



COVID-19 FAQs

for Employment-Related Inquiries

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Obligation to go into Work

What are my rights to stay home during the pandemic?

Governor Cuomo has instructed non-essential employees not to go into work. The Governor ordered on March 20, 2020, that businesses are required to keep 100% of their employees at home after Sunday, March 22, 2020. The Executive Order can be found here:

<https://www.governor.ny.gov/news/no-2028-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>.

Certain businesses or entities providing essential services, including those in the healthcare, infrastructure, manufacturing, retail, essential public services, news media, finance, charities, construction, defense, sanitation, and technology vending sectors, are exempt from the Executive Order's in-person work restrictions. The full list of essential businesses and services can be found here: <https://esd.ny.gov/guidance-executive-order-2026>.

Under the Governor's order, however, entities providing essential service continue to be under obligation to utilize, to the maximum extent possible, any telecommuting or work from home procedures. For entities that provide both essential and non-essential services, only those business operations that are necessary to support the essential services are exempt.

You can submit a complaint with the Attorney General's Office if you believe your employer is doing any of the following:

- Requiring employees to come to work even if the employer is not an essential business;
- Requiring employees to come to work even if they are performing business operations that are not necessary to support essential services; or
- Not permitting employees whose job responsibilities would permit them to telecommute or work from home to do so.

Please contact the Attorney General's Office, preferably by e-mail at Labor.Bureau@ag.ny.gov, or by phone at (212) 416-8700.

Emergency Paid Sick and Family Leave

New federal and state emergency sick and family leave laws offer specific protections for people who are diagnosed with, have symptoms of, or are quarantined for COVID-19, people caring for those with COVID-19, or people caring for children whose schools have closed due to COVID-19.

The federal Families First Coronavirus Response Act takes effect on April 2, 2020, and the state law is currently in effect.

Am I entitled to any paid medical leave if I have COVID-19 or have symptoms of COVID-19?

Employees who are diagnosed with or displaying symptoms of COVID-19 are entitled to 80 hours of paid sick leave at full pay, with a maximum of \$5,110 total, if they are working for employers of 499 employees or less, with limited exceptions, under federal law.

Am I entitled to any paid medical leave if I am under a mandatory or precautionary quarantine order?

Both federal and state law provide protections for those under quarantine or isolation. The state paid leave provisions only apply if they are more protective than the federal leave provisions. The state law protections do not apply to those who are not sick and able to work remotely but under quarantine or self-isolation at home.

Whether state or federal protections govern depends on employer size. This means that in general:

For employers with 100 or more employees

Employees are entitled to 14 days of paid sick leave at full pay under state law.

For employers with between 50 and 99 employees

Employees are entitled to 80 hours of paid sick leave at full pay, with a maximum of \$5,110 total, under federal law.

For employers with between 11 and 49 employees or with 10 or fewer employees with net income over \$1 million

Under federal law, employers with fewer than 50 employees are obligated to provide up to 80 hours of paid sick leave at full pay, with a maximum of \$ 5,110 total, with limited exceptions.

If the employer is not able to provide leave under federal law, employees are still entitled to take sick leave for the duration of their quarantine, with at least five days of sick leave at full pay, under state law. Employees may apply for state paid family leave and temporary disability benefits to cover the rest of the quarantine period. For state family leave benefits, the maximum weekly allowance is \$840.70. For emergency temporary disability benefits, the maximum weekly allowance is \$2,043.92. For more information on state paid family leave, please call the PFL Helpline at (844) 337-6303 or visit: <https://paidfamilyleave.ny.gov/paid-family-leave-family-care>.

For employers with 10 or fewer employees with net income under \$1 million

Under federal law, employers with fewer than 50 employees are obligated to provide up to 80 hours of paid sick leave at full pay, with a maximum of \$ 5,110 total, with limited exceptions.

If the employer is not able to provide leave under federal law, employees are still entitled to take unpaid sick leave for the duration of their quarantine under state law. Employees may apply for state paid family leave and temporary disability benefits to cover the quarantine period. For state family leave benefits, the maximum weekly allowance is \$840.70. For emergency temporary disability benefits, the maximum weekly allowance is \$2,043.92. For more information on state paid family leave, please call the PFL Helpline at (844) 337-6303 or visit: <https://paidfamilyleave.ny.gov/paid-family-leave-family-care>.

Am I entitled to any paid leave if someone in my family has COVID-19 or has been quarantined?

Employees are entitled to up to 80 hours of emergency paid family leave, with a maximum of \$200 per day and \$2,000 in the aggregate, with limited exceptions, under federal law.

