



# NEWS YOU CAN USE!

## TEN THINGS TO KNOW About Federal Emergency Paid Leave

—————→ *Do you qualify? How does it work? Read on!*

For the first time ever, thanks to the new Families First Coronavirus Response Act, our nation will have a \*limited\*, nation-wide, paid sick days and paid family leave law in place during the COVID-19 crisis. Read on for details on who's covered, how much leave you can take, and more.

While the law is a huge deal, and we all helped make it happen, we must keep the pressure on leaders to close the gaps that leave as many as 96 million working people without coverage. Find out how to take action below.

### 1 Who is covered by this law?

These policies most likely cover you if your employer has fewer than 500 employees. If you work for a local or state government, you are likely covered as well. However, if you are a federal employee, you likely do not qualify for the emergency expanded family leave but you do likely qualify for the emergency paid sick leave, more info about these two types of leave below.

There is also a major loophole in the law that allows employers to exempt healthcare providers and emergency responders from accessing paid leave. If you are a healthcare provider or emergency responder then it is up to your employer whether you have access to these benefits or not.



Healthcare workers, emergency responders, and families across the country all need paid leave and not just during pandemics. Go to <http://moms.ly/FamiliesFirstAlways> to demand that Congress make sure these benefits are available to ALL workers, and that they are permanent.

### 2 What kind of leave can I take?

The new law allows for two types of leave: emergency paid sick leave and emergency paid family leave.

**Paid sick leave:** A covered employee can take 2 weeks (or up to 80 hours) of paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because they:

- Are subject to a Federal, State, or local quarantine or isolation order (including stay at home orders) related to COVID-19;
- Have been advised by a health care provider to self-quarantine related to COVID-19;
- Are experiencing COVID-19 symptoms and seeking a medical diagnosis;
- Are caring for an individual subject to an isolation order or in self-quarantine as described above;
- Are caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19

**Emergency paid family leave (also called expanded family and medical leave):** A covered employee can take up to 10 weeks of emergency, expanded paid family leave (in addition to the 2 weeks of sick leave for a total of 12 weeks), only if it is to care for a child whose school or place of care is closed or child care provider is unavailable for reasons related to COVID-19.

Unfortunately, most federal employees were exempted from this leave. Additionally, if your private sector employer has fewer than 50 employees, then they may be able to say they do not have to provide every employee with this leave if doing so would threaten their business. They must still notify you of your rights, though. Further, if you have already taken FMLA in the past year, your eligibility may be reduced by the number of weeks of leave you have taken. See Question 9 for more information on how this law interacts with FMLA and state-provided Paid Family and Medical Leave.

### 3 Will my job be protected?

Both types of leave are generally job-protected unless your job is eliminated as a result of the economic downturn. In this case, you could look into unemployment insurance benefits to supplement your income.

But generally, in most instances, you are entitled to be restored to the same or an equivalent position when you return to work from paid sick leave or expanded family and medical leave. Your employer is prohibited from firing, disciplining, or otherwise discriminating against you because you take paid sick leave or expanded family and medical leave. Nor can your employer fire, discipline, or otherwise discriminate against you because you filed any type of complaint about them not following this law. However, you are not protected from employment actions, like layoffs or furloughs, that would have affected you regardless of whether you took leave. This means your employer can lay you off for legitimate business reasons. For example, if they lay off your entire department while you are on leave, you are not eligible for job protection.

If you think your employer has discriminated against you in laying you off from your job, you may want to talk to an employment law expert. Our partners at A Better Balance have a free and confidential helpline at 1-833-NEED-ABB (633-3222) that you can call for advice. Many states also have free legal aid organizations that can also be great resources. Your state's Attorney General's website as well as state and county bar association websites are good places to look for lists of these organizations and available resources.



If you're a small business owner, additional resources are available from our partners at Main Street Alliance: <https://www.smallbizcovid19.com/resources>. You can also read more about the refundable tax credits on the IRS's website: <https://bit.ly/2VasGJi>



If you have lost your job due to the pandemic, you may be eligible for Pandemic Unemployment Assistance. Check out this resource from our partners at the National Employment Law for more information: <https://bit.ly/2Xohl5y>

### 4 How much paid leave can I take?

Eligible workers can take up to 2 weeks of emergency sick leave (or up to 80 hours) and 10 weeks of emergency paid family leave. This provides for a total of 12 weeks of leave. Businesses can apply for reimbursement for the leave from the federal government through a refundable tax credit.

### 5 How would I get paid?

During any of these types of leave your paycheck will come from your employer. You will need to notify them that you intend to take leave. Employers can get reimbursed by the federal government through a refundable tax credit.

