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FEW Washington Update April 1 - 15, 2020

FEW Recognizes Autism Awareness Month

*The Senate is in recess until April 20
The House is in recess until further notice*

In Congress

Despite eyeing the week of April 20th as a potential return date, lawmakers are not expected to convene for legislative business beyond the pro forma sessions this month.

House Majority Leader Steny Hoyer (D-MD) has urged members asking them to remain flexible with their schedules for the balance of the 2020 work session. This includes the possibility of coming into session during previously-scheduled district work periods and convening for five-day work weeks.

Appropriations leaders are delaying the start of their fiscal year (FY) 2021 funding work amid the uncertainty surrounding the COVID-19 outbreak. Congressional appropriators have pushed their expectations for completing FY 2021 spending work past the late spring-early summer dates that leadership targeted earlier this year.

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Tier I

Family Medical Leave Act (expansion)

Congress has given federal employees a few more options to take paid sick leave or time off to care for their children at home due to the coronavirus.

The Families First Coronavirus Response Act, which Congress passed into law March 18, includes two important benefits for federal employees — emergency paid sick leave and an expansion of the Family and Medical Leave Act.

Let's start with the Family and Medical Leave Act expansion. What this expansion means for you ultimately depends on where you work and what leave benefits you had before the coronavirus pandemic began.

For the purposes of explaining these leave benefits, there are two categories of federal employees — those covered under Title 1 of the Family and Medical Leave Act (FMLA) and those covered under Title 2 of the FMLA.

The first category includes Postal Service and Postal Regulatory Commission workers and legislative branch employees, including those at the Library of Congress and the Government Accountability Office, but not those at the Government Publishing Office. It also includes intermittent work employees, as well as those hired under a term or temporary appointment, according to April 7th [guidance](#) from the Office of Personnel Management (OPM).

Because these employees have limited benefits under Title 1 of the FMLA, they are eligible for the expanded Family Medical and Leave Act coverage Congress included in the Families First Coronavirus Response Act.

Under the expanded coverage, federal employees in this category can receive 10 additional weeks of family and medical leave to care for a child whose school or care provider is closed due to the coronavirus pandemic.

The first 10 days of expanded FMLA leave coverage is unpaid, but employees can substitute the time either with their own accrued paid sick leave or the emergency paid sick leave Congress also passed.

Expanded FMLA leave will be fully or partially paid, depending on an employee's individual circumstance.

“These employees must have been employed for at least 30 calendar days with the employer from whom leave is being requested,” OPM said in recent guidance on the topic.

The typical FMLA provisions that require an employee to have at least 12 months service and 1,250 hours of service with the employer during the previous 12-month period don't apply here, according to OPM.

Then there are the employees covered under Title 2 of the FMLA, the majority of the civilian federal workforce - this includes Title 5 workers.

But it also includes Title 38 medical professionals at the Veterans Health Administration, Defense Department teachers, Government Publishing Office employees and transportation security officers at the Transportation Security Administration. These employees are technically employed under different personnel systems, but they're covered under Title 5 FMLA provisions.

For this group of employees, nothing changes. They still have access to their full slate of paid and unpaid leave benefits under the Title 5 FMLA system, and therefore, they don't have access to expanded leave Congress included in the Families First Coronavirus Response Act.

The Labor Department is implementing the FMLA expansion. The expansion runs through December 31, 2020.

In addition, Congress provided up to two weeks, or 80 hours, of paid or partially paid sick leave to all federal employees — but only in specific circumstances.

Emergency paid sick leave is available through December 31, 2020.

This leave is in addition to the leave many federal employees have under the Family and Medical Leave Act, regardless of their coverage under that act.

Federal employees can use the new emergency sick leave because they're unable to work or telework for the following coronavirus-related reasons:

1. They're under a federal, state or local isolation or quarantine order,
2. They've been advised by a health care provider to self-quarantine due to coronavirus concerns,
3. They're experiencing coronavirus symptoms,
4. They're caring for someone who has been directed to isolate or self-quarantine,
5. They're caring for their child whose school or care provider is closed due to the pandemic, and
6. They're experiencing another similar condition as specified by the Department of Health and Human Services.