Employees are also entitled to use state paid family leave to care for sick family members or for children under mandatory quarantine. For state family leave benefits, employees will be compensated at 60% of their average weekly earnings for 10 weeks with a maximum weekly allowance of \$840.70 per week. For more information on state paid family leave, please call the PFL Helpline at (844) 337-6303 or visit: <https://paidfamilyleave.ny.gov>.

Am I entitled to any paid leave if my children's school is closed due to COVID-19?

Employees are entitled to use federal emergency sick leave and emergency family medical leave to care for children whose schools have closed due to COVID-19 outbreaks if they work for employers with between 50 and 499 employees. Employers with fewer than 50 employees may be exempt from providing family leave if it jeopardizes their business viability. For federal paid sick leave benefits, the maximum is \$200 per day and \$2,000 in the aggregate. For federal family leave benefits, employees will be compensated at a maximum of \$2,000 total for the first two weeks and at 67% of their regular rate for the following ten weeks, with a maximum of \$10,000 total.

Am I entitled to any emergency paid leave for COVID-19 if I am an independent contractor?

Under federal law, individuals who are self-employed are entitled to receive tax credits for the equivalent of 10 days of paid sick leave at the lesser of 100% of their average daily rate or \$511 per day. Individuals are also entitled to receive tax credits for the equivalent of 10 days of paid sick leave at the lesser of 67% of their average daily rate or \$200 to care for family members or to care for children whose schools have been closed due to COVID-19. Individuals may receive an additional 50 days of paid family leave at the lesser of 67% of their average daily rate or \$200 per day to care for children whose schools have closed due to COVID-19.

Sick Leave and Family Leave Generally

In addition to the protections for COVID-19 recovery, New York State and City have generally-available paid sick leave and family leave protections for those with, or caring for family members with, other illnesses or medical conditions

What are my rights to paid sick leave if I live in New York City or Westchester?

Most employees in New York City and Westchester have up to five days of paid sick leave per year if they work for an employer that has more than five employees or if the employee is a domestic worker.

Employees accrue one hour of paid sick time for every 30 hours worked and most employees can take sick time after they have worked for the employer for 120 days (employees in Westchester can begin taking sick time after 90 days of employment). Employees must be able to carry over at least 40 hours of accrued sick time year to year.

This means that full-time employees will have at least five paid sick days if they have worked for an employer for more than eight months.

Employees should request leave from their employers. An employee may be required to provide reasonable notice (but no more than seven days) only if the use of sick time is foreseeable. Otherwise, for unexpected medical issues, no advance notice is required, but an employer may require that notice be given as soon as practical.

An employer may not require employees to provide documentation from medical professionals about the necessity of sick leave unless the employee is out for more than three consecutive days.

If you have been unlawfully denied sick leave or for more information, please visit:

NYC residents can contact the Department of Consumer Affairs by calling 311, or visit: <https://www1.nyc.gov/site/dca/workers/workersrights/paid-sick-leave-law-for-workers.page>.

To file a complaint, please visit: <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/OLPS-IntakeForm-English.pdf>

Westchester residents can contact the Department of Consumer Protection at (914) 995-2155 or visit: <https://humanrights.westchestergov.com/resources/earned-sick-leave-law>.

What are my rights to paid sick leave if I live outside of New York City and Westchester?

There is currently no general state paid sick leave law, although the Governor has proposed a bill that provides some paid sick leave that may be passed by the legislature this year.

What are my rights to temporary disability benefits?

Employees who become ill or injured off-the-job may be eligible for temporary disability benefits. Disability benefits are paid at 50% of an employee's average weekly wage with a maximum of \$170 per week.

For more information on temporary disability benefits, contact the New York State Workers' Compensation Board by phone at (877) 632-4996 or via e-mail at Claims@wcb.ny.gov, or visit: <http://www.wcb.ny.gov/content/main/DisabilityBenefits/Employer/introToLaw.jsp>.

For information on how to file a claim, please visit: <http://www.wcb.ny.gov/content/main/offthejob/db-overview.jsp#howToFileClaim>.

What are my rights to paid leave if a family member is sick?

Most employees in New York can take 10 weeks of partially paid leave to take care of a family member with a serious health condition. Employees will be compensated at 60% of their average weekly earnings with a maximum weekly allowance of \$840.70 per week.

Full-time employees may start taking leave after 26 weeks of starting work and part-time employees may start taking leave after 175 days of work.

