



# Updates on Workers' Rights in New York In the Midst of COVID-19

**Revised May 2021**

## **I lost my job, have had my hours cut, or have been put on unpaid leave as a result of the Coronavirus (COVID-19): Am I eligible for Unemployment Benefits?**

### **Unemployment Insurance**

Unemployment Insurance provides temporary income for eligible workers who have lost all or some of their work hours and have valid employment authorization. Eligible employees who lose most or all of their wages because their employer cuts work hours, or is closed temporarily or permanently due to COVID-19 or a quarantine order, may immediately file a claim for Unemployment Insurance (UI) benefits with the New York State Department of Labor (NYSDOL).

### **How do I know if I am eligible for UI?**

Generally speaking, workers are eligible for UI if they lost their jobs through no fault of their own, have worked for enough time and have earned enough wages in the past 18 months, and are available for work. Part of being available for work is demonstrating that you have valid work authorization now and had valid work authorization during your past 18 months of work. The NYSDOL decides if you qualify for benefits and sets your benefit level based on the employment information you put in your application.

If you are undocumented but you are authorized to work, NYSDOL should screen you for eligibility. For example, DACA grantees are eligible for UI if they are currently authorized to work. If a DACA grantee's work permit expires or is rescinded, they would no longer be eligible for UI, however.

### **Am I eligible for unemployment benefits if I am a gig worker or independent contractor?**

The federal government has provided emergency funding to expand unemployment assistance during the COVID-19 pandemic to include some workers who have historically been excluded from regular state unemployment insurance. Workers found eligible for this federally funded program will receive Pandemic Unemployment Assistance (PUA).

## **Pandemic Emergency Unemployment Compensation Program and Pandemic Unemployment Assistance**

The Pandemic Emergency Unemployment Compensation Program (PEUC) and the Extended Benefits Program (EB) extended unemployment benefits for those who are or have been receiving regular Unemployment Insurance. After a worker has exhausted 26 weeks of regular Unemployment Insurance benefits, the PEUC provides up to 53 weeks of additional benefits through the benefit week ending September 5, 2021. After a worker has exhausted PEUC benefits, they can receive EB, which currently provides up to another 20 weeks of additional benefits, which also run through the benefit week of September 5, 2021. The number of available weeks of EB may change per federal rules because it depends on New York's unemployment rate. As a result, a worker may be eligible to receive up to 99 weeks of benefits. However, for anyone who applies on, or after September 7, 2020, they will only be eligible to receive 26 weeks of regular Unemployment Insurance and up to 20 weeks of EB for a total of up to 46 weeks of benefits.

Through the American Rescue Plan, as a supplement to regular benefits, an additional \$300 is payable to eligible claims for the weeks ending January 3, 2021 through September 5, 2021.

Pandemic Unemployment Assistance (PUA) is available to workers who are not eligible for regular Unemployment Insurance including:

- Self-employed workers
- Independent contractors
- Freelancers
- Workers whose earnings are not high enough or who have insufficient work history to qualify for state UI benefits
- Persons diagnosed with COVID-19 or have COVID-19 symptoms and are seeking a diagnosis;
- Persons living with a household member who has been diagnosed with COVID-19;
- Providing care for a family or household member diagnosed with COVID-19;
- Primary caregiver for a child unable to attend school or childcare facility for reasons related to COVID-19 (this includes children who are remote learning).

Recipients of PUA are not eligible for PEUC or EB. However, PUA recipients may receive up to 79 weeks of benefits depending on when they file their claim through the week ending September 5, 2021.

Through the American Rescue Plan, PUA recipients will also receive an additional \$300 in benefits through the week ending September 5, 2021. To be eligible, individuals must have valid work authorization. Individuals who are able to "telework" or work from home, and those receiving paid sick leave or other paid leave benefits, are ineligible for unemployment assistance benefits.

## **I think I am eligible for UI or PUA. How do I apply?**

You can apply online or by phone. If you want to apply online, you can create an account and apply:

- In English, at: [https://labor.ny.gov/ui/how\\_to\\_file\\_claim.shtm](https://labor.ny.gov/ui/how_to_file_claim.shtm).
- In Spanish, at: [labor.ny.gov/signin](https://labor.ny.gov/signin).

Here are step-by-step instructions on how to apply online:

<https://maketheroadny.org/seguro-de-desempleo-y-covid-19/>

The NYSDOL has also provided video instruction on how to create an account and apply online in Spanish: [https://www.youtube.com/watch?v=Ajy0KrDXvOA&ab\\_channel=NYSLabor](https://www.youtube.com/watch?v=Ajy0KrDXvOA&ab_channel=NYSLabor)

You can apply by phone at (888) 209-8124, Monday to Friday 8:00 a.m. to 7:30 p.m. If you need language assistance in any language other than English and Spanish, you must apply by phone.

Workers have to wait 7 days after their last day of work before applying for Unemployment Insurance benefits. New York State is currently waiving the 7-Day waiting period for people who are out of work due to Coronavirus closures or quarantines and is encouraging workers to apply for UI immediately.

## **I've applied for Unemployment Insurance. What now?**

You must continue to “certify” with the NYSDOL every week that you are ready and available for work. According to the NYSDOL, while workers must be actively engaged in searching for work to receive weekly benefits, this requirement should be somewhat relaxed because of COVID-19.

If you applied online, you should log into your account each week and certify online. If you applied by phone, call (888)-581-5812 to certify your weekly benefits. If you are applying for or found eligible for PUA, you can call (833) 324-0366 to certify (note this is for PUA applicants only). You need to certify weekly even if your application has not yet been approved.

If the NYSDOL finds that you are eligible and approves your application for regular Unemployment Insurance, you can receive Pandemic Emergency Unemployment Compensation (PEUC) and the Extended Benefits (EB). If you applied before September 7, 2020 you can receive up to 99 weeks of PEUC/EB benefits through September 5, 2021. If you applied on or after September 7, 2020, you can receive up to 46 weeks of PEUC/EB benefits also through September 5, 2021. If you are not eligible for regular Unemployment Insurance, you may be eligible for Pandemic Unemployment Assistance (PUA). If the NYSDOL approves your application for PUA, you can receive up to 79 weeks of weekly unemployment benefits

through September 5, 2021. Anyone who is receiving regular Unemployment Insurance or PUA will also receive an additional \$300 in weekly benefits through September 5, 2021.

## What are the Certification questions?

When you claim weekly benefits, you will be asked questions about the week that just ended, including;

Question 1: During the week ending (corresponding DATE), did you refuse any job offer or referral?

Question 2: How many days did you work, including self-employment, during the week ending (corresponding DATE)?

If you worked on any days you will then be asked: Excluding any earnings from self-employment, did you earn more than \$504?

Question 3: How many days were you not ready, willing, and able to work?