Federal employees who use this emergency sick leave for reasons 1 through 3 will be fully paid. Using leave for reasons 4 and 6 will earn employees two-thirds of his or her regular pay.

The scenario is trickier for employees who want to use this leave for reason 5. Federal employees who are eligible for the expanded FMLA benefits as explained above can use those new benefits.

The Title 5 employees and others who already have FMLA coverage can take leave for reason 5, but they'll be paid at either federal or state minimum wage or two-thirds of normal pay rate, whichever is higher.

Part-time federal employees are eligible for leave based on the number of hours they'd typically work under normal circumstances.

Agencies can choose to exclude health or emergency responders from emergency paid sick leave coverage, OPM said. The director of the Office of Management and Budget may also exclude federal employees from this leave for "good cause."

Labor is also implementing this emergency paid sick leave, not OPM. Labor has a fact sheet with more information, which can be found [here](#).

FEW Washington Update – April 1 - 15, 2020 Tier II

Federal Pay Proposal(s) During Covid-19

Senate Democrats are proposing \$25,000 pandemic premium payments for federal employees working on the front lines of the coronavirus response.

The recommendation is part of a broader package to provide lump sum payments to essential frontline employees working through the pandemic in both the public and private sectors.

According to the [proposal](#), essential frontline workers would receive \$13 an hour in premium pay on top of their regular wages. These premium payments would cover all hours worked from the beginning of the public health crisis through the end of 2020.

Pandemic payments would be capped at \$25,000 for essential employees earning less than \$200,000 a year. Essential employees earning \$200,000 or more a year would receive a maximum pandemic payment of \$5,000.

Pandemic payments should cover all federal employees in public-facing positions, including those in Title 5 and other federal pay and personnel systems, according to the proposal.

Employees at the Postal Service, Department of Veterans Affairs, Federal Aviation Administration, Transportation Security Administration, District of Columbia and

federally-funded Indian programs are eligible for pandemic payments, Senate Democrats said. Federal employees teleworking from home, however, are not.

Some federal contractors who perform “essential services” during the pandemic may be eligible too.

“An entity that contracts directly with the state, locality, tribe or the federal government (e.g., to provide care to people with Medicare and Medicaid coverage) would be considered a private sector employer, and employees of this entity who are designated as ‘essential’ would be eligible for premium pay,” the proposal reads.

To disburse these payments, Senate Democrats have recommended the creation of a “COVID-19 Heroes fund,” which would provide funds directly to eligible private sector employees to distribute to their employees.

Based on the initial proposal, it’s unclear whether agencies would also tap into this fund to provide pandemic premium payments to their frontline workers, or if Congress would appropriate additional funding for that purpose.

Congress is currently discussing what priorities it might tackle in a fourth coronavirus rescue package. A group of House Democrats, for example, are pushing for a multi-billion-dollar boost to the Postal Service.

Senate Democrats are arguing these pandemic payments for essential employees should be part of that legislative package.

“Disasters require exceptional flexibility in standard work schedules and assignments and often put first responders and other essential workers in dangerous situations,” the proposal reads. “To ensure this critical workforce is compensated appropriately, there are precedents for funding hazard premium pay and worker incentives through a federal program.”

Senate Democrats reference the Robert T. Stafford Disaster Response and Emergency Assistance Act, which President Donald Trump has invoked for the coronavirus pandemic, as an example. The Stafford Act allows FEMA to reimburse state and local governments for premium pay and other extraordinary costs associated with disaster response.

These pandemic premium payments differ from hazardous duty pay, which, under current law, grants federal employees exposed to “virulent biologicals,” a differential worth 25 percent of their normal salaries.

The Office of Personnel Management in prior guidance on the coronavirus pandemic has said federal workers may be eligible for this pay differential if they’ve been exposed to a “qualifying hazard” through their assigned duties — and those safety risks haven’t been accounted for in the classification of an employee’s individual position description.