## 6 How much will I be paid while I am on leave?

If you are taking paid sick leave because you are obeying a government isolation or stay-at-home order, you have been told to self-quarantine, or if you are experiencing COVID-19 symptoms: You will receive your full rate of pay or the applicable minimum wage for where you work for each hour of missed work, whichever is greater. The maximum you are entitled to is \$511/day or \$5,110 for the full 10-days of sick leave. For example, if you work 30 hours a week and you take two weeks of sick leave, you will receive pay for 60 hours of missed work. This will be paid out at your regular rate of pay OR the applicable minimum wage, whichever is larger.

If you are taking paid sick leave to care for someone obeying a stay-at-home order or caring for a child whose school or place of care is unavailable: You are entitled to two-thirds of your regular rate of pay or applicable minimum wage, whichever is larger. The maximum payment your employer is required to pay you is \$200/day or \$2,000 over a two-week period.

If you are taking paid family leave: You will be paid no less than two-thirds of your regular rate of pay for the hours you would normally be scheduled to work. Between the two weeks of paid sick leave and 10 weeks of paid family leave, the maximum amount you are entitled to is \$12,000 for the full twelve weeks. This doesn't mean that your employer can't choose to pay you more.

## 7 What if I'm part time? Does this law apply to me?

Yes, as long as you meet the other requirements listed in Question 1. You will be paid for the hours you typically would be scheduled to work each week. To see how part-time hours are calculated, **check out this FAQ from the federal Department of Labor:** <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

## 8 What about my regular paid sick leave? Is this emergency paid sick leave additional?

This emergency paid sick leave is in addition to your existing paid sick time and paid time off from your employer. Your employer cannot require you to use existing paid leave before using the emergency sick leave. Many states and cities have laws requiring that employees earn sick time. **Find a full list of local and statewide paid sick leave laws here:** <https://bit.ly/2UW4pru>

## 9 What about my FMLA leave? Is this emergency paid family leave additional?

The emergency paid family and medical leave is **not** in addition to the federal Family and Medical Leave Act (FMLA) leave. If you qualify for FMLA, you are only eligible for 12 weeks of leave per year\*. This law does not change that. So if you have used all of your FMLA leave in the past year, you may not be eligible.

- If your employer is covered by the federal FMLA, (that means your employer has at least 50 employees within a 75-mile radius) and you took 12 weeks of unpaid FMLA in the last year\*, you are likely not eligible for the emergency federal paid family leave benefit.
- If your employer is covered by the FMLA and you took 12 weeks or more of leave through your state's paid family and medical leave program you are likely not eligible for the federal emergency paid family leave benefit.

- If your employer is covered by FMLA, you have taken less than 12 weeks of FMLA leave in the past year, and your employer has fewer than 500 employees, you are eligible to take emergency family leave if your child's school or place of care is unavailable due to COVID-19. However, you may not be able to take the full 12 weeks if you've already used some FMLA leave earlier in the year\*.
- If your employer is NOT covered by FMLA (that means you work for an employer with fewer than 50 employees in 75-square miles) and your employer permits it, you are eligible for the full 12 weeks of emergency family leave to care for your children.

*\* This is based on your employer's FMLA calendar. Some employers use a January-December calendar and some use an individual employee calendar so the first day in your 12-month FMLA calendar is from your first day of leave. Importantly, employees are limited to a total of twelve weeks of expanded family leave under this law, even if the applicable time period (April 1 to December 31, 2020) spans two FMLA periods. For example, let's say you take emergency paid family leave from April 1-June 1, and your employer's FMLA year ends on June 30th and re-starts on July 1. You cannot take 12 additional weeks of emergency, expanded paid family leave for COVID-related child care reasons.*

## 10 My state has a paid family and medical leave program. How does this interact with this benefit?

Depending on your state's paid leave program, you may be able to use state benefits to take time to care for yourself or loved ones during COVID-19. This will depend on your state's specific laws and protections. You can learn if your state has its own paid family and medical leave program with **this helpful chart from the National Partnership for Women and Families:** <https://bit.ly/39ZFSWK>

**Other questions? Please share them here: <https://moms.ly/NewPaidLeaveLaws>**



This is complicated but it doesn't have to be. It's time for the United States to guarantee paid leave for ALL – whether you need it to care for yourself or your family. Join us in demanding that Congress close the loopholes in these emergency paid leave laws and make paid leave for all a reality: <http://moms.ly/FamiliesFirstAlways>

**Definition of a healthcare worker:** A health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, postsecondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions. This definition includes any individual employed by an entity that contracts with any of these institutions described above to provide services or to maintain the operation of the facility where that individual's services support the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

**Definition of emergency responder:** An emergency responder is anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.