

KNOW YOUR RIGHTS: COVID-19 Benefits & Leave for New York Domestic Workers

This FAQ covers rights that may apply to domestic workers, people who work in the homes of others (such as nannies or housecleaners), in New York State. If you work in New York State for a domestic staffing agency, or you are not a domestic worker, please consult our FAQ [here](#).

There are at least **FIVE** possible sources for sick leave pay to care for yourself and your loved ones if you are a New York domestic worker who is still employed. Domestic workers in New York State may be eligible for either state permanent *or* emergency paid sick leave coverage, under three separate laws. If you work in New York City or Westchester County, you may *also* have important rights under the local paid sick leave law. Eligible workers are covered under all five laws **regardless of immigration status**.

If you are unemployed, you may be eligible for unemployment insurance benefits, which have been expanded during this crisis.

Question #1 lays out the five laws that cover sick time benefits during the COVID-19 crisis. The subsequent questions are FAQs about individual situations.

1) What are the three laws that might give me sick time during this public health emergency?

Possible sources of sick time coverage:

A. New York State and New York City Earned Safe & Sick Time Laws and the Westchester County Earned Sick Leave Law for Domestic Workers

You may be eligible for sick time if you work as an employee in New York State, regardless of number of hours worked. Workers throughout the state (including New York City) may be covered under the state law, while those who work in New York City (regardless of number of hours worked) or Westchester County (if you've worked at least 80 hours in a year) may also have rights under the city's or county's sick time law. All of these laws apply if you are a full-time or part-time employee.

All of these laws allow you to use your sick time if you or a member of your family is sick, hurt, or needs medical attention (including preventive care), including due to COVID-19.

In addition:

- The **New York City sick time law** and **Westchester County sick leave law** make it clear that you can use the sick leave if, as a result of a public health emergency, your business is closed or your child's school or place of care is closed. The **New York State sick time law** does not allow you to use your sick time because your child's school or

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

daycare is closed unless you would otherwise be able to use your sick time (for example, if you are sick or caring for a sick family member). However, because the law allows you to use sick time for preventive care, depending on the type of health emergency and reasons for closure, you may be able to use your sick time because your work or your child's school is closed.

- The **Westchester County sick leave law** allows you to use sick time when public health authorities determine that you or your family member's presence in the community may jeopardize the health of others because of exposure to a communicable disease, whether or not you or your family member has actually contracted the communicable disease.

In New York State, New York City, and Westchester County, eligible workers are covered **regardless of immigration status**.

You can find more information about New York State's sick time law [here](#), New York City's sick time law [here](#), and Westchester County's sick time law [here](#).

The amount of sick time you have depends on where you work and the size of your employer.

- Under the **New York State** and **New York City** laws:
 - You earn **1 hour** of sick time for every **30 hours** worked. You start earning sick time immediately when you start working for your employer and you can use it as soon as it's earned, no matter how long you have been employed.
 - The amount of time you will be able to use will depend on the size of your employer. If your employer has **99 or fewer workers**, you can use up to **40 hours** per year. If your employer has **100 or more workers**, you can use up to **56 hours** per year.
 - In **New York City**, there are special rules that apply for domestic workers who work directly for a household or family, performing services such as child care, caring for someone who is elderly, disabled, or sick, or housekeeping. Under the city law, *all* domestic workers who work directly for a household or family are entitled to *paid* sick time, regardless of how many employees their employer has.
 - If you work outside New York City (and Westchester County), if your employer has **fewer than 5 workers** *and* a net income of less than \$1 million in the last tax year, your sick time may be unpaid **under the state law**—but you can't be fired or punished for taking it.
- Under the **Westchester County** law:
 - You earn **1 hour** of sick time for every **7 days** worked, up to **40 hours** per year. While you start earning sick time immediately when you start working for your employer, you can't use it until 90 days after your first day of work.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

- Under the county law, *all* domestic workers who work directly for a household or family are entitled to *paid* sick time, regardless of how many employees their employer has..
- If you work in **New York City** or **Westchester County**, you may be covered by both laws—in that case, you are entitled to whichever protections are stronger (so, for instance, if you work in New York City for an employer with fewer than 5 workers and a net income of less than \$1 million in the last tax year, you are entitled to earn **paid** time off). Additionally, generally speaking, your sick time under the city/county and state law will run concurrently (so, for instance, if you take eight hours of sick time, it will count towards both your New York State and New York City sick time allotment).