In addition, employees are only eligible for hazardous duty pay if their risk of exposure to “virulent biologicals” is directly associated to their assigned job duties.

“The hazard pay differential cannot be paid to an employee who may come in contact with the virus or another similar virus through incidental exposure to the public or other employees who are ill rather than being exposed to the virus during the performance of assigned duties (e.g., as in the case of a poultry handler or health care worker),” OPM said in March 7 [guidance](#). “Also, the virus must be determined to be likely to cause serious disease or fatality for which protective devices do not afford complete protection.”

In addition, federal employees who have been potentially exposed to a “virulent biological” are not eligible for hazardous duty pay, OPM has said.

It’s ultimately up to each agency to determine whether their employees are eligible for hazardous duty pay, not OPM.

The law firm Kalijarvi, Chuzi, Newman & Fitch has sued the government for hazardous duty pay on behalf of the American Federation of Government Employees and five individual members. Other federal employees who believe they too have been exposed to hazardous working conditions during the coronavirus pandemic can sign up to join the class action lawsuit.

The new proposal from Senate Democrats mentions death benefits for families of essential employees who have passed away due to the coronavirus, but the recommendation is light on details.

“It is a deeply disturbing but unfortunate reality that some of our frontline workers are making the ultimate sacrifice to the nation through their work fighting COVID-19,” the proposal reads. “Their families rightfully deserve to receive the full amount of the premium pay as a lump sum in addition to all other forms of death benefits.”

Senate Democrats also suggested \$15,000 signing bonuses as an incentive to recruit new health professionals during the coronavirus pandemic. It’s unclear if Congress would provide these recruitment incentives to federal agencies as well.

Most agencies already have authorization to offer recruitment incentives as a way to attract critical talent.

Relief for the Federal Workforce

Two of the top leaders on the House Oversight and Reform Committee have a long list of legislative proposals they want to see included in the next coronavirus rescue package for federal employees and contractors.

Committee Chairwoman Carolyn Maloney (D-N.Y.) and Government Operations Subcommittee Chairman Gerry Connolly (D-Va.) developed a list of priorities after

speaking with federal leaders and other stakeholders, they said Monday in a [letter](#) addressed to congressional leadership.

“These priorities do not exhaust the support that our federal civil service and its contractors need,” Maloney and Connolly said. “But they will provide clarity, improve federal government operations and help federal workers care for their families during this public health crisis. We respectfully ask you to include these provisions in the forthcoming coronavirus relief package.”

Perhaps most notably, the two chairmen are proposing childcare reimbursements, worth up \$2,000 per month, for federal employees who are required to report to the office or duty station.

Two other proposals would have major implications for participants in the Federal Employee Health Benefits Program.

First, Maloney and Connolly recommended allowing federal employees to change or opt into new insurance plans during a health emergency like the current pandemic.

Currently, FEHB participants have one chance a year, usually a four-week “open season,” to make changes to their health insurance plan.

In addition, the chairmen suggested allowing employees to extend eligibility for their federal health, dental and vision benefits to qualifying dependents for an additional year. Some children, for example, may age out of their family’s current health plans during the coronavirus pandemic, they said.

Many of their legislative proposals are an attempt to codify or clarify existing guidance from the Office of Personnel Management, but some policies have been inconsistently implemented throughout the administration and have even varied within individual agencies.

Maloney and Connolly proposed, for example, requiring agencies to provide weather and safety leave to their employees who can’t perform their work from their typical duty stations due to the coronavirus — unless they serve in a national security role.

They’re also seeking clarification that federal employees can work from home with children or sick family members present.

“This provision would clarify that a home qualifies as an ‘approved location’ for telework regardless of whether a child or a dependent is present because alternative childcare or healthcare options are unavailable due to the coronavirus crisis,” the letter reads.

OPM has, in multiple memos now, advised agencies to adopt these exact policies. But adoption varies from agency to agency, and some supervisors are more amendable than others in allowing flexible work schedules.

