

# Covid-19

## State and Federal Paid Leave Programs: Information for 32BJ Members in New York

**\*\*\*Information is changing rapidly. Visit state agency websites for the latest updates\*\*\***

This leaflet provides information on New York and Federal programs to provide paid leave when you are out of work due to COVID-19 for any reason. *Each program has its own eligibility requirements. In addition, you may have paid leave benefits under your contract. Check your contract for more details.*

The chart below shows what programs you may be eligible for. More details on the programs follow.

### **YOU MAY BE ELIGIBLE FOR THE PROGRAMS LISTED BELOW, IF YOU ARE MISSING WORK BECAUSE:**

#### **1. Your Health**

- a. You Have COVID-19 or Its Symptoms (Cough, Fever and Shortness of Breath):
  - i. Earned Sick Leave (*NYC Safe and Sick Leave*)
  - ii. Federal Emergency Paid Leave (only employers with fewer than 500 employees)
  - iii. NYS Emergency Paid Sick Leave\*
  - iv. Temporary Disability and Paid Family Leave\*
- b. You are under a mandatory quarantine/isolation order:
  - i. Earned Sick Leave (*NYC Safe and Sick Leave*)
  - ii. Federal Emergency Paid Leave (only employers with fewer than 500 employees)
  - iii. NYS Emergency Paid Sick Leave\*
  - iv. Temporary Disability and Paid Family Leave\*
- c. Refuse to work because of danger of exposure (no doctor's order)
  - i. Earned Sick (NYC Safe and Sick Leave)

*Note: Sick and other paid leave under the NYS Emergency COVID-19 Paid Sick Leave law is available only to employees who are subject to a mandatory or precautionary order of quarantine or isolation (see footnote below for further explanation).*

#### **2. Work Not Available:**

- a. Because business closed under government order:
  - i. Earned Sick
  - ii. Unemployment Insurance
- b. Employer has lack of work
  - i. Unemployment Insurance

#### **3. Have to Care for a Loved One**

- a. Who is sick or under a mandatory quarantine/isolation order:

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\* Requires a quarantine or isolation order, or a pending application for one. Benefits depend on size of employer.

- i. Earned Sick (NYC Paid Sick and Safe Law)
  - ii. NYS Paid Family Leave
  - iii. Standard FMLA
- b. Child who is home from closed school or day care center
    - i. Earned Sick (NYC Paid Sick and Safe Law)
    - ii. Expanded FMLA

### **PROGRAM DETAILS**

For more information on New York paid leave programs:

<https://www.governor.ny.gov/programs/paid-sick-leave-covid-19-impacted-new-yorkers>

#### **1. NYS Programs for Your Health:**

##### **A. You have symptoms of Covid-19 but no direction to self quarantine or isolate**

Federal Emergency Paid Leave of up to 80 hours (applies to employers with fewer than 500 employees)

##### **B. If you have a quarantine/isolation order or have one pending**

- 1. **Federal Emergency Paid Leave** of up to 80 hours (applies to employers with fewer than 500 employees)
- 2. **NYC Safe and Sick Law** for up to 40 hours of sick leave, earned at a rate of 1 hour of sick leave for every 40 hours worked
- 3. **NYS Emergency Paid Leave:**

**If your employers has 10 or fewer employees and less than \$1 million in annual revenue**

- Job protection for the duration of a quarantine/isolation order.<sup>1</sup>

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<sup>1</sup> Emergency New York law defines “mandatory or precautionary order of quarantine or isolation” as one 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.” The NYS Department of Health (NYDOH) provides additional guidance of the different quarantine/isolation statuses:

[https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Interim\\_Containment\\_Guidance\\_COVID-19.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Interim_Containment_Guidance_COVID-19.pdf). The NYDOH guidance defines the various quarantine/isolation statuses as follows:

Mandatory Quarantine: Close contact with someone who has tested positive but is asymptomatic. Also, includes someone who has traveled to China, Iran, Japan, South Korea or Italy and is displaying symptoms of COVID-19.

Mandatory Isolation: Tested positive for COVID-19, regardless of whether asymptomatic.

- Unpaid sick leave for duration of a quarantine/isolation order. *(Paid leave under the NYC Safe and Sick Leave is available up to 40 hours of paid leave for employers in NYC with five or more employees. Unpaid leave available under NYC law for employees of employers with fewer than five employees.)*
- Temporary Disability Benefits (TDB) and Paid Family Leave (PFL) benefits available if under a quarantine/isolation order. There is no waiting period. Available for the period of the quarantine/isolation order. (See below for details.)

**If your employer has between 11-99 employees and or if your employer has 10 or fewer employees and more than \$1 million in annual revenue**

- Job protection for the duration of a quarantine order.
- Five paid sick days at regular rate of pay and unpaid leave for the duration of the quarantine/isolation order. Cannot be compelled use existing sick leave accruals or other accrued paid time off.
- Temporary Disability Benefits and Paid Family Leave benefits available after five days. Available for the duration of the quarantine/isolation order. (See below for details.)