Question 4: How many days were you owed vacation pay, or did you receive vacation pay?

Question 5: How many days were you owed holiday pay or did you receive holiday pay?

Question 6: Have you returned to work?

## What happens if I don't certify for one week?

If you don't certify for one week, you will likely not receive unemployment benefits for that period.

## Can I have a friend/family member certify for me?

The NYSDOL advises that claimants do not give anyone – including family members – access to their PIN, NY.gov ID and password, or debit card, and do not let anyone claim benefits for the claimant. This may be considered fraud. The only exception is if someone cannot enter their own information due to a disability or language issue.

## Can I continue certifying if I leave NYS?

You cannot claim benefits for any period that you are outside the United States, Canada, Puerto Rico or the Virgin Islands. Do not try to certify for benefits from outside these countries or territories. This will lead to a freeze on your claim and may delay your payments. Also, do not have someone else certify on your behalf while you are traveling outside the country. This is fraud and can lead to severe penalties.

**If you are having continued difficulty applying for, certifying or not receiving benefits, you can:**

- Contact the TCC (Telephone Claims Center) directly by email to [laborUI800@labor.ny.gov](mailto:laborUI800@labor.ny.gov) for SSNs with the final four digits being 0000-4499, or to

UI830@labor.ny.gov for 4500-9999, or to either if there is no SSN, with a key word in the subject line, with first and last name and last 4 digits of SSN in subject line **OR** full SSN in body of email but no names **BUT** never the full SSN in subject line, and a brief description of the issue in the body of the email.

- If still no response from TCC, try reaching out to the Claimant Advocate, Danny Lee at 855-528-5618 or at Danny.lee@labor.ny.gov

## How many weeks of UIB/PUA will I receive?

### If you applied for Unemployment Insurance Benefits:

- Regular Unemployment Insurance Benefits (UIB) is 26 weeks of temporary financial assistance.
- Pandemic Emergency Unemployment Compensation (PEUC) provides up to 53 weeks of additional benefits through the benefit week ending September 5, 2021.
- After a worker has exhausted PEUC benefits, they can receive EB, which currently provides up to another 20 weeks of additional benefits, which also run through the benefit week of September 5, 2021. The number of available weeks of EB may change per federal rules because it depends on New York's unemployment rate.
- As a result, a worker may be eligible to receive up to 99 weeks of benefits. However, for anyone on or after September 7, 2020, they will only be eligible to receive 26 weeks of regular Unemployment Insurance and up to 20 weeks of EB for a total of up to 46 weeks of benefits.

### If you applied for Pandemic Unemployment Assistance (PUA)

- PUA recipients may receive up to 79 weeks of benefits depending on when they file their claim through the week ending September 5, 2021. Through the American Rescue Plan, PUA recipients will also receive an additional \$300 in benefits through the week ending September 5, 2021.

## Can non-citizens receive UI or PUA?

Yes. If you are a permanent resident or had work authorization (e.g. DACA) during the relevant base period and continue to have work authorization, you may be eligible for traditional UI.

In the past, H1B visa holders (and others who have work authorization tied to one particular employer) have been held to be unavailable for work and thus ineligible. Arguably, these type of visa holders may be considered available for work if they have been temporarily furloughed. If you have questions about your eligibility, please consult an immigration attorney.

## Will applying for UI or PUA make me a “public charge”?

No, UI benefits are not considered a public benefit that would be relevant in a public charge determination for those seeking to adjust or apply to a lawful immigration status. For more

information on recent developments in the “public charge” rule please consult with an immigration attorney or advocate.

## **I received a letter from the NYSDOL asking me for documentation of my work authorization. What should I do?**

You should respond as soon as possible. Per the instructions on the letter, you should provide photo copies or scans of your work authorization documents via U.S. mail, or through a secure message sent through your ny.gov account.

Adequate documentation will include your social security card (front and back), and your *unexpired* employment authorization document (“EAD,” or work authorization card). Legal permanent residents do not use work authorization cards and may use their unexpired or expired permanent residency card (“green card”).

Below is a list of common non-citizen statuses, and whether the status comes with work authorization. This list is not exhaustive. When in doubt, you should speak to your immigration attorney or advocate about whether your status entitles you to work authorization.

- **Always Work Authorized:**
  - Legal Permanent Residents: Permanent residents are always work authorized, even when their card is expired. The only exception is if they have lost their residency status (e.g., because they obtained the status through marriage, but divorced shortly thereafter), but still have their expired or unexpired card.
  - Asylees: Asylees refer to those who have been granted asylum, and they are automatically work authorized, as opposed to those whose application is pending.
  - T and U Visa Recipients: T or U visa holders are automatically work authorized.
- **Typically Work Authorized (when the Claimant also has unexpired EAD):**
  - DACA recipients
  - TPS recipients
  - *Asylum Applicants*
  - *U and T Visa Applicants*
- **Possibly Work Authorized/ Must Consult with Immigration Attorney:**
  - VAWA Self-Petitioners
  - SIJS Applicant
  - Others in Adjustment of Status Proceedings

If you do not know whether you are work authorized, or do not have a valid or unexpired EAD, please consult an attorney.

## My work authorization card expired. Will that affect my eligibility for benefits?

Yes. This will likely affect your eligibility for benefits.

First, in order to be considered eligible for UI and/or PUA, you must have worked with valid work authorization for at least part of your “base period” (roughly, the 15 month period prior to your application).

Second, in order to complete the weekly certification for your UI benefits, you must have valid work authorization at the time you complete the certification. If your work authorization expires during the period of your claim, you will no longer be entitled to benefits until it is renewed. Please see below for more information regarding the effect of renewal applications on eligibility.

## Am I eligible for benefits while my work authorization is pending renewal?

- It depends on your current immigration status, and when you reapplied. Please see below for some common scenarios:
  - If you worked without authorization for your *entire* base period, and only received work authorization after you became unemployed, you will not be eligible for either UI or PUA.
  - If your work authorization card expired, but you have submitted a timely renewal application, your work authorization is automatically extended by 6 months and you will be eligible for benefits. A timely renewal application is defined as having an I-797 Notice of Receipt from USCIS that is dated prior to the expiration of your old work authorization card. If the date on the I-797 Notice of Receipt is after the expiration of the old work authorization card, you do not get an extension.
  - If your work authorization card expired, but you have submitted a renewal application, and it has been approved, you will be eligible for benefits from the date of the approval. You will likely receive the I-797 Notice of Approval prior to receiving the card itself. This is sufficient to prove work authorization.
  - The I-797 Notice of Receipt is not sufficient to show work authorization.

## I certified for benefits while my work authorization card was expired and the NYSDOL is saying that I was not eligible. What should I do?

When a claimant claims benefits for which they were ineligible, the NYSDOL will issue a written determination on their eligibility, and require the claimant to repay the overpayment. If you believe that the NYSDOL issued this determination in error, you can request a hearing.