In addition, Maloney and Connolly are seeking a prohibition on blanket telework bans, a recommendation that would, it appears, extend beyond the current pandemic.

“The federal workforce should maximize telework opportunities at every agency to ensure continuity of operations regardless of weather, public health demands or other conditions,” the letter reads. “Agencies should be prohibited from implementing agency-wide restrictions on the frequency with which their employees telework. Such restrictions make the federal government less prepared to use telework for continuity of operations.”

The Social Security Administration, as well as the Agriculture and Education Departments, have all reduced telework in recent years. The majority of employees at all three agencies are currently teleworking, though some employees at SSA and USDA have said their organizations took too long to change their policies in response to the coronavirus pandemic.

More Coronavirus Policy Clarifications for Contractors

Other proposals from Maloney and Connolly would apply to federal contractors, again, it appears, to develop some consistency across the government.

For example, they’re proposing an agency mandate allowing telework for contractors who are able to handle their work remotely.

“Despite Office of Management and Budget guidance urging agencies to maximize the use of telework for all federal contractors, many agencies still require contractors to report to their offices to perform work that can be done remotely,” Maloney and Connolly said. “This mandate would require agencies to provide periodic reports to Congress regarding instances in which the agencies deny contractor requests for telework and to justify such denials.”

They’re also seeking more clarification on a specific provision of the Coronavirus Aid, Relief and Economic Security (CARES) Act, which required agencies to reimburse contractors so their employees can remain in a “ready state.” Agency implementation of this provision has also been inconsistent, Maloney and Connolly said.

In addition, they’re suggesting agencies adjust their contracts to reflect the duties companies can and can’t perform during the pandemic — and ensure they’re not penalized with adverse performance ratings due to the coronavirus.

Members of Congress have made a wide variety of proposals to include in a fourth coronavirus rescue package, and lawmakers are currently negotiating over those priorities.

Connolly and other House Democrats, for example, are pushing for a multi-billion-dollar boost to the Postal Service.

Senate Democrats have proposed pandemic payments for essential workers, including federal employees, which could total up to \$25,000.

Sen. Elizabeth Warren (D-Mass.) and Rep. Ro Khanna (D-Calif.) on Monday offered up a new bill of rights for essential workers during the coronavirus. The [bill of rights](#) would guarantee, among other things, premium pay, child care support and expanded whistleblower protections for employees who raise health and safety concerns.

Read [Here](#)

Discrimination

For the State Department to meet its diplomatic mission more effectively overseas and work with foreign diplomats stationed in the United States, the agency is working on a strategy for its workforce to be more representative of the country's demographics.

While the State Department's workforce has grown more diverse over nearly two decades, a [Government Accountability Office audit in February](#) showed that diversity hasn't yet filtered up to the agency's higher ranks.

That GAO review also found racial and ethnic minority employees saw few promotions than their colleagues did.

But improving the diversity of the agency's workforce is only one part of the upcoming strategy.

Mirembe Nantongo, one of the State Department's deputy assistant secretaries in the Bureau of Global Talent Management, told Federal News Network that the other half of the strategy focuses on inclusion.

"The metaphor that we use for diversity, is that diversity is an invitation to a party, but there is a second part of it: Once you have your people in your party room, for example, what kind of a time are they having? Are they participating? Do they feel valued? Are they contributing? These are all kinds of questions that arise after you have them in the room," she said.

Those questions about inclusions, Nantongo added, are the same questions the agency's upcoming workforce strategy will seek to answer.

Beyond making the agency more representative of the U.S. in meeting its diplomatic mission, Nantongo said a diverse and inclusive workforce makes that agency more effective at meeting that mission.

"If you have a diverse employee population and the culture strong culture of inclusion, you have enhanced decision-making, you have increased innovation and problem-solving. Your teams are more creative," Nantongo said.

In addition, diversity and inclusion play a central role in the agency's recruitment, retention and career development strategies.

The State Department has improved the diversity of its talent pool through tried-and-true methods such as job rotation programs and mentorship programs.