Domestic workers throughout the state are *also* covered under the New York State Domestic Workers Bill of Rights, which is a statewide law that may give them up to an additional 3 paid “days of rest” that may be available for use when sick. You can find more information about the Domestic Workers’ Bill of Rights [here](#).

Note: Between September 30, 2020 and June 1, 2021, Westchester County’s law may not have been in effect.

B. New York State Emergency Sick Leave

You may be eligible for job-protected leave under the NYS Emergency Sick Leave Law if you are a domestic worker in New York State
AND

- Qualify for a **mandatory or precautionary** order of quarantine or isolation by the state of New York, the department of health, a local board of health, or a government agency authorized to issue such an order because of COVID-19. To be entitled to this leave, **workers must have documentation showing that they were eligible for an order into mandatory or precautionary quarantine or isolation by an authorized government agency—a general order to stay home is not sufficient.** (NOTE: Although you must be eligible for a mandatory order of quarantine or isolation, New York guidance states you can use a health care provider’s advice while you apply for an order due to how overwhelmed departments of health are during this crisis.)
 - You can get a **mandatory order of quarantine** if you have been in close contact with someone who has tested positive for COVID-19 but is not displaying symptoms.
 - You can get a **mandatory order of isolation** if you have tested positive for COVID-19, whether or not you are displaying symptoms.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

- You can get a **precautionary order of quarantine** if you have been exposed to (but have not had direct contact with) a person who has tested positive for COVID-19.
- NOTE: Although you are entitled to a mandatory order of quarantine when you return to the U.S. after return from a trip to a country that has a level 2 or 3 health notice from the Center for Disease Control and Prevention, that reason does not qualify you for New York State Emergency Sick Leave benefits if the trip was personal (non-business) and you were provided notice of the travel health notice.
 - Additionally, pursuant to a now rescinded Executive Order, if between **June 25, 2020** and **June 25, 2021**, you traveled to a state within the U.S. that has a high positive test rate for COVID-19 and that the commissioner of the department of health has designated as reaching certain specified test rates, you may not have been eligible for any New York State emergency sick leave benefits unless the travel was for work.
- For information on obtaining an order of quarantine or isolation, see [here](#).

You are not eligible for leave and benefits under NYS Emergency Sick Leave for the following reasons:

- you are not sick *and* can work remotely (or can otherwise work safely); or
- the order of quarantine or isolation is no longer in effect.

Time off under this law may be paid or unpaid, depending on the size of your employer and the number of hours you work.

- If you work directly for a family or household, and your employer has 10 or fewer employees (and a net income of less than \$1 million in the last tax year), you are entitled to unpaid, job-protected time off for the duration of the order of quarantine or isolation. If you work full time (at least 40 hours per week) for a single family or household, you may also be eligible to be paid for this time through special paid family leave and temporary disability leave benefits (see below).
- If you work directly for a family or household, and your employer has *more* than 10 employees, or 10 or fewer employees and a net income of *more* than \$1 million in the last tax year, you may be entitled to sick pay directly from your employer for at least some portion of the duration of the order of quarantine or isolation. See [here](#) for more information. If you work full time (at least 40 hours per week) for a single family or household, you may also be eligible to be paid for the remainder of your quarantine through special paid family leave and temporary disability leave benefits (see below).
- If you work for an agency, such as a cleaning service agency or home care agency, you're probably covered under the law and entitled to both job-protected leave and pay, through a combination of pay directly from your employer and special paid family leave and

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

temporary disability benefits based on your employer's size, regardless of how many hours you work per week. See [here](#) for more information.

If your minor child is eligible for a mandatory or precautionary order of quarantine or isolation and you must leave work to care for them *and* you work for an agency or for a single household for at least 40 hours per week , you *may* be eligible for special paid family leave benefits.

If you are or were previously subject to a period of mandatory quarantine or isolation during which you used sick time under the New York State Emergency Sick Leave law, and subsequently test positive for COVID-19, you may be eligible for additional sick time under the law. An employee can qualify for sick leave under New York's COVID-19 sick leave law for up to three orders of quarantine or isolation.