Employees should request leave from their employers. An employee may be required to notify the employer 30 days in advance if the leave is foreseeable. If the leave is unexpected, then employees must give their employers notice as soon as practical.

Please note that employees generally may not use leave for their own medical conditions.

If you have been unlawfully denied family leave, or for more information, please call the PFL Helpline at (844) 337-6303 or visit: <https://paidfamilyleave.ny.gov>.

What are my rights to unpaid leave if I or a family member becomes sick?

Under federal law, employees are guaranteed 12 weeks of job-protected leave within a 12-month period if they are sick or need to take care of a sick family member if they have worked for an employer of 50 or more employees for at least a year. Family members include spouses, children, and parents. Employees may take this leave on a part-time or intermittent basis. Your employer must continue your health insurance during the leave of absence, although employees may be asked to make employee contributions.

Employees should request leave from their employers. Employees must give employers 30 days' notice if leave is foreseeable.

If you have been unlawfully denied FMLA leave, or for more information, please call the U.S. Department of Labor, Wage and Hour Division, at 1-866-487-9243, or visit: <https://www.dol.gov/agencies/whd/fmla>.

Unemployment Insurance

What if I am laid off or furloughed from my job as a result of my employer's reduction in business or closure?

Employees may be entitled to unemployment insurance payments for 26 weeks if they are laid off on a temporary or permanent basis through no fault of their own. The amount of benefits employees receive depends on their average weekly rate, with a minimum of \$104 per week and a maximum of \$504 per week. In order to qualify for weekly benefits, employees must continue to look for work.

Employees should apply for unemployment insurance with the New York Department of Labor immediately after they are laid off. Unemployment insurance claims may be filed here: <https://labor.ny.gov/unemploymentassistance.shtm>. You may file a claim online, or you can call the Telephone Claim Center at (888) 209-8124. Once you file a claim for benefits, you must also file a claim for weekly benefits (also known as "certifying for benefits") for each week you are unemployed and meet the eligibility requirements. You can claim your weekly benefits each week online, or by calling (888) 581-5812.

For more information about the unemployment insurance claim process and eligibility you may find the NYSDOL claimant handbook in multiple languages here: <https://labor.ny.gov/ui/claimantinfo/Claimant%20Handbook%20-%20Languages.shtm>.

***During the COVID-19 outbreak, the Department of Labor is not requiring applicants to wait one week before receiving unemployment insurance benefits.*

What if my hours were heavily reduced? Or, what if I worked multiple jobs, and was laid off of one of the jobs?

Employees may be entitled to partial unemployment insurance benefits if they work fewer than four days a week and do not earn over the maximum rate of \$504 per week. Depending on how many days per week you continue to work, you may receive up to three-quarters of your average weekly rate in partial benefits. Employees who receive partial benefits are entitled to receive benefits for a longer period of time than employees who receive full unemployment insurance benefits.

Am I entitled to unemployment insurance even if I am classified as an independent contractor?

You may be entitled to unemployment insurance even if you are classified as an independent contractor. If an employer has sufficient control over your schedule, pay, and day-to-day work conditions, you may be misclassified as an independent contractor.

Any worker that experiences loss in work may apply for unemployment insurance with the New York Department of Labor. Unemployment insurance claims may be filed here: <https://labor.ny.gov/unemploymentassistance.shtm>.

Workers' Compensation for Essential Employees Continuing to Work

Am I entitled to workers' compensation if I contract COVID-19 on the job?

Employees that contract COVID-19 at their place of work may be entitled to workers' compensation insurance during any treatment or recovery. Employees receive two-thirds of their average weekly rate in weekly benefits with a maximum payment of \$934.11 per week.

Employees should apply for benefits with the Workers' Compensation Board. Workers' Compensation claims may be filed here:

<http://www.wcb.ny.gov/content/main/onthejob/howto.jsp>.

You may call (877) 632-4996 for questions or assistance.

Protections Against Discrimination and Harassment Based on National Origin

What are my rights if my employer is treating me unfairly because I am from or look like I am from a country where there is a serious COVID-19 outbreak?

Employers are prohibited by federal, state, and city law from treating employees differently based on race or national origin. If you have been fired, demoted, or harassed because your employer believes that you are from a country where there is a high incidence of COVID-19 cases (such as China, Japan, Iran, or Italy), you may file a complaint with the Attorney General's Office: <https://ag.ny.gov/sites/default/files/cr-discrimination-complaint-form-english.pdf>. Completed forms can be mailed to the Civil Rights Bureau, emailed to civil.rights@ag.ny.gov or faxed to (212) 416-6030. You may also call (212) 416-8250.