And to improve retention, the agency has also rolled out workplace flexibilities such as telework, leave options and work assignments that accommodate families where both partners work for the State Department.

But in developing its latest four-year diversity and strategic plan, required from all federal agencies by the Office of Personnel Management, the State Department is taking a new approach to generate feedback.

Brian Bulatao, the agency's undersecretary for management, is leading a task force behind the strategy that will guide the agency's diversity and inclusion efforts through 2024.

To gather feedback on that document, Bulatao has tapped each of the agency's bureaus to name a representative to serve on a task force whose most recent meeting turned into a four-hour brainstorming session.

"We asked them for enterprise-wide recommendations, but also for action at the bureau level, because if you're talking about inclusion, especially if this is a multi-layer responsibility, it's not just something that you can publish an edict and it happens. We're talking about culture, so everyone has a role to play, and everyone has a responsibility," Nantongo said.

Nantongo said agency officials are working on a draft version of the 2020-2024 strategy. Once complete, that draft will go back out to the task force for comment.

The draft will also go out to the agency's 14 affinity groups, which represent certain demographic minorities and support the agency's recruitment operations.

Gender-Neutral Pay Increases

To make sure that diversity flows up into the agency's higher ranks, State has launched a Meritorious Service Increase pilot program that aims to make those merit-based pay increases more gender-neutral by anonymizing the nominations that go before the selection board.

"We've just done this in the traditional way, that you feel that somebody needs recognition, you write up the nomination and you submit it, and then it gets evaluated by a department-wide committee," she said. "This year, for the first time, we had a gender neutral program, whereby all the nominations that were put in, right, you couldn't identify whether it was male or female."

Nantongo said the pilot will run for another two or three more years to build data on whether gender-neutral evaluation have improved the equity of these awards.

The agency has touted the success of its Thomas Pickering and Charles Rangel fellowships, which have brought about 900 new personnel through the Foreign Service and improve the diversity of its ranks since those programs launched in 1992 and 2002.

But for the Foreign Service — with its rank-in-person structure that focuses more on having cohorts of employees rise through the ranks than accept applications to fill specific vacancies — seeing an immediate increase in diversity may be more difficult than in its civil service.

By the nature of this system, Nantongo said the current diversity of the Foreign Service’s senior career staff mirrors who was hired nearly 20 years ago.

For example, about 30 percent of Foreign Service officers brought onboard 20 years ago were female, and now 31 percent of its senior Foreign Service officers are female.

“By that logic and by the fact of the model, the expectation is that as these people move up the pipeline, the numbers of females at higher levels in the senior Foreign Service will increase proportionally,” Nantongo said.

Improving Federal Employee Viewpoint Survey

While the coronavirus pandemic has [pushed back the timeline for agencies to conduct this year’s Federal Employee Viewpoint Survey](#), the State Department, as part of its effort to improve retention, has had bureaus and officials look at their own specific FEVs results and develop action plans to improve those scores.

“We really want employees to feel that when they take this survey, their input results in concrete changes in the workplace,” she said. “We’ve had a very gratifying response in terms of bureau leadership really paying attention to this and looking into what are the issues that they need to strengthen in order to strengthen their workplace.”

According to [FEVS data analyzed](#) by the Partnership for Public Service and the Boston Consulting Group, the State Department ranks 13th out of 17 large agencies in terms of employee satisfaction.

FEW Washington Update – April 1 - 15, 2020 Tier III

Violence Against Women Act (VAWA)

U.S. Rep. Dave Joyce (R-OH) recently joined a bipartisan group of congressional members in urging leaders in the U.S. House of Representatives to reauthorize the Violence Against Women Act (VAWA) in forthcoming coronavirus legislation.

“The COVID-19 pandemic has created countless challenges for us as a nation, including the fact that stay-at-home and shelter-in-place orders have resulted in an increased number of people who cannot remove themselves from dangerous situations with abusive partners or spouses,” said Rep. Joyce, co-founder and co-chair of the Bipartisan Task Force to End Sexual Violence. “If Congress does not act, some of the most vulnerable members of our communities will be left open to abuse, and that is unacceptable.