**If your employer has 100 or more employees**

- Job protection for the duration of a quarantine order.
  - Fourteen paid sick days at regular rate of pay during any mandatory or precautionary quarantine or isolation order.
  - Cannot be compelled use existing sick leave accruals or other accrued paid time off.
- Interaction between NYS and federal emergency laws (see below for U.S. emergency leave law): If New York paid sick leave benefit is greater than that provided by federal law, then employee can claim benefit in excess of the federal law up to the New York benefit limit.

**2. NYS Programs Care for a Family Member or Yourself**

**NYS Paid Family Leave – Care for yourself due to a COVID-19 quarantine/isolation order or a pending application for one and care for a family member**

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Precautionary Quarantine: Person who meets one or more of the following criteria: (i) traveled to China, Iran, Japan, South Korea or Italy but is asymptomatic; or (ii) is asymptomatic but has had “proximate” but not direct exposure to a positive person

- Available to: Employee subject to quarantine/isolation order or has an application for one pending or to care for a family member subject to a quarantine/isolation order or has an application for one pending. Family member includes spouses, domestic partners, children, parents, grandparents, grandchildren.
- Available to employee after use of emergency paid sick leave benefits.
- Provides for 60% of pay up to \$840.70/week. Can be supplemented by Temporary Disability Benefits for up to \$2,884.62/week (combined total of TDB and PFL benefits).
- No waiting period. Available for duration of quarantine/isolation order.
- Can be combined with employer-provided PTO if employer consents, but employer cannot mandate use with other PTO.
- Cannot apply for Unemployment Insurance Benefits while on PFL.
- Eligibility: Available to full-time and part-time employees.
  - Full-time employees defined as working a regular schedule of 20 or more hours per week for at least 26 consecutive weeks.
  - Part-time employees defined as working a regular schedule of less than 20 hours per week after 175 days (does not need to be consecutive). For employees with intermittent schedules, use average scheduled hours.
- Paid by insurance carrier

**Temporary Disability Leave: Care for yourself due to your own illness or mandatory quarantine/isolation order**

- Available for the employee's use for duration of a quarantine/isolation order or if unavailable to work due to your own illness.
- Available on top of PFL for a total benefit of up to \$2,884.62/week (Temporary Disability Benefits available by itself up to \$2,043.92). Can run concurrently with PFL.
- Available to employees of employers with fewer than 100 employees. (Law is silent on employers with 100 or more employees.)
- No waiting period for Temporary Disability Benefits but must exhaust emergency paid leave before accessing TDI or PFL.
- Paid by insurance carrier.

***NYC Safe and Sick Leave for Care for Yourself or for Another***

- *Available to full-time, part-time and temporary employees.*
- *Accrues at rate of one hour of paid leave for every 30 hours worked, up to 40 hours paid leave in a calendar year.*
- *Can be used for care for the employee herself or care for a family member.*
- *Can be used for COVID-19 related reasons, including:*
  - *Employee's illness*
  - *Quarantine or isolation of the employee or a to care for a family member*

- *Temporary closure of the employee's workplace due to the pandemic*
- *When a public official closes a child's school or child care provider due to pandemic*

### **U.S. Government Emergency Paid Sick Leave**

**Note: This program applies only to companies who have 500 or fewer employees.**

1. Who pays: Employer with less than 500 employees<sup>2</sup>
2. Use:
  - a. If under quarantine order
  - b. A health care professional orders self-quarantine
  - c. Having symptoms of COVID-19 and seeking diagnosis
  - d. Caring for an individual under quarantine or health care professional advises to quarantine
  - e. Caring for a child because school has been closed due to COVID-19
  - f. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
3. Benefit:
  - a. Amount:
    - 2 weeks paid sick leave at regular rate of pay for worker's own illness (uses a-c);
    - 2 weeks at 2/3 pay for caring for a sick individual or child at home (uses d-f)
  - b. Cap:
    - For own illness—pay is capped at \$511 a day or a total of \$5,110
    - For caring for sick or child—pay is capped at \$200 a day or a total of \$2,000
4. Eligibility: Full time employees eligible for 80 hours; part-time employees eligible for number of hours they average in a 2 week period
5. Requirements: Employers may seek hardship exemption
6. More information: This program is administered by the U.S. Department of Labor. No more information available at this time.

### **U.S. Government Public Health Emergency Leave**

**Note: This program applies only to companies who have 500 or fewer employees.**

1. Who pays: Employer<sup>3</sup>
2. Benefit: 10 weeks of paid leave at 2/3 employee's regular rate:

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<sup>2</sup> The Employer gets a tax credit so your taxes help pay for this program

<sup>3</sup> The Employer gets a tax credit so your taxes help pay for this program

- a. First 2 weeks without work are unpaid leave (employer may require use of any paid time off for these 2 weeks)
  - b. Then up to 10 weeks of benefits
3. Use: If Unable to work to take care of child whose school or day care center has closed by government order
4. Eligibility: Full-time and part-time employees employed for at least 30 days
5. Requirements: Employers may seek exemptions
6. More information:
  - a. This program is administered by the Wage and Hour Division of the U.S. Department of Labor. [www.dol/agencies/whd](http://www.dol/agencies/whd) or call 1-866-4US-WAGE (1-866-487-9243).

