



## COVID-19 Emergency Paid Sick Leave and Paid Family & Medical Leave

A new law passed by Congress gives some workers new paid sick leave and paid family & medical leave options due to the public health emergency caused by COVID-19. This law went into effect on April 1, 2020 and ends on December 31, 2020.

### Emergency Paid Sick Leave

Some employers with less than 500 employees will be required to offer emergency paid sick leave for people affected by COVID-19.

#### What workplaces are covered by the new law?

- Most government workplaces;
- Most businesses and nonprofit organizations with less than 500 workers;
- Businesses and nonprofit organizations with less than 50 workers are covered by the new law, but can ask to be exempted from the part of the new law that allows sick time to stay at home with a child whose school or care facility is closed. This means they may not have to give workers the emergency paid sick leave for this reason, but still must comply with the law for other COVID-19-related reasons.
- Businesses or organizations with workers who provide health care or who are emergency responders can deny emergency paid sick leave to those workers.

#### How much emergency paid sick leave can I take if my workplace is covered by the new law?

- Full-time workers can take up to 80 hours of paid sick leave. This is equal to 10 eight-hour days.
- Part-time workers can take up to the average number of hours you usually work over a 2-week period.
- For part-time workers with schedules that change, emergency sick leave time will be based on the number of hours you worked per day over the past six months.
- The hours of paid sick leave you can take under the new law are not based on *how long* you have worked at your job. It's the number of hours you worked at that job that matter, not how long you worked there.

#### When can I take emergency paid sick leave if my job is covered under the new law?

You can take paid sick leave if cannot work, including working from home, for any of these reasons:

- You are under a federal, state, or local order to quarantine or self-isolate because of coronavirus;
- You have been told by a health care provider to self-quarantine due to coronavirus;
- You have coronavirus symptoms and are trying to get a medical diagnosis;
- You are caring for someone who is under a federal, state, or local order to quarantine or self-isolate because of coronavirus;
- You are caring for someone who has been told by a health care provider to self-quarantine due to coronavirus; or
- You are caring for a son or daughter because school or childcare is closed due to coronavirus, or their usual childcare provider is unavailable due to coronavirus. "Son or daughter" means a biological, foster, or adopted child, a stepchild, a child of a domestic partner, a legal ward, or the child of a person standing "in loco parentis" (acting as a parent), under 18 years of age.

You can use emergency paid sick time before using any other leave you have available to you. If you have other paid sick leave, vacation time, or other leave that you have earned, you cannot be required to take that leave first.

#### **Will I get paid my usual wages when I take emergency paid sick leave?**

It depends. If you take paid sick leave because you have been quarantined or you are sick, you will be paid your full rate of pay up to \$511 per day (no more than \$5,110 total). If you take paid sick leave to care for someone else, you will be paid 2/3 of your regular pay up to \$200 per day (no more than \$2,000 total).

#### **If I lose or leave my job, will I get paid for any emergency paid sick leave I did not use?**

No. You will not be paid for any emergency paid sick leave you do not use.

#### **Can I save emergency paid sick leave to use in a different year?**

No. The new law ends on December 31, 2020 and emergency paid sick leave will not be available after that date unless the law changes.

#### **Can my employer require me to find my own replacement when I take emergency paid sick leave?**

No, you cannot be forced to find someone to take your job or shift when you take emergency paid sick leave.

#### **What kind of notice do I need to give my employer to take emergency paid sick leave?**

It depends. After your first day of emergency paid sick leave, you can be required to give proper notice as defined by your employer.

### **What do I do if my employer refuses to give me the paid leave I am eligible for?**

If you have been denied a leave by your employer, you can file a complaint by calling the US Department of Labor at: 1-866-487-9243; TTY: 1-877-889-5627.

## **Emergency Expanded Family & Medical Leave**

Some employers are now also required to provide some paid family & medical leave to workers who need to take time off to care for children due to the closing of schools and childcare because of COVID-19.

### **How much paid family & medical leave can I take if my job is covered under the new law?**

You can take up to 12 weeks of leave, but only 10 weeks are required to be *paid* leave.