If the determination was not an error, then you will have to repay the overpayment.

The determination is not an indication that criminal charges have been brought, nor is it the same a disposition in a criminal matter. Moreover, the risk of criminal prosecution is incredibly low and near zero for claimants who made the error in good faith and are willing to enter into a payment plan with the NYSDOL. Thus, this particular error should not affect future immigration applications. As always, consult your immigration attorney for advice that is more specific to your situation.

### **I applied for benefits using false documents. What should I do?**

If you have not yet received benefits, we recommend sending a secure message to the NYSDOL stating that you do not wish to proceed with your application for benefits. Do not respond to the NYSDOL's attempt to collect additional documentation from you (e.g., copies of your work authorization documents). Do not certify for benefits.

If you have already received benefits, immediately stop certifying for your weekly benefits. You should report to the NYSDOL via a secure message that you mistakenly applied for and certified for benefits when you were not eligible, and state that you wish to repay the benefits. If you proactively respond to the error and agree to a repayment plan, the NYSDOL is unlikely to issue any penalties.

However, depending on your responses to the initial questionnaire, this could negatively affect future immigration applications. In particular, falsely claiming to be a U.S. citizen, or using someone else's social security card or work authorization documents are considered serious violations. You *must* disclose this to your immigration attorney so that he or she can advise you on how to proceed.

### **How do I terminate my claim when I return to work full time?**

You do not need to notify the NYSDOL when you return to work. Simply stop claiming benefits.

If you have only returned to work temporarily, and would later like to "reopen" your claim, you may return to your account and start claiming benefits again. Your claim will remain active for one year.

### **I am just learning that I may have been eligible earlier this year when I was unemployed/lost income. I am now working again. Can I file for UIB/PUA retroactively?**

Unfortunately, no. To be eligible for UIB and PUA you must be currently unemployed.

### **What if I have returned to work, but on a limited basis, like one to two days per week?**



New York's method for calculating partial unemployment benefits has long been uniquely unreasonable and unfair, but the policy is beginning to change as of January 2021. New York's policy has been to ignore the number of hours worked and the amount earned in a week, and look only at how many days the claimant has done *any* work. For each such day, the claimant has done any paid work, UI benefits were reduced 25%, so that to do even a half an hour's work on each of four days would reduce UI benefits for that week to zero.

Governor Cuomo signed an executive order, effective January 18, 2021 to change the state's partial UI policy. Beginning January 21, 2021, claimants who earn no more than \$504 (the maximum weekly basic benefit rate) in a week will have their benefits reduced in steps according to how many *hours* they work: 0% off for 0-4 hours, 25% off for 4+ to 10 hours, 50% off for 10+ to 20 hours, and 75% off for 20+ to 30 hours. Claimants will have benefits reduced 100% for any week in which they earn over \$504 *or* work over 30 hours. Claimant must still certify on the basis of days worked, and so must consult a conversion table: 0-4 hrs = 0 days, 4+ to 10 hrs = 1 day, 10+ to 20 hrs = 2 days, 20+ to 30 hrs = 3 days, 30+ hrs = don't certify for that week.

As of 1/20/21, partial income disregards have been put forward (50% in a bill that passed the NY Senate, 40% in the Governor's budget bill), but neither has yet been adopted.

DOL has added partial UI (with Q and A) to its page on benefits under the extended CARES Act

<https://dol.ny.gov/system/files/documents/2021/01/p803.pdf>

See also

<https://www.governor.ny.gov/news/governor-cuomo-announces-proposal-boost-partial-unemployment-benefits-part-2021-state-state>.

## **What if my employer has given me an offer to return to work? Can I refuse and still qualify for UI?**

It depends on what the offer to return to work looks like. For a comprehensive guide on refusal, consult the ALJ Bench Manual here:

<https://uiappeals.ny.gov/system/files/documents/2020/01/part-2-chapter-3.pdf>

There are several elements that need to be satisfied for a refusal to disqualify a claimant for receipt of unemployment benefits. The elements are listed below.

- Was there a bona fide offer of employment?
- Was there a refusal of the offer?
- Did the claimant have good cause to refuse?

*Bona Fide Offer of Employment*

In order for a refusal to be a disqualifying event, the claimant must have received a *bona fide* offer of employment. To constitute a *bona fide* offer, the available position must include a specific start date, rate or pay, location, and job duties. It must be unconditional, not merely an idea or theoretical.

### *Refusal*

In order for a refusal to be a disqualifying event, the claimant must actually refuse the position. A communicated refusal clearly satisfies this element, but what counts as a refusal is not always so obvious. There are many Appeal Board decisions that consider a claimant to have refused an offer even in less clear situations, including: failure to timely respond to an offer; engaging in a conversation considering concerns about a potential job; and acceptance of a job offer, but failure to report to work. For more detailed information regarding these less obvious refusals, consult the ALJ Bench Manual, p. 94-96

<https://uiappeals.ny.gov/system/files/documents/2020/01/part-2-chapter-3.pdf>

### *Good Cause*

A claimant may refuse a *bona fide* offer of employment without that refusal constituting a disqualifying event if the claimant had good cause to refuse.

COVID-19: A claimant may have good cause to refuse a job offer for genuine and reasonable fears based on specific facts, such as an employer's failure to take the necessary steps to ensure employee safety during the COVID-19 pandemic, or that a return to work would exacerbate a specific health condition. To assist in making a showing that a claimant had good cause to refuse an offer, it is advisable to compile evidence that shows that the claimant took several affirmative actions to learn about the potential position, including seeking a doctor's advice related to the potential job duties, efforts to mitigate the risk with the employer, and seeking information regarding certain health conditions that may make the potential position uniquely harmful to the claimant's health.

Generally, good cause for refusal does not exist if the refusal is made based on more general safety concerns related to the COVID-19 pandemic.

The DOL has issued guidance on return to work during the COVID-19 pandemic here: <https://www.labor.ny.gov/ui/pdfs/returning-to-work-and-UI.pdf>

Travel: Good cause for refusal may exist when a claimant is offered a job that requires travel in excess of one hour by private means or one and one-half hours by public transportation.

Good cause for refusal may also exist where transportation is not available.

Wages: A claimant is not required to accept a position that is substantially less favorable than the prevailing wage for similar work in a locality. "Substantially less" is defined as being greater than 10% below the prevailing wage. Claimants cannot refuse a job because of dissatisfaction with the wage so long as the job meets the prevailing wage requirements. The fact that the prevailing wage is less than that previously earned does not alone constitute good cause for refusal.

## **What are the work search requirements involved with unemployment benefits?**

As part of the requirement that a claimant be ready, willing, and able to work, the Unemployment Insurance Law includes a requirement that claimants be engaged in systematic and sustained efforts to find work, and maintain proof of such efforts. A claimant who is not engaged in a search for work is considered to be unavailable to work, and is thus ineligible to receive benefits.

