

New York Paid Sick Leave Benefits for COVID-19

Due to the growing COVID-19 pandemic throughout the country and in New York, Governor Cuomo signed into law on March 19, 2020 **Emergency COVID-19 Paid Sick Leave**. This new legislation is **effective immediately** and provides a combination of benefits for eligible employees who are subject to an order of mandatory or precautionary quarantine or isolation issued by the state of New York, the Department of Health, local board of health, or any government entity duly authorized to issue such order due to COVID-19.

Benefits provided to an employee are determined by the size and annual income of the employer.

10 or fewer employees with a net income less than \$1 million:

- Employers must provide job protection for the duration of the quarantine order.
- Employees may use Paid Family Leave and disability benefits (short-term disability) for the period of quarantine.
- Employees eligible for these benefits will receive their regular rate of pay up to a maximum combined total of \$2,884.62 per week while quarantined.
- Here's how to [apply for Paid Family Leave and disability benefits](#).

11-99 employees and 10 or fewer employees with a net income greater than \$1 million:

- Employer must provide **at least 5 days of paid sick leave**.
- Employers must provide job protection for the duration of the quarantine order.
- Employees may use Paid Family Leave and disability benefits (short-term disability) for the period of quarantine.
- Employees eligible for these benefits will receive their regular rate of pay up to a maximum combined total of \$2,884.62 per week while quarantined.
- Here's how to [apply for Paid Family Leave and disability benefits](#).

100 or more employees and all public employers:

- Employer must provide **at least 14 days of paid sick leave**.
- Employers must provide job protection for the duration of the quarantine order.

Leave for Quarantine/Isolation of Employee's Child:

- Employers must also provide job protection for working parents whose minor dependent child is subject to an order of mandatory or precautionary quarantine or isolation.
- Eligible employees may receive up to a maximum benefit of \$840.70 per week for the duration of the quarantine.

Note: These benefits are not available to employees who are able to work through remote access or other means.

What does the new Coronavirus legislation mean for working Americans?

The Federal government has passed The “Families First Coronavirus Response Act” (H.R. 6201), a Bill to help address some of the financial challenges Americans are experiencing as a result of the Coronavirus Pandemic.

The Bill, which applies to employers with fewer than 500 employees, has gone through several iterations as it was passed from House to Senate. It addresses the need for temporary paid employee sick and family leave, as well as other support programs to help individuals and families cope with COVID-19 disruptions. The bill will go into effect not later than 15 days of its enactment. Tarpey Group recommends extending the proposed benefits to eligible employees effective immediately.

How do FMLA and Paid Sick Leave provisions in the Bill work?

The bill gives some relief to workers and their families by creating emergency paid sick leave and paid family leave in the case of school closures. The bill requires employers with up to 500 employees to provide paid sick leave and paid family leave to their employees. To cover the costs of the leave, the government will give employers a refundable payroll tax credit as well as a refundable income tax credit for self-employed individuals.

Under this bill, employers must offer:

- Two weeks (80 hours, or 10 days) of paid sick leave for COVID-19-related reasons for eligible full-time employees. 100% of employer costs are offset for providing this mandated paid sick leave. Under the paid sick leave provision, employees who are unable to work (or telework) may take leave if they:
 - are subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (100% of pay capped at \$511 per day);
 - have been advised by a health care provider to self-quarantine due to concerns related to COVID-19 (100% of pay capped at \$511 per day);
 - are experiencing symptoms of COVID-19 and seeking a medical diagnosis (100% of pay capped at \$511 per day);
 - are caring for an individual who is subject to a quarantine or isolation order related to COVID-19, or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 (2/3 pay capped at \$200 per day);
 - are caring for a son or daughter if the school or place of care for the child has been closed, or childcare provider is unavailable due to COVID-19 precautions (2/3 pay capped at \$200 per day); or
 - are experiencing any other substantially similar condition as specified by the Secretary of Health and Human Services (2/3 pay capped at \$200 per day).

Under the sick leave provision, individuals who are working part time or hourly are also eligible for paid sick leave which is to equal the number of hours the employee works on average over a two-week period.

- Ten weeks of paid family leave (12 weeks total) for an employee with a minor child who is unable to work (or telework) in the event of the closure of the child’s school or place of care due to COVID-19 precautions. 100% of employer costs are offset for providing this mandated paid family leave. Under the expanded paid family leave provision, the benefits are as follows:
 - The first 10 days are unpaid, but the employee can use the 10 days of paid sick leave during this time.

- The benefit must replace at least two-thirds of the employee's wages up to a maximum of \$200 per day (and \$10,000 in aggregate) and reflect the number of hours an employee would otherwise be normally scheduled to work.
- This 12 week period does not extend any time under the FMLA act, it simply adds another reason for leave and specifies payment.
- The Act allows an employer of an employee who is a health care provider or an emergency responder to elect out of providing paid family leave to these employees.
- The Labor Department will have the authority to exempt from the paid family leave requirement small businesses with fewer than 50 employees if the requirement to provide leave would jeopardize the viability of the business.

Who is eligible?

To be eligible for Paid Family Leave, the employee must have worked at least thirty calendar days for the employer before they were impacted by COVID-19. All employees of an employer are eligible for the Paid Sick Leave.

Is the Leave protected?

Yes, the Act offers job protection. However, the FMLA's requirement that an employee be restored to the same or equivalent position after leave does not apply to an employer with fewer than 25 employees if the employee's position no longer exists due to economic conditions or other changes in the employer's operations that affect employment and are caused by the public health crisis during the period of leave. This said, the employer has to make reasonable efforts to restore the employee to the same or similar position.

When do the Paid Family Leave and Emergency Sick Leave provisions expire?

Both provisions expire on December 31, 2020.

What's next?

Congress and the President are also working on another bill and we could see them revisit longer-term paid leave, or even larger businesses, as the COVID-19 response continues to evolve.

Be sure to regularly check your email, Tarpey Group's social media channels and our website for any updates.

Should Centers for Disease Control or World Health Organization guidance change, Tarpey Group will act accordingly and immediately update you.
