to: **My team> My Team > Select Employee> then choose 'Absence Balance'** from the drop-down menu. Under Absence balance, you will see a list of your paid time off balances. From the list, choose the appropriate HFWA Leave that contains your balance.

Job Changes/Transfers

24. What happens to my unused HFWA Leave hours if I transfer to a benefited position?

Your HFWA leave hours will transfer with you to your benefited position and will be available for use for the same reasons. At that time (while in a benefited status), the HFWA Leave hours should be used first (prior to KP-provided paid time off).

25. Will I continue to earn HFWA Leave hours while I am in a benefited status?

No. Once you are no longer in a non-benefited status, you will not accrue HFWA leave hours per question #3 above.

26. What happens to my unused HFWA Leave hours if I return to a non-benefited position from a benefited position?

Your HFWA Leave hours will transfer with you and you will begin to accrue HFWA hours.

27. What happens to my HFWA Leave hours if I transfer to another KP region?

Your HFWA Leave hours will be frozen. However, if you return to the KP Colorado market within six (6) months, and into a non-benefited position, your HFWA Leave hours will be reinstated and you will begin accruing HFWA Leave hours. If you return to a benefitted position, then your HFWA leave hours will be reinstated; however, you will not accrue HFWA leave hours per question #3 above.

28. If I leave my job, can I cash out my accrued, unused HFWA Leave hours?

No. However, if you separate from KP and are rehired in Colorado within six (6) months year from the date of the separation, previously accrued and unused HFWA leave hours shall be reinstated.

Other

29. Where can I learn more about my sick leave benefits?

Visit HRconnect at kp.org/hrconnect to find more information about your sick leave benefits.