### *Systematic and Sustained Efforts to Find Work*

The regulations require at least three work search activities per week, including at least one of the activities numbered 1-5 below.

1. Using employment resources available at the Career Center, such as:
  - a. Meeting with advisors;
  - b. Receiving job market information;
  - c. Participating in a skills assessment;
  - d. Participating in workshops;
  - e. Obtaining and following up with employers on job referrals and job matches;
2. Visiting a job site and completing an application in person;
3. Submitting an application and/or resume in response to a posting;
4. Attending job search seminars, networking meetings, job fairs, or employment workshops;
5. Interviews with potential employers;
6. Applying for employment with former employer(s);
7. Registering and checking in with private sources of employment;
8. Using telephone, internet, or job matching systems to make appointments for job interviews;
9. Applying or registering for and taking Civil Service examinations.

### *Proof of Work Search Requirements*

Claimants must keep records that include:

- Contact information of potential employers contacted;

- Dates, contact methods used, and the results of the contacts;
- Position or job title seeking;
- Date, location, and description of other work search efforts.

Claimants may either keep this information on their own or enter the information on the NYSDOL's website using the "JobZone" application. Claimants who maintain their own records must retain the information for at least one year and be prepared for an audit of the information.

If a claimant is unable to show that she has been engaging in a systematic and sustained search for work, a determination may be issued finding the claimant ineligible to receive benefits.

### *Work Search and PUA*

Work search requirements are not addressed in the CARES Act or PUA regulations. Although the NYSDOL has not explicitly waived the work search requirements for claimants receiving PUA, the assumption is the requirements have been relaxed significantly. In fact, several of the qualifying eligibility groups for PUA require unavailability for work, i.e., if the claimant has COVID or is the primary caretaker for children out of school.

\*If a claimant is receiving PUA and otherwise ready, willing, and available to work, it may be advisable for the claimant to also comply with the work search requirements for traditional unemployment benefits in an abundance of caution.

## **I Received a Request for Reconsideration. What Should I do?**

Often earnings are not supported by tax documents and the unemployment benefit application is insufficient in capturing all employee wages or earnings. This could happen for a variety of reasons, but commonly, this happens because the applicant has not filed taxes.

A request for reconsideration is an opportunity for an applicant to supplement her reported earnings, which may increase the applicant's benefit rate. The request for reconsideration generally comes after an applicant has been approved for unemployment benefits and has a monetary benefits determination (MBD). It will include the approved weekly benefit rate, as well as the earnings to support that rate determination. If the cited earnings/wages are comprehensive of the claimants' actual earnings/wages during the cited period, no response is needed. If, however, the cited earnings/wages are inaccurate (usually less than actual earnings/wages), a claimant should submit a request for reconsideration asking for a recalculation of the weekly benefit rate.

Requests for reconsideration are fairly straightforward. They include a chart for claimants to document earnings per quarter. Claimants should fill in those boxes within the chart with their earnings per quarter as specifically as possible. Claimants should do their best to support those figures with physical documents (i.e., W2s, 1099s, earnings statements, pay stubs, etc.). If a

claimant only has information regarding her annual earnings, it may be advisable for the client to divide those annual earnings by four to obtain an estimated quarterly earning amount.

\*Note that PUA claimants often receive a request for reconsideration in the mail as a matter of course, because PUA MBDs are based on all claimant earnings, rather than just employee wages. Many PUA recipients received MBDs of “\$”, “\$0”, or “\$182” (the minimum PUA weekly benefit rate) early during this COVID-19 pandemic. In those circumstances, provided that the claimant had earnings for the previous calendar year, it is advisable that the claimant request reconsideration of the weekly benefit rate, since the request for reconsideration may be the claimant’s first opportunity to inform the NYSDOL of previously unreported earnings.

## **I am ineligible for UI. Is there any other financial assistance available?**

Make the Road New York (MRNY) and other organizations across New York City and New York State demanded that the state establish and fund a new program to support working families who suffered economic loss due to the Coronavirus but who do not qualify for UI or PUA, especially undocumented workers and others who are excluded from existing benefits programs. This campaign was successful and we expect that NYSDOL will open that application process late summer 2021. Please check this website for more details:

<https://fundexcludedworkers.org/>.

[In the meantime, we recommend that you check the requirements and, if you have not already done so, file your 2020 tax return and request an ITIN from the Social Security Administration if you do not already have one.](#)

## **Other wage replacements or emergency relief**

Community members, community organizations, and foundations have established special funds for additional support for workers in some industries and others who need additional assistance. Information is available here:

<https://documentedny.com/2020/04/21/quia-de-ayudas-para-inmigrantes-durante-la-pandemia/>

If you are out of work and are not eligible for UIB and other public benefits, there are other ways to get connected with resources in your community. The following organizations and city-wide programs provide assistance to New Yorkers and do not require proof of work authorization or immigration status.

**Parachute and FASTEN Programs: (through Catholic Charities of Brooklyn and Queens and NYC’s Homebase Program)- 718-722-6001**

<https://www1.nyc.gov/site/hra/help/homebase.page>

**Emergency Home Food Delivery (free):**

<https://www1.nyc.gov/assets/dsny/contact/services/COVID-19FoodAssistance.shtml>

**Food Banks in NYC during COVID-19:**

<https://www.foodbanknyc.org/covid-19/>

**Free Isolation Hotel Program:** 1-844-692-4692 (Health care providers cannot and will not ask you about your immigration status or Social Security Number. Your information is not collected).

<https://www1.nyc.gov/site/helpnownyc/get-help/covid-19-hotel-program.page>

**Mutual Aid:** - A network of neighborhood groups that provide a variety of resources and connect you with your neighbors. Find your local mutual aid group here:

<https://mutualaid.nyc/>

**Cash funds for Service Workers:**

**Service Workers' Coalition Grocery Stipend:**

<https://www.serviceworkerscoalition.org/new-page>

**Emergency Relief Fund for Restaurant Workers:**

English: <https://form.southernsmoke.org/smoke/application/>

Spanish: <https://form.southernsmoke.org/smoke/application/spanish/>

**I was offered a job that pays less than the minimum wage, in cash, and/or where I may be exposed to the Coronavirus, but I really need the money. What should I do?**

This is a personal decision that only you can make, weighing the potential health and other risks against your family's needs.

If you *do* accept a job working for an employer that pays less than the minimum wage or that seems abusive in another way, you should know that you do not give up any of your rights just because you accepted the job and agreed to the pay rate. You can learn about rights and prepare to take action later on, even if you don't feel you can do so now.

