

## **KNOW YOUR RIGHTS: The Families First Coronavirus Response Act FAQ**

**Congress passed, and the President has signed, the “Families First Coronavirus Response Act” (FFCRA), which is effective from April 1, 2020 to December 31, 2020. Congress also passed and the President signed the “Coronavirus Aid, Relief and Economic Security” (CARES) Act, which is generally effective on March 27, 2020. The CARES Act amended FFCRA with respect to some sick time provisions and also provides expanded unemployment insurance benefits. Below are responses to some Frequently Asked Questions by workers about the new laws as they pertain to paid sick time. You can read A Better Balance’s statement about the passage of FFCRA and how we are fighting for additional protections, [here](#).**

### **1. Am I covered by the FFCRA law?**

You are probably covered if you work as an employee in:

- Any public agency regardless of size; or
- A private entity with less than 500 employees total.

You may also potentially be entitled to tax credits or special unemployment benefits under these laws if you are self-employed (see below).

Please note that there are some exceptions described below. You may be entitled to additional protections under relevant [state or local sick time laws](#).

### **2. I am not currently able to work or telework because I have coronavirus symptoms and am seeking a diagnosis or have been ordered by the government or advised by a health care provider to quarantine. What can I do to receive income while I’m not working?**

You can receive 80 hours (10 eight-hour work days) of [emergency paid sick time](#) off from your employer if you work full time, regardless of when you started working there. If you work part time, you can receive a proportional amount of time (see below). You must be paid 100% of either your regular rate of pay or the federal, state, or local minimum wage where you are employed (whichever one is greater). However, your employer isn’t obligated under emergency sick time to pay you more than \$511 per day and \$5,110 total for personal care, meaning caring for yourself not others.

You may also be eligible for additional income under [state temporary disability insurance](#) or unemployment insurance. Note that many eligibility requirements have changed due to coronavirus, so you should search for information provided by your state about unemployment insurance. In addition to state unemployment insurance, the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) was passed by Congress, and signed into law. It provides benefits to workers who may need income, even if they are not eligible for emergency sick time or family leave. Please see below for more information.

**3. I am not currently able to work or telework because I need to care for someone else who has been ordered by the government or advised by a health care provider to quarantine due to coronavirus.**

If you work full time, you may use your 80 hours (10 eight-hour work days) of [emergency paid sick time](#) off for this reason at a rate of 2/3 of the greater of either your regular rate of pay or the federal, state, or local minimum wage where you are employed. However, your employer isn't obligated under emergency sick time to provide you more than \$200 per day and \$2,000 total if you are caring for another individual. If you work part time, you can receive a proportional amount of time (see below).

Note: The law does not set limits on which individuals you can provide care for due to covered coronavirus-related reasons.

**4. I am not currently able to work or telework because my child's school or daycare is closed due to a public health crisis related to coronavirus, or my child's childcare provider is unavailable due to the coronavirus.**

You may use your 80 hours of [emergency paid sick time](#) off, if you work full time, to receive pay while you are out of work. You must be paid 2/3 of the greater of either your regular rate of pay or the federal, state, or local minimum wage where you are employed. However, your employer isn't obligated under emergency sick time to pay you more than \$200 per day or \$2,000 total if you are caring for your child. If you work part time, you can receive a proportional amount of time (see below).

If you have been employed by your employer for at least 30 days, then you may also be entitled to up to 12 weeks of [emergency paid family leave](#), but only when your child's school/place of care is closed, or childcare is unavailable, due to coronavirus. You may be required to follow your employer's notice procedures to use emergency paid family leave. However, the first ten days of emergency paid family leave doesn't have to be paid. During these ten days, you may choose to use your emergency paid sick time described above, or any accrued vacation, personal, emergency sick, or medical leave as income. Afterwards, you must be paid at an amount no less than 2/3 of your regular rate of pay and based on the number of hours you would otherwise normally be scheduled. Under federal law, your employer isn't obligated to provide emergency paid family leave in excess of \$200 per day and \$10,000 total.

**5. Generally, what are the situations for which I can take emergency paid sick time under the law? In particular, if I don't currently have any COVID-19 symptoms, but am afraid I may have been exposed to the virus, can I use emergency paid sick time?**

The law's emergency paid sick time provisions may apply to you if you are experiencing any of the following situations. This law covers workers who are unable to work or telework because they:

- 1) have coronavirus symptoms and are seeking a medical diagnosis;
- 2) are subject to a federal, state, or local quarantine or isolation order related to coronavirus;
- 3) have been advised to self-quarantine by a health care provider;
- 4) are caring for a child whose school/daycare has been closed or for whom childcare is unavailable due to coronavirus; or
- 5) are caring for an individual who is subject to a federal, state, or local quarantine or

isolation order related to coronavirus, or who has been advised by a health care provider to self-quarantine due to concerns related to coronavirus.

It's important to note that even if you do not have symptoms currently, if you have been exposed to someone who has coronavirus symptoms or who has tested positive for coronavirus, your health care provider may advise you to isolate and this can be a reason for coverage under the law. Additionally, many state and local emergency orders issued by public officials or health care officials are ordering isolation for at risk populations (those over 65 or 70 and those with underlying health issues). Those orders may be construed as isolation orders, and even if they are not, a health care provider may be willing to make the recommendation of isolation or quarantine if you are in a high-risk group even if you have not been exposed. Furthermore, you should be aware that even if you are not subject to any isolation orders, you may be able to use any accrued personal or vacation time to take time off of work, or you may have rights under [state or local paid leave laws](#). Finally, if you are afraid to go to work because you have a disability and may be more at risk than others, please see this page about the [Americans with Disabilities Act](#).