Eligibility Rules for Paid Family Leave/Temporary Disability Insurance Benefits: Domestic workers *may* be eligible for special temporary disability insurance or paid family leave benefits, but are subject to special eligibility rules. If you are covered by the law but do not qualify for these benefits, you are eligible for unpaid, job-protected time off.

- If you work directly for a family or household:
 - If you work **for at least 40 hours per week for a single employer** you are entitled to special paid family leave/temporary disability insurance benefits for any unpaid days of your order of quarantine or isolation.
 - If you **do not** work 40 hours per week for a single employer—for example, if you work 20 hours per week in one home and 20 hours per week in another home—you are **not automatically eligible for special paid family leave/temporary disability benefits**, though you may still be eligible for unpaid, job-protected leave.
- If you work for an agency, such as a cleaning service agency or home care agency, you're probably covered under the law and entitled to both job-protected leave and pay, through a combination of pay directly from your employer and special paid family leave and temporary disability benefits based on your employer's size, regardless of how many hours you work per week. See [here](#) for more information.
- Eligible workers may receive special temporary disability insurance or paid family leave benefits **regardless of immigration status**.

For more information on eligibility for special temporary disability insurance or paid family leave benefits, please call us at 1-833-NEED-ABB.

C. New York State COVID-19 Vaccination Leave

You may be eligible for dedicated paid leave to receive the COVID-19 vaccine if you work as an employee in New York State, regardless of number of hours worked. The vaccination leave law applies if you are a full-time, part-time, or temporary employee. Workers throughout the state (including New York City) may be covered under the state vaccination leave law.

The vaccination leave law allows you to take **up to 4 hours of paid leave per vaccine injection** to be vaccinated for COVID-19. This vaccination leave is in addition to any other leave to which you may be entitled. Vaccination leave under this law **cannot** be used to recover from the side effects of the COVID-19 vaccine or to help someone else get the vaccine, but workers may be eligible for sick time for this reason under the New York State or New York City sick time laws.

COVID-19 vaccination leave under this law is available beginning on **March 12, 2021 until December 31, 2022.**

FREQUENTLY ASKED QUESTIONS ABOUT THESE RIGHTS

1) I am not currently able to work 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?

New York State and NYC Earned Safe & Sick Time and Westchester County Earned Sick Leave: All of these sick time laws give workers sick time to recover from physical/mental illness or injury, seek medical treatment, or care for a sick family member. Therefore, if you are experiencing symptoms or seeking a medical diagnosis you are entitled to use your sick time. However, if you are eligible for paid sick leave under the New York State Emergency Sick Leave Law (see below), you can take that sick leave first because that leave does not replace the sick time you are otherwise entitled to, and you may need your regular sick time later or for other purposes.

- **If you work directly for a family or household:**
 - In **New York City**, you earn **1 hour of paid** sick time for every **30 hours** worked, and can use up to **40 hours** per year, which must be paid regardless of how many employees your employer has.
 - In **New York State**, you earn **1 hour** of sick time for every **30 hours** worked, and can use up to **40 hours** per year. If your employer has fewer than 5 employees (and a net income of less than 1 million in the last tax year) and you are not covered by New York City's law, this time may be *unpaid*.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

- In **Westchester County**, you earn **1 hour** of sick time for every **7 days** worked, and can use up to **40 hours** per year, which must be paid regardless of how many employees your employer has.
- **If you work for an agency:**
 - You earn until **1 hour** of sick time for every **30 hours** worked. The amount of time you will be able to use will depend on the size of your employer, as explained in Section A above.