You should know that employers are legally required to pay most workers in New York City *at least* \$15 per hour, and must pay at least \$14 per hour to workers in Westchester and Long Island. Employers must also pay overtime at the rate of one-and-a-half times your regular rate of pay for all work hours over 40 in a week. Employers must pay you the promised wage or the minimum wage (whichever is higher) for all hours worked, including if you work before and/or after your scheduled shift.

You should keep track of your work hours and pay, on a calendar, in a notebook, and save texts and any work records your employer gives you, in case you later decide to take action to remedy your employer's violation. In New York State, you have six years from the time of the pay violation to file a claim, but generally, the sooner you can take action, the better.

If you feel that your employer is not complying with the law, you can talk with your coworkers about it and/or talk to a lawyer who can give you advice on your legal rights and remedies. It is illegal for your employer to retaliate against you - by firing you, cutting your hours, or threatening you - for speaking out about your rights or filing a claim against them. Employers can face additional penalties if they retaliate against workers.

## **I am an essential worker and am still expected to go to work:**

### **Can I take time off of work to take care of myself if I am feeling sick or need to take care of a sick family member?**

#### **New York State: Paid Sick Leave**

Many workers in New York state are entitled to paid sick leave to care for themselves or a family member. If you are feeling sick and need to take time off of work, or a family member is feeling sick and you need to take time off of work to care for them, you may be entitled to a certain amount of paid sick leave. You can also use the state paid sick time if you need to take leave because you are under a mandatory or precautionary order of quarantine or isolation due to COVID-19.

Eligibility for, the amount of sick leave to which you are entitled, and whether or not the leave must be paid or can be unpaid, depends on the size of your employer and other facts:

- If your employer has 4 or fewer workers and a net income of \$1 million or less: you have the right to earn up to 40 hours of *unpaid*, job protected sick leave per year
- If your employer has 4 or fewer workers and a net income of more than \$1 million: you have the right to earn up to 40 hours of paid sick leave per year
- If your employer has 5-99 workers: you have the right to earn up to 40 hours of paid sick leave per year
- If your employer has 100 or more workers: you have the right to earn up to 56 hours of paid sick leave per year

If your employer does not provide the required paid sick leave, you may [file a complaint](#) with the NYS Department of Labor.

In addition, New York state and the federal U.S. government have each passed their own emergency sick leave laws that provide additional paid sick time to workers who need to take time off for reasons related to COVID-19. See below for more information on these additional benefits.

#### **New York City: Paid Sick & Safe Leave**

Most workers in NYC have the right to sick time. If you work in NYC, you may be able to earn up to 56 hours per year of leave under city law to care for yourself or anyone you consider family. You can start using your sick time immediately as you earn it. You can use your time to stay home if you or a family member is sick, or to go to medical appointments.

New York City's rules on how much leave time you're entitled to and whether it must be paid or can be unpaid follow the state's rules. See section above.

Domestic workers in NYC who work in a home or residence and are employed by an individual or household to provide (i) care for a child, (ii) companionship for a sick, convalescing or elderly person, (iii) housekeeping, (iv) or any other domestic service, earn up to 40 hours of paid sick leave each year.<sup>1</sup>

Employees can use safe and sick leave to take time off of work when their employer's business closes temporarily due to a public health emergency like COVID-19, or they need to care for a child whose school or child care provider closed due to a public health emergency. NYC is interpreting this law to mean that employees may use their sick leave if their workplace or children's schools or child care closed temporarily as a result of the May 16, 2020 executive order that shut down schools and many businesses. But, employees must also still be employed by the business when they claim the leave, which may prevent many workers from claiming this important benefit.

To learn more or to report a problem, call 311.

### **Westchester County: Earned Sick Leave Law**

Most workers in Westchester gained the right to sick time through a county law that passed in October of 2018, and began acquiring paid sick time under the law on July 10, 2019 (or on their first day of employment, if later).

When the state paid sick leave law went into effect, it "preempted" the Westchester paid sick days law. Now, employees in Westchester can only claim the protection of the state law, see above. But, it is possible that some Westchester workers may be able to bring claims for violations of the county law that took place in 2019 or 2020. Please consult a lawyer if you feel this may be the case in your situation.

Advocates believe, however, that domestic workers in Westchester may still be able to claim the protection of the county law if they have worked (i) for the same employer for at least one year,

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<sup>1</sup> Note that the New York State Domestic Worker Bill of Rights provides domestic workers with the right to three paid days off per year. If you are a domestic worker and your employer does not allow you to use your three paid days of rest per year for all the same reasons and under all the same conditions as the earned sick leave law provides (for ex., if your employer gives you paid time off on dates *they* choose), then you should get earned sick leave *in addition* to the three paid days of rest.



and (ii) worked more than 80 hours in a year for that employer, are entitled to two paid days of sick leave each year. (These are in addition to the up to three paid days of rest per year that domestic workers are entitled to under the Domestic Worker Bill of Rights.)

For more info see: <https://humanrights.westchestergov.com/resources/earned-sick-leave-law>

To report a problem, call the Department of Consumer Affairs at (914) 995-2155 or call Make the Road's Westchester office at (914) 948-8466 for help in filing a claim.

**Please note the following about the New York State, New York City, and Westchester County paid sick days laws:**

Workers are entitled to paid sick leave regardless of immigration status.

Your employer cannot refuse to let you use sick time that you have earned, punish you for requesting or using your earned sick time, or make you find a replacement worker before letting you use your sick time. Your employer cannot require medical documentation for using your sick time if you are taking three consecutive days off of work or less.

Only workers classified as "employees" have the right to paid sick days. But even if your employer calls you an independent contractor or pays you off-the-books, you may still be able to claim this benefit: your work arrangement, not the label your employer gives to you, determines whether you are considered a covered employee under the law.

Workers must be currently employed to claim paid sick time, which means that workers who are already laid off at the time they or a family member gets sick won't be able to claim this benefit.

**Other Paid Leave Programs: Temporary Disability & Paid Family Leave**

*Temporary Disability Insurance (TDI)*

Workers who suffer injuries or illnesses that did not arise out of or in the course of work may be entitled to Temporary Disability Insurance (TDI). Temporary Disability, which is also called Short-Term Disability, is a New York State program that provides weekly cash benefits to partially replace lost wages if you are unable to work. You may be eligible for TDI if you are a carrier of an illness, such as COVID-19, but do not show any symptoms. However, you must be under the care of a medical professional to apply. Disability benefits are covered through your employer's disability benefits insurance carrier, or your employer may be self-insured.

Cash benefits are 50 percent of your average weekly wage for the last eight weeks worked, up to a maximum of \$170 per week. Benefits are paid for a maximum of 26 weeks of disability during any 52 consecutive week period. You cannot collect disability benefits and paid family leave benefits at the same time. The total combined disability leave and paid family leave in any 52 week period may not exceed 26 weeks.

Workers must be either employed or recently unemployed to apply. Workers are eligible for TDI regardless of immigration status.