“We must work together across party lines to ensure that this pandemic does not cause increased instances of domestic violence or abuse that go unaddressed or unpunished,” the congressman said.

Rep. Joyce in April 2019 voted for and the House passed the Violence Against Women Reauthorization Act of 2019, H.R.1585, to reinstate the program, which lapsed on Feb. 19, 2019. However, VAWA currently remains unauthorized.

As House leaders work to build upon legislation like the Coronavirus Aid, Relief, and Economic Security (CARES) Act, H.R. 748, Rep. Joyce and his colleagues in an April 9 letter urged them “to include additional language granting flexibilities to these programs, and grantees, as they navigate the new realities and challenges posed by coronavirus.”

Further, they wrote, “it is critical that additional funding be provided immediately for facilities and programs that assist victims of domestic violence to safely shelter in place. Those at risk for abuse should not have to choose between exposure to COVID-19 or their physical and mental safety and well-being.”

The letter is signed by more than 100 House members.

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General Interest

Women and Covid-19

In a matter of weeks, the COVID-19 pandemic has upended our daily routines, sent our economy into freefall and claimed thousands of lives. While the coronavirus may not discriminate, its impact has not been felt evenly, with women, people of color and low-income families bearing the brunt of this crisis. Women make up the majority of family caregivers, health care workers and service-sector employees – putting them on the frontlines of this pandemic and its economic fallout.

To show how women in Missouri and Kansas are so broadly and disproportionately affected by the COVID-19 crisis, The Women's Foundation partnered with *mySidewalk*, a Kansas City-based city intelligence software company, to create an interactive online dashboard filled with state-specific data on women's employment, business ownership, salaries and even family structures. The dashboard is available online at: womens-foundation.org/COVID-data.

This compelling data tells the story of how women in Missouri and Kansas are being especially hard hit by this virus and its economic consequences. For example, in Missouri and Kansas, nearly eight in ten healthcare professionals are women, slightly higher than the national average. Nationwide, women make up 75.3 percent of the healthcare workforce. In Missouri and Kansas, the percentage rises to 77.7 and 77.8, respectively.

And despite being the foundation of our healthcare response to the coronavirus, women are still paid less than men in many healthcare occupations. For example, women registered nurses in Missouri and Kansas make just 77 cents and 80 cents, respectively, for every dollar earned by their male counterparts.

There are three common sense policy solutions our elected leaders need to advance and implement as quickly as possible to help mitigate the devastating effects of this crisis on women and their families:

Paid family and medical leave would allow employees to take time off to care for a child or loved-one or seek treatment for an illness, without sacrificing their income. The Women's Foundation helped secure paid parental leave to more than 100,000 state employees in Missouri and Kansas and is advocating for 12 weeks of paid family and medical leave at 100 percent pay for all part-time and full-time workers.

The gender pay gap makes women even more vulnerable to economic downturns because they are paid less than their male counterparts. The Women's Foundation advocates for salary history bans and funds free pay negotiation workshops through AAUW to help close the pay gap and promote equal pay for equal work.

Finally, The COVID-19 crisis has underscored the need for professional licenses to be more transferable and flexible, especially for medical professionals. Our **research** has found that occupational licensing, while intended to protect the safety and well-being of the public, can often create unnecessary barriers for women entrepreneurs by restricting entry and re-entry into professions, reducing employment and creating economic inequity.

As policymakers continue to manage the immediate effects of this crisis and develop solutions to mitigating its devastating economic impact, prioritizing the needs of women and families will be critical to our recovery. Together, through smart, data-driven policy solutions, we can build a recovery that will last – with women leading the way.

Columbia Tribune Read [Here](#)

FEW receives information from the following sources and contacts: Roll Call, Time Magazine, GovExec, FedScoop, Bloomberg, The Hill, National Law Review, Columbia Tribune and Army Times.