Employees who work at a workplace with more than 15 people may also may also file a complaint with the federal Equal Employment Opportunity Commission: <https://www.eeoc.gov/employees/charge.cfm>. Complaints with the EEOC must be filed within 300 days of the discriminatory incident. They may also call (800) 669-4000.

Any employee may file with the State Division of Human Rights: <https://dhr.ny.gov/complaint>. Complaints with the SDHR must be filed within 1 year. They may also call (888) 392-3644.

Employees in New York City may file a complaint with the City Commission on Human Rights if their employer has employed more than three people in the past year: <https://www1.nyc.gov/site/cchr/enforcement/complaint-process.page>. For more information call (718) 722-3131.

Protections Against Discrimination for Those Recovering from COVID-19

What are my rights if I need an accommodation due to my treatment for or recovery from COVID-19?

Under federal, state, and local law, employers must provide a reasonable accommodation for employees if, as a result of a long- or short-term disability, they need an accommodation to perform their jobs. Reasonable accommodations can include telecommuting, staggering your schedule, or taking leave. Short-term disabilities protected under the anti-discrimination laws includes severe but temporary illnesses.

Employees should request an accommodation from their employers.

If you have been unlawfully denied an accommodation, you may file a complaint with the Attorney General's Office:

<https://ag.ny.gov/sites/default/files/cr-discrimination-complaint-form-english.pdf>.

Employees may also file a complaint with the federal Equal Employment Opportunity Commission if they work at a workplace with more than 15 people: <https://www.eeoc.gov/employees/charge.cfm>. Complaints with the EEOC must be filed within 300 days of the discriminatory incident. They may also call (800) 669-4000.

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<https://www1.nyc.gov/site/cchr/enforcement/complaint-process.page>.

For more information call (718) 722-3131.

What are my rights if I am being treated unfairly due to my COVID-19 diagnosis?

Federal, state, and local law prohibits employers from discriminating against employees for a disability or a perceived disability. If you have been fired, demoted, or harassed because you are being treated for or recovering from COVID-19, you may file a complaint with the Attorney General's Office: <https://ag.ny.gov/sites/default/files/cr-discrimination-complaint-form-english.pdf>. Completed forms can be mailed to the Civil Rights Bureau, emailed to civil.rights@ag.ny.gov or faxed to (212) 416-6030. You may also call (212) 416-8250.

Employees may also file a complaint with the federal Equal Employment Opportunity Commission if you work at a workplace with more than 15 people: <https://www.eeoc.gov/employees/charge.cfm>. Complaints with the EEOC must be filed within 300 days of the discriminatory incident. You may also call (800) 669-4000.

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Health and Safety

What are my employer's obligations to keep me safe at work?

Your employer has an obligation to maintain a safe workplace, under the Occupational Safety and Health Act. If you are concerned about safety and health conditions in your workplace, you may file a complaint at your local OSHA office: <https://www.osha.gov/contactus/bystate/NY/areaoffice>. You may also call (800) 321-6742 for more information.

Retaliation

What happens if my employer retaliates against me for exercising any of my rights above?

Retaliation is prohibited for exercising your right to paid or unpaid sick or family leave, unemployment insurance, workers' compensation, complaining about national origin or race discrimination, or requesting an accommodation for a disability. If you have been retaliated against for exercising any of your rights above, you should contact the Attorney General's Office: https://ag.ny.gov/sites/default/files/labor_bureau_complaint.pdf. You may also email labor.bureau@ag.ny.gov or call (212) 416-8700.

Retaliation is also prohibited for complaining about health and safety conditions at work. If you experience retaliation, you have thirty days to file a complaint. To file a complaint, you may call your local OSHA office or submit a written complaint by mail, email, or fax. You may do so online, and you may do so in any language. No particular form is required. Contact your local OSHA office: <https://www.osha.gov/contactus/bystate/NY/areaoffice>. You may also call (800) 321-6742 for more information.

Additional Protection from Retaliation for Healthcare Workers

Am I protected if I make a complaint about how my employer is handling the COVID-19 outbreak?

Healthcare services providers who disclose or threaten to disclose information to their supervisors or to the public about the quality of care patients receive are protected from retaliation.

Healthcare employees with concerns about patient care during the COVID-19 outbreak should contact the Department of Health: <https://apps.health.ny.gov/surveyd8/facility-complaint-form>.

Healthcare employees with concerns about retaliation for reporting patient care issues should contact the Attorney General's Office: https://ag.ny.gov/sites/default/files/labor_bureau_complaint.pdf.