For more information or to file a claim, go to <http://www.wcb.ny.gov/content/main/offthejob/db-overview.jsp> or call (877) 632-4996 Monday through Friday 8:30 a.m. - 4:30 p.m.

NOTE: there are limits associated with receiving workers' compensation and unemployment benefits at the same time. You should consult with an attorney if this situation applies to you.

### *New York State Paid Family Leave*

Some workers who need to take leave to care for a family member who is seriously ill with a mental or physical illness or condition that requires either hospital care or ongoing treatment by a health provider may be entitled to New York State's Paid Family Leave (PFL). Paid Family Leave is a New York State program that provides employees with a percentage of their pay when they take time off work to care for a sick family member with a serious health condition or a newborn. This law does not provide paid leave to a worker to recover from their own serious health condition, though the worker may be eligible for Temporary Disability Insurance (see above). Ordinary illnesses, like the flu, a cold, an upset stomach, or an earache are not covered unless complications develop or hospital care is needed.

Most employees in the private sector in New York, regardless of citizenship or immigration status, are entitled to paid time off to care for a seriously ill family member (child, parent, parent-in-law, spouse, domestic partner, grandchild, or grandparent) under New York state's paid family leave law. Eligible workers who work 20 hours or more per week can start receiving benefits six months after their start date. Those who work less than 20 hours per week need to work for 175 days to qualify.

In 2021, employees in NY will be able to get 67% of their average weekly wage, up to a maximum of \$971.61 per week, for up to 12 weeks. The PFL law also protects workers' rights to return to the job after taking leave, protects them from retaliation for taking or asking for leave, and applies to all workers regardless of immigration status. Workers pay for leave time through payroll deductions made to the employer's insurance company, and workers apply to the insurance company when they need to take the leave.

Workers may use paid family leave if they need to stay home from work to care for a family member who is sick with COVID-19, which qualifies as a serious health condition. Just as with paid sick days, however, workers must be currently employed to be covered, which will mean that workers who are already laid off won't be able to claim this benefit.

Typically, only workers classified as "employees" have the right to paid family leave. But even if your employer calls you an independent contractor or pays you off-the-books, you may still be

able to claim this benefit. Self-employed workers may also opt in to coverage, for more information see <https://www.abetterbalance.org/family-leave-works-new-york/self-employed/>.

To apply for paid family leave, workers should fill out an application form. Forms are available here: [https://paidfamilyleave.ny.gov/forms?f%5B0%5D=filter\\_term%3A1061](https://paidfamilyleave.ny.gov/forms?f%5B0%5D=filter_term%3A1061). For more information, visit <https://paidfamilyleave.ny.gov/> or call the Paid Family Leave Helpline at (844) 337-6303 Monday - Friday 8:30 a.m. - 4:30 p.m.

## **Can I take time off of work if I have COVID-19 symptoms or have tested positive for COVID-19, or I need to take care of someone who has become ill due to COVID-19?**

Yes. The U.S. government and New York State each passed emergency laws that provide emergency COVID-19 related sick leave that provide additional leave time for workers subject to certain requirements.

### **Federal Emergency Paid Sick Leave**

From April 1, 2020 to December 31, 2020, the federal Families First Coronavirus Response Act (FFCRA) provided additional leave related to COVID-19 for employees at workplaces with fewer than 500 employees. FFCRA leave was an additional benefit on top of state and city paid sick leave protections. Employers of healthcare providers or emergency responders do not have to provide their employees this additional sick leave. The federal government allowed employers to choose whether to extend FFCRA benefits to their employees for an additional three months after December 31, 2020. Because the federal government provides employers with a financial incentive to provide FFCA leave, some employers chose to do so voluntarily, even after their obligation to do expired on December 31, 2020.

Full-time employees for public agencies (regardless of size) as well as private employers with fewer than 500 employees, beginning immediately on April 1, 2020, entitled to 80 hours of paid sick leave (or the equivalent of the average number of hours over two weeks for part time employees) for the following reasons:

And paid at the employee's regular rate (or the state or local minimum wage, whichever is higher), with a maximum of \$511/day and \$5,110 total:

- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

And paid at  $\frac{2}{3}$  of the employee's regular rate (or  $\frac{2}{3}$  of the state or local minimum wage, whichever is higher), with a maximum of \$200/ day and \$2,000 total:

- The employee is caring for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19 or has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
- The employee is caring for a child if a school or place of care has been closed due to COVID-19, or the child care provider of the child is unavailable due to coronavirus.<sup>2</sup>

The paid sick leave provisions state that after the first workday (or portion thereof) that an employee receives paid sick leave, an employer may require the employee to follow reasonable notice procedures in order to continue receiving the paid sick leave. This paid sick leave is *in addition to* any sick pay already provided to the worker under state or city law, or under employer policy.

*NOTE:* workers who are legitimately independent contractors or self-employed may take the same payments listed above as tax credits if they are unable to perform their regular business services or trade.

#### Job protection

The Act provides some job protection. For employees at employers with 25 or more employees, the FMLA requires that an employee be restored to the same or equivalent position after leave. This requirement 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.

Employers must make reasonable efforts to restore the employee to the same or an equivalent position, and if the reasonable efforts fail, the employer must make efforts to contact the employee and reinstate the employee if an equivalent position becomes available within a one-year period beginning on the earlier of (a) the date on which the qualifying need related to a public health emergency concludes, or (b) the date that is 12 weeks after the date the employee's leave started.

The FFCRA makes it illegal for employers to fire, demote, or otherwise retaliate against employees for taking leave under the program. Employees are entitled to continue to receive their health insurance while taking FFCRA leave under the same terms as when they were working.

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<sup>2</sup> Paid sick leave may not be available for school/childcare closures due to the coronavirus when the employer has less than 50 employees and believes it is exempted because to provide additional leave would jeopardize the business's viability.

\*Please note that although the FFCRA program expired, you may still have a claim under the law if your employer denied the benefits when you were eligible or retaliated against you for taking leave time under the program.

### Notice Requirements

All public agencies and private employers with 500 employees or less are required to either post or direct mail or email the following notice informing their employees of their rights under this new law:

[https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Non-Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf).

The notice must be in a conspicuous place on work premises that is visible to all employees. Employers may also satisfy this requirement by posting the notice on a website made for providing information to all employees or by direct mailing or e-mailing the notice to all employees. The USDOL has not required that notices be posted in the employee's primary language but is in the process of translating the notice into other languages.

### **I am still working but need to take time off to take care of my children, because their school is closed.**

In addition to the paid sick leave provided above, you may be eligible for additional paid family leave if your child's school or daycare center was closed due to COVID-19.