The first 10 days may be *unpaid*. However, you can take emergency paid sick leave (as described above) if you are eligible for it. You can also choose to use other paid leave time you have earned – like vacation, personal, or sick leave – to substitute that leave for part or all of the 10 unpaid days of leave under the new law.

Your employer cannot require that you use other leave first.

### **What workplaces are covered under the new law?**

- Some government workplaces;
- Businesses and nonprofit organizations with less than 500 workers;
- Businesses and nonprofit organizations with less than 50 workers are covered, but can ask to be exempted from the new law. This means they may not have to give workers the leave described here; and
- Businesses or organizations with workers who provide health care or who are emergency responders can deny paid sick leave to those workers.

### **How long do I need to have worked at my job to be covered?**

You must be employed for 30 days to take this leave.

### **Will I get paid my normal wages for the 10 weeks of paid leave?**

No. You will be paid 2/3 of your regular rate of pay – up to \$200 per day (no more than \$10,000 total). Your pay is based on the number of hours you would normally be scheduled to work.

If you work part-time, your pay is equal to the average number of hours per day you were scheduled to work in the six months before you take the leave. If you haven't been employed for six months, it will be based on the average number of hours per day you were expected to work when you were hired.

### **What kind of notice do I need to give my employer?**

If you know you need to take the leave, you should give your employer whatever notice you can. Some schools and childcare providers have told families dates when they would be closed and when they expect to reopen. You should let your employer know when you know those dates or when there are changes to those dates. Sometimes families do not know until the day before that a school or childcare provider is closing – just let your employer know as soon as you can.

### **What do I do if my employer refuses to give me the paid leave I am eligible for?**

If you have been denied a leave by your employer, you can file a complaint by calling the US Department of Labor at: 1-866-487-9243; TTY: 1-877-889-5627.

### **Will I still have the same job when I come back to work?**

It depends. You are supposed to be able to return to your position or an equivalent position with equivalent benefits, pay, and other conditions of employment.

### ***Exception for employers with less than 25 workers:***

If a position no longer exists due to changes caused by the public health emergency, then the employer does not have to return you to the same position. However, the employer must still make a reasonable effort to return you to an equivalent position with equivalent benefits, pay, and other conditions of employment. If the employer cannot place you in an equivalent position, then they must make a reasonable effort for one year to contact you if an equivalent position opens up.

### **Can I use family & medical leave to care for myself or a family member who is sick due to COVID-19?**

You cannot take emergency paid family & medical leave for this reason.

You may be able to take *unpaid* leave under the Family & Medical Leave Act (FMLA). FMLA covers some employers and allows some workers to take *unpaid* leave to care for themselves or family members for several reasons, including a serious health condition. If you are eligible for FMLA, you can take up to 12 weeks of job-protected, unpaid leave during any 12-month period to care for yourself, your spouse, your child, or your parent.

Many workers are not eligible for leave under FMLA. To learn more, go to <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28.pdf>

## Unemployment Benefits

### When should I use Unemployment Benefits instead of paid sick time or family leave?

You cannot get the new federal emergency paid sick leave or family and medical leave benefits if your employer:

- sent you home and stopped paying you because there is no work for you;
- furloughed you; OR
- closed your workplace, even temporarily.

This is true whether you lost your job because of a lack of business or because of the public health crisis.

If this happens to you, you should apply for unemployment benefits. Unemployment benefits now cover many people who are out of work because of COVID-19. For more information see: <https://www.maine.gov/unemployment/>. This is where you will find information about how to apply for unemployment along with answers to frequently asked questions.

### My employer cut some of my work hours, but I am still working. Can I use emergency paid sick leave or family and medical leave for the hours I lost?

No. If your employer reduces your work hours because there is no work for you, you will not be covered by emergency paid sick leave or expanded family and medical leave for those hours. BUT, you may be eligible for partial unemployment benefits.

For more information see: <https://www.maine.gov/unemployment/>. This is where you will find information about how to apply for unemployment along with answers to frequently asked questions.

Remember that if a COVID-19 reason prevents you from working your *full* schedule and you are not working at all, you may be able to take emergency paid sick leave or expanded family and medical leave.

For more information about the new paid sick leave and family and medical leave see: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>