#### **6. I work for the federal government—can I use emergency paid sick time?**

It depends. Most federal employees may be able to use emergency paid sick time. However, most federal employees, including those who are covered by [Title II](#) of the FMLA, may not be eligible to use emergency family leave. In addition, currently, the CARES Act allows the Director of the Office of Management and Budget to exclude for good cause certain federal employees, including Executive branch employees, from using emergency paid sick time or family leave. You can find specific guidelines on eligibility [here](#). State and local employees may also be covered as a *public agency* under this law. The Department of Labor will provide further guidance in the future.

#### **7. My state or locality has issued an order (like a shelter in place or stay at home order) preventing me from going into work. Can I use emergency sick leave?**

Maybe. The FFCRA's emergency paid sick time provision could apply in instances where you are not able to work because of a federal, state, or local quarantine or isolation order related to the coronavirus. We are awaiting further guidance from the Department of Labor.

#### **8. I was laid off because of the coronavirus. What should I do next?**

You may want to search for information provided by your state about applying for unemployment insurance (see below). However, you should also keep in mind that it is illegal for your employer to fire you or otherwise retaliate against you because you sought to exercise your right to emergency paid sick time or family leave under this law (see below).

#### **9. Am I eligible for emergency paid sick or family leave if I work for a health care provider or emergency responder?**

Maybe. The Secretary of Labor may issue rules that exclude your employer from the emergency paid sick time or family leave requirements. Also, your employer may elect to exclude you from receiving emergency sick time or family leave if you work for a health care provider or emergency responder.

#### **10. Are there any exceptions for employees of small businesses?**

In some cases, yes. The Secretary of Labor may issue rules that exempt businesses with less than 50 employees from providing emergency paid sick time for school/childcare closures or family leave for school/childcare closures, or when childcare is unavailable, due to the coronavirus, if doing so would jeopardize the business's viability.

### **11. Can I get paid emergency sick or family leave if I only work part-time?**

Yes. Part-time workers will be paid emergency sick time for the number of hours they work on average over a two-week period.

Part-time workers or workers who have irregular schedules may be paid emergency family leave based on the average number of hours worked within a six-month period prior to taking emergency leave. If you have not worked over this six-month period, then you may be paid emergency family leave at a rate of the reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.

### **12. Is there a waiting period before I can use this leave?**

The effective date of this law is April 1, 2020. Afterwards it will be available immediately for covered employees who have absences related to coronavirus.

### **13. Can I lose my job because I'm taking eligible leave under this federal law to care for myself or someone else?**

Generally, no. You are protected against retaliation, including job loss, discipline, and/or discrimination for using your emergency paid sick time or your emergency paid family leave. If you use emergency paid family leave, then your employer must restore you to your job position or to an equivalent position with equivalent employment benefits, pay, and other terms/conditions of employment. There is a limited exception to the right to be reinstated, but *not* to the protection against retaliation, for workplaces with less than 25 employees. See [here](#) for more information.

### **14. What do I have to do to use emergency paid sick time?**

As of April 1, 2020, emergency paid sick time is available for immediate use by the employee, regardless of how long you have worked at the place of employment. Your employer can't force you to use your PTO or accrued annual leave before using any emergency sick time. Also, your employer can't require you to find a replacement to cover the hours you are using leave.

### **15. What protections are available if I am self-employed (such as a freelancer or independent contractor)?**

You may be eligible for a tax credit in an amount equal to 100% of a "sick leave equivalent amount" (or 67% for the family care provisions, where only 2/3 of compensation is available) or "family leave equivalent amount" based on days when you were unable to perform work for the reasons outlined above, up to certain caps and other conditions. However, you should know that businesses sometimes call people independent contractors who are actually employees under the law.

below for more information.

## 16. What protections are available that provide unemployment benefits?

The CARES Act includes several provisions dealing with unemployment benefits that will be paid for by the federal government:

- **Pandemic Emergency Unemployment Compensation (PUEC):** Subject to certain requirements, workers can receive up to 13 weeks of additional benefits under their state unemployment insurance program after exhausting their regular unemployment insurance benefits.
- **Pandemic Unemployment Assistance (PUA):** Subject to certain requirements, workers who are not eligible for regular unemployment insurance will be eligible for special benefits for up to 39 weeks (counting any weeks that the worker received regular or PUEC unemployment benefits). These benefits will cover workers who are unable to work for one of several specific coronavirus related reasons. PUA will also provide benefits to those who are unemployed or cannot find work and do not qualify for regular unemployment insurance because they are self-employed, seeking part-time work (in some states), lack sufficient work history, or otherwise do not qualify. These benefits will cover the period from January 27, 2020 to December 31, 2020 and can be paid retroactively (although the additional \$600 a week under PUC is not available for any workers until March 27).
- **Pandemic Unemployment Compensation (PUC):** Workers receiving either regular unemployment insurance (including PUEC) or PUA can receive **an additional \$600** per week in addition to their regular benefit amount from March 27, 2020 until July 31, 2020.

**It is important to keep in mind that** states which waive their one-week waiting period for unemployment insurance benefits will be reimbursed by the federal government for benefits and administrative costs during that period.

### 16. I have more questions. Where can I get free and confidential information about my rights?

If you have a problem or want more information about your rights, call A Better Balance's free and confidential helpline at 1(833) NEED-ABB (633-3222).

*Please note that this FAQ does not represent an exhaustive overview of the Families First Coronavirus Response Act described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker's specific circumstances or category of employment. Please see this [fact sheet](#) for even more details on the law.*