### FFCRA Paid Family Leave

Under the FFCRA, from April 1 to December 31, 2020, full-time employees for public agencies (regardless of size)<sup>3</sup> as well as private employers with fewer than 500 employees<sup>4</sup> were entitled to 80 hours of paid sick leave (or the equivalent of the average number of hours over two weeks for part time employees) in order to care for their child if:

- the school or place of care of the child was closed due to COVID-19, OR
- the childcare provider of the child was unavailable due to COVID-19 precautions.

Employees were entitled to 80 hours at  $\frac{2}{3}$  of the employee's regular rate (or  $\frac{2}{3}$  of the state or local minimum wage, whichever is higher), with a maximum of \$200/ day and \$2,000 total.

Employees who have been employed for at least 30 days and are unable to work from home because their child's elementary or secondary school or place of care has been closed, or their childcare provider is unavailable, due to a "public health emergency" may be eligible for an

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<sup>3</sup> Most employees at federal public agencies are not eligible for paid family leave under the FFCRA, but are eligible for emergency paid sick time.

<sup>4</sup> Paid sick leave or family leave under the FFCRA may not be available for school/childcare closures due to the coronavirus when the employer has less than 50 employees and believes it is exempted because to provide additional leave would jeopardize the business's viability.

additional 10 weeks of paid leave<sup>5</sup> to take care of their minor child. A public health emergency means an emergency with respect to COVID-19 declared by a federal, state, or local authority.

Employers must provide paid leave at 2/3 the employee's regular rate of pay, with a maximum of \$200/day and \$10,000 in total paid leave. Employers may not require an employee to use other paid leave before the employee uses the paid sick leave available under the Act.

If the employee is able to do some work during this time, they can take the emergency paid family leave on an "intermittent basis" if their employer allows it. Taking leave on an intermittent basis means that the employee will receive full pay from their employer for the time they are able to work and receive 2/3 pay for the time they need to care for their child. If the employee's child is on a hybrid attendance schedule (e.g. remote learning from home Tuesdays and Thursdays and in person learning Mondays, Wednesdays, Fridays), the employee can take emergency paid family leave for the days or times the child must learn remotely without seeking the employer's permission.

Employees who wish to take this leave must provide the employer with "notice of leave as is practicable." In other words, an employer can require employees to follow its notice procedures to take emergency paid family leave.

NOTE that, although the FFCRA paid family leave requirements for employers expired on December 31, 2020, the federal government allowed employers to voluntarily provide this benefit to employees for an additional three months, until March 31, 2021.

#### New York State Emergency Paid Sick Leave

NOTE: you are not entitled to New York State Emergency Paid Sick Leave (NYSEPSL) if you are eligible for federal paid leave under the FFCRA and the NYSEPSL does not provide you with greater benefits.

New York State Emergency Paid Sick Leave emergency law provides *additional* sick leave to workers if the worker or their minor dependent child is subject to a government-issued mandatory or precautionary order of quarantine or isolation due to COVID-19 (the worker and/or child have tested positive or were exposed to someone infected with COVID), and the worker is unable to work during quarantine or isolation (such as by remote access). Workers who were quarantined as a result of certain non-work travel to certain countries are not eligible for this leave. All covered employees are protected against retaliation for using the law and are entitled under the law to return to their jobs following leave.

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<sup>5</sup> NOTE: The Department of Labor has taken the position that you may not be eligible for emergency paid family leave if you have already taken 12 weeks of regular family leave under the Family and Medical Leave Act (FMLA) during the last 12 months. Additionally, if you take emergency paid family leave due to a school or childcare closure under the FFCRA, this can count against your 12 weeks of FMLA leave for other purposes within the next year.

Workers who are subject to a mandatory or precautionary order and are unable to work are immediately eligible for emergency sick pay and special PFL, and may be eligible for special TDI (see below). Workers whose minor dependent child is subject to an order are only eligible for emergency sick pay and special PFL (see charts in the Appendix below on Pages 27-29).

The emergency sick time and pay under this law for employees affected by COVID-19 who are subject to mandatory or precautionary orders of quarantine or isolation depends on the size of the employer:

Employers with 10 or fewer employees and a net income less than \$1 million will provide their workers:

- Job protection for the duration of the quarantine order
- Guaranteed access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.

Employers with 11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million will provide their workers:

- At least 5 days of paid sick leave
- Job protection for the duration of the quarantine order
- Guaranteed access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.

Employers with 100 or more employees, as well as all public employers (regardless of number of employees), will provide their workers:

- At least 14 days of paid sick leave
- Guaranteed job protection for the duration of the quarantine order

If you are quarantined but are working from home you do not qualify for these benefits.

You may be eligible for additional leave under NYS Paid Family Leave and disability benefits.

For more information, call the coronavirus (COVID-19) Hotline at (888) 364-3065 or visit <https://www.governor.ny.gov/paid-sick-leave-covid-19-impacted-new-yorkers/emergency-covid-19-paid-sick-leave>.

You may file a complaint with the New York State Department of Labor (NYSDOL) at <https://labor.ny.gov/workerprotection/laborstandards/coronavirus-complaints.shtm>.

**My workplace closed, but I had sick days or other Paid Time Off accrued. How do I make sure I am paid in full?**

Workers who are entitled to sick leave under local laws can use their sick leave when they are sick and still employed. They are not entitled to be paid out unused leave when they leave their job, however, unless their collective bargaining agreement or other employment contract gives them that right.

Whether an employer must pay workers their unused vacation time, holiday pay, bonuses or other PTO upon separation depends on the terms of the employer's policy. If an employee has earned vacation time and the employer has no written forfeit policy (stating the worker gives up the right to vacation when they leave the job) then the employer must pay the employee for the accrued vacation time. If the employer never promised to provide workers with vacation or other wage supplements, they are not required by law to pay them. A worker can file a claim for unpaid wage supplements with the New York State Department of Labor.

### **I am still working but my employer has reduced my hours or is forcing me to take unpaid leave. Is there anything I can do?**

You may be eligible for Unemployment Insurance Benefits. See the UIB section above for more information on eligibility and how to apply.

### **I was injured at work or believe I contracted COVID-19 from someone at work. Is there anything I can do?**

#### *Workers' Compensation*

Workers who are injured or become ill as a direct result of their work are entitled to workers' compensation insurance, which covers medical care related to the injury or illness and provides partial wage replacement for any missed work. Workers applying for workers' compensation benefits for COVID-related illness may have difficulty proving they contracted COVID work. Workers employed in a healthcare facility and who contracted COVID on the job are more likely to be able to prove their eligibility than other workers, but should consult a lawyer for assistance applying.

NOTE: there are limitations associated with receiving workers' compensation and unemployment benefits at the same time. You should consult with an attorney if this situation applies to you.

### **My employer is making me come in and threatening to fire workers if we don't. What should I do?**

Workers who are sick or taking care of sick family members may be entitled to sick leave; see above. Workers who are fired for taking protected sick leave may be entitled to bring a claim for unlawful retaliation against their employers.