New York State Emergency Sick Leave: You may be eligible for job-protected leave under New York State’s emergency sick leave law **IF** you can obtain a specific, personal government-issued mandatory or precautionary order of quarantine or isolation; however, for some domestic workers, this leave may be unpaid. You may be entitled to paid benefits—either directly from your employer or through special paid family leave and temporary disability insurance benefits—in the following circumstances:

- **If you work directly for a family or household:**
 - If your employer has 10 or fewer employees (and a net income of less than \$1 million in the last tax year), and you work full time (at least 40 hours per week) for a single family or household, you may be eligible to be paid for the time off to which you are entitled under this law through special paid family leave and temporary disability leave benefits (see Section B above).
 - If you work directly for a family or household, and your employer has *more* than 10 employees, or 10 or fewer employees and a net income of *more* than \$1 million in the last tax year, you may be entitled to sick pay directly from your employer for at least some portion of the duration of the order of quarantine or isolation. See [here](#) for more information. If you work full time (at least 40 hours per week) for a single family or household, you may also be eligible to be paid for the remainder of your quarantine through special paid family leave and temporary disability leave benefits (see Section B above).
 - If you work for an agency, such as a cleaning service agency or home care agency, you’re probably covered under the law and entitled to both job-protected leave and pay, through a combination of pay directly from your employer and special paid family leave and temporary disability benefits based on your employer’s size, regardless of how many hours you work per week. See [here](#) for more information.

Note: A general order to stay home such as the PAUSE order from Governor Cuomo does not qualify. However, if you have been advised to self-isolate by a doctor due to coronavirus symptoms or exposure, you can use that order to obtain emergency paid sick leave benefits and,

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

in the meantime, seek a more formal order of personal quarantine from your board of health or department of health.

2) I am not currently able to work because I am caring for my child whose school or daycare is closed due to a public health crisis related to coronavirus, or whose childcare provider is unavailable due to the coronavirus. What can I do to receive income while I'm not working?

New York State Earned Safe & Sick Time: The New York State safe & sick time law does not give workers a clear right to use their sick time because their child's school or daycare is closed unless they would otherwise be able to use their sick time (for example, if they are sick or caring for a sick family member). However, because workers are able to use sick time for preventive care of a physical or mental illness, injury, or health condition, depending on the type of health emergency and reasons for closure, workers may be able to use their sick time because their work or their child's school is closed. There is no requirement that you use sick time to which you are entitled under New York State's safe & sick time law before accessing the New York State emergency coronavirus sick time. You can find more information on this permanent earned sick time law [here](#).

NYC Paid Safe & Sick Time and Westchester County Earned Sick Leave: Both the New York City Earned Safe and Sick Time Act and the Westchester County sick leave law give workers the right to earn and use sick time for a variety of purposes whether related to the coronavirus or not, including when a worker's child's school/place of care is closed due to a public health emergency. **See Question #1 for an explanation of sick time that's available to domestic workers in New York City and Westchester County.** There is no requirement that you use sick time to which you are entitled under local laws before accessing the New York State emergency coronavirus sick time. You can find more information on these permanent paid sick time laws [here](#) and [here](#).

New York State Emergency Sick Leave: In most cases of school closure, New York State Emergency Sick Leave will not be available because it is necessary that there be a **specific, personal mandatory or precautionary order of quarantine or isolation** for the child you are caring for. However, if there is such an order directed at your child, you *may* be eligible for [paid family leave](#) benefits (not special TDI benefits).

- **If you work directly for a family or household**, you're eligible for paid family leave if you work for at least **40 hours per week for a single employer** (or if your employer chooses to cover you) and you have been employed by your employer for at least 26 consecutive weeks.

- **If you work for an agency**, you're eligible for paid family leave if you've been employed by your employer for at least 26 consecutive weeks *or*, if you work less than 20 hours per week, if you have worked for your employer for at least 175 days.

3) I am not currently able to work 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. What can I do to receive income while I'm not working?

New York State and NYC Earned Safe & Sick Time and Westchester County Earned Sick Leave: You can use regular sick time to care for a **family member** who needs a medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care. It can be argued that the need to stay home due to a doctor's order about your family member's health condition is covered. See Question #1 for an explanation of sick time that's available to domestic workers under the New York State, New York City, and Westchester County laws.

The definition of "family member" for whom you can take leave differs between the two laws:

- Under New York State's earned safe & sick time law, a family member is a child, spouse, domestic partner, parent, parent or child of a spouse or domestic partner, grandparent, grandchild, or sibling.
- Under New York City's Earned Safe and Sick Time Act, a family member is a child, spouse, domestic partner, parent, parent or child of a spouse or domestic partner, grandchild, grandparent, or sibling or someone related to you by blood or people whose relationship to you is like a family relationship.
- Under Westchester County's Earned Sick Leave law, a family member is a child, spouse, domestic partner, parent, parent or child of a spouse or domestic partner, grandchild, grandparent, sibling, certain relatives by blood or marriage, a former spouse or domestic partner, co-parent, and certain current or former significant others.