There is currently no legal protection that provides leave for workers who are not sick themselves but who are fearful of contact with potentially sick co-workers or clients. You should consider talking with your coworkers about what types of safety gear or other protections you feel you need, and going together to ask your employer to make the changes you feel you need.

Employers are prohibited from firing, suspending, or otherwise retaliating against you for raising or reporting concerns about safety or health hazards. You can learn more about filing a complaint against your employer with the Occupational Health and Safety Administration (OSHA) here: <https://www.whistleblowers.gov/>. If your employer retaliates against you for joining with your coworkers to make a collective or group complaint or protest about COVID-related concerns, you may also be able to claim the protection of the National Labor Relations Act and file a complaint with the National Labor Relations Board, see <https://www.nlr.gov/>.

### **If I have a disability, is my employer required to provide me with reasonable accommodations related to Coronavirus?**

Employers are prohibited from discriminating against workers on the basis of a disability. Workers who have a disability such as a compromised immune system may be entitled to a reasonable accommodation, such as telecommuting, flexible or reduced hours, or in some cases, unpaid leave. Complications from coronavirus, such as pneumonia, may be considered a disability; you should speak to your employer about making changes to your work duties that would allow you to continue working, or take time off.

For more information, visit or call:

**New York City:** NYC Commission on Human Rights, [\(212\) 306-7450](tel:2123067450)

**Westchester:** NYS Division of Human Rights, [\(718\) 741-8400](tel:7187418400), or Westchester County Human Rights Commission, [\(914\) 995-7710](tel:9149957710)

**Long Island & Rest of State:** NYS Division of Human Rights

### **If I have Coronavirus, can my employer tell others about my condition?**

No. Your employer is prohibited from sharing your medical information. Generally, an employer may not ask you about your condition or request medical documentation unless you are displaying COVID-19 related symptoms such as fever, chills, cough, or shortness of breath or the employer has good reason to believe that your condition poses a direct threat to the safety and security of themselves, other employees, or the public at large.

### **Who will receive the direct cash payments from the stimulus package?**

There have been three rounds of stimulus cash payments:

- (1) CARES Act (2020)

Individual tax filers and those filing jointly who have valid social security numbers are eligible for direct cash rebates under the economic stimulus including

- \$1200 for each adult
- \$500 for each child dependent

To be eligible, individual filers and those filing jointly must have valid SSNs. (With exception for spouses filing jointly where at least one spouse was in the armed forces last tax year and at least one spouse has a valid SSN).

You must also be a U.S. citizen or a permanent resident (have a green card), or meet what is called the “substantial presence test.” People who have been living in the U.S. for the past 3 years will likely pass the test. If you have spent a long time outside the U.S. in the past 3 years, go to <https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test> to see if you pass the test.

Children claimed as dependents for the \$500 rebate must have valid SSNs.

Children and spouses with SSNs included in the tax filing of a taxpayer who files with an ITIN are not eligible for the cash payment.

The stimulus payment is a tax credit and is not taken into account for purposes of a public charge determination.

#### (2) Consolidated Appropriations Act (January 2021)

Individuals who are eligible for this benefit received or will receive \$600 per person or \$1,200 for each couple, depending on whether they file a joint tax return or not. Tax filers can also receive up to \$600 for each dependent (children).

This benefit is available to US residents who have a green card or citizens who are not counted as a dependent on someone else’s tax return and whose taxable income was up to \$ 75,000 per person or \$ 150,000 per couple, depending on whether they file a joint tax return or not. Payments may be reduced for those tax filers who earn more.

You can review eligibility requirements and FAQs at the following link:

<https://www.irs.gov/newsroom/treasury-and-irs-begin-delivering-second-round-of-economic-imp-act-payments-to-millions-of-americans>

#### (3) American Rescue Plan Act (May 2021)

The third amount of the Economic Impact Payment is, as follows:

- \$ 1,400 for each adult and \$ 2,800 for married persons filing jointly if both spouses have a valid Social Security number or if one of the spouses has a valid Social Security number and the other spouse was an active member of the Armed Forces of USA at any time of the tax year.
- \$ 1,400 for each dependent (children).

Similar to the previous payment, you are eligible if you are a US citizen or US resident alien (and your spouse, if filing a joint return) and are not dependent on another taxpayer. Joint income must not exceed \$ 150,000 if you are married filing jointly or filing as a qualified

widower, \$ 112,500 if filing as head of household, or \$ 75,000 for eligible individuals using any other marital status for filing purposes.

You can get more information at this link:  
<https://www.irs.gov/coronavirus/third-economic-impact-payment>

## APPENDIX

### New York State Emergency Paid Sick Leave

Size of Private Employer	Sick Leave	Special Temporary Disability Insurance (TDI)	Special Paid Family Leave (PFL) Benefits
10 or fewer employees (with net annual income of less than \$1 million in last tax year)	<i>Unpaid</i> sick leave for duration of quarantine/isolation order	Can apply for special TDI benefits for duration of the quarantine/isolation	Can apply for special PFL benefits for duration of the quarantine/isolation
11 - 99 employees (and employers with 10 or fewer employees with net annual income of more than \$1 million)	5 days of <i>paid</i> sick leave, followed by <i>unpaid</i> sick leave for the remainder of the duration of the quarantine/isolation order	Can apply for special TDI benefits for duration of the quarantine/isolation	Can apply for special PFL benefits for duration of the quarantine/isolation
100 or more employees and all public employees	14 days of <i>paid</i> sick leave during the quarantine/isolation order		

Eligibility for the special TDI and PFL benefits:

		Special Paid Family Leave (PFL) Benefits	Special Temporary Disability Insurance (TDI)
Workers subject to government-issued order of quarantine or isolation due to	Eligible for <i>both</i> TDI and PFL benefits <i>simultaneously</i> , but workers who are	PFL benefits available at 60% of pay, up to \$840.70/week	TDI benefits will be available <i>on top of PFL benefits</i> at 100% of pay for the

COVID-19 who cannot work as a result of the order	eligible for emergency PSL must exhaust emergency PSL prior to using the TDI/PFL benefits	maximum	difference between TDI benefits and total pay, up to maximum of \$2,043.92/week* * No waiting period for TDI
Workers who need leave to provide care for a minor dependent child who is subject to a government-issued order of quarantine or isolation due to COVID-19	Eligible for emergency PFL benefits only	PFL benefits available at 60% of pay, up to a maximum amount of \$840.70/week	
All workers with a qualifying need who are currently covered for TDI and PFL, including self-employed workers who have opted in to coverage by purchasing a policy and are eligible for benefits	Eligible for special TDI and PFL benefits		

This document was last updated on 3/31/21. The information here is general and does not constitute legal advice. If you have legal questions, please contact an attorney.

#### Acknowledgements

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