New York State Emergency Sick Leave/Special Paid Family Leave: You may be eligible for benefits under NYS Emergency Sick Leave **but only if** you need to care for a minor dependent child who is personally subject to an order or quarantine or isolation due to COVID-19. For more information on the NYS Emergency Sick Leave law, see [here](#).

Non-Emergency NYS Paid Family Leave might be available if the individual you are caring for is a covered **family member (child, parent, parent-in-law, spouse, domestic partner, grandchild, or grandparent)**. New York's Paid Family Leave law guarantees covered workers time off to, among other things, care for a seriously ill family member. [A COVID-19 diagnosis is a serious health condition](#) under the Paid Family Leave law. Accordingly, if a family member is

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

diagnosed with COVID-19, covered workers can take New York Paid Family Leave to care for them.

- **If you work directly for a family or household**, you are only covered if you work for at least **40 hours per week for a single employer** (or if your employer chooses to cover you).
- **If you work for an agency**, you are covered whether you work full- or part-time.

For more information about New York Paid Family Leave, see [here](#).

4) I have an appointment to receive the COVID-19 vaccine. What are my leave rights?

As of March 12, 2021, employees throughout New York State have the right to up to **4 hours** of paid leave per vaccine injection to receive the COVID-19 vaccine. Thus, if you receive a COVID-19 vaccine that requires two shots, you may be eligible for up to 8 hours of paid COVID-19 vaccination leave. This COVID-19 vaccination leave is available until December 31, 2022. Time off under the COVID-19 vaccine law is separate from and in addition to other time off to which you are entitled, including time off under the New York City and New York State permanent sick time laws. For more information, see Section C above.

If you need additional time in relation to COVID-19 vaccination, such as to recover from side effects of the vaccine or to help a family member get the vaccine, you may also have additional rights under the New York State or New York City sick time laws explained in Section A above.

5) I am immunocompromised, but I am not sick. I received an order from my doctor to quarantine. Am I eligible for any leave or benefits?

New York State and NYC Earned Safe & Sick Time: Under the regular sick time laws in New York State and New York City you can use sick time to care for your own health condition, so you should be able to use sick leave in this situation where a doctor has advised quarantine due to a health condition.

Westchester County Earned Sick Leave: Yes, you are able to use your sick time when a public health authority determines that your presence in the community presents a public health risk because of exposure to a communicable disease (regardless of whether you have contracted the disease).

New York State Emergency Sick Leave: Not available for this purpose.

Additional Laws: In addition to the laws above, if you are afraid to go to work because you have a disability and may be more at risk than others, you may have additional rights. Please call us for more information at 1-833-NEED-ABB.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

6) If I am not a U.S. citizen, are my rights under any of these laws affected?

No. Your rights to leave and benefits are not affected by your immigration status under the New York State, New York City, or Westchester County sick time laws, or New York State Emergency Sick Leave law.

7) My employer pays me off the books. Can I take leave under any of these laws?

Yes, you are eligible for sick leave under the New York State, NYC, or Westchester County sick time laws even if you are paid off the books—assuming you are otherwise eligible as explained in Section A above. While you're on leave, your employer will pay you directly.

You may be eligible for benefits under NYS Emergency Sick Leave, even if you are paid off the books. If this is your situation, please call us for more information at 1-833-NEED-ABB.

8) I qualify for leave under the NYS Emergency Sick Leave Law. How much emergency sick leave can I use?

You are entitled to job-protected leave under the NYS Emergency Sick Leave Law for the duration of your quarantine/isolation order. In some circumstances, this leave may be unpaid. You *may* also be entitled to sick pay from your employer and/or special paid family leave and temporary disability insurance benefits, depending on the size of your employer and the number of hours you work. See Section B, above, for more information.

If you are or were previously subject to a period of mandatory quarantine or isolation during which you used sick time under the New York State Emergency Sick Leave law, and subsequently test positive for COVID-19, you may be eligible for additional sick time under the law. An employee can qualify for sick leave under New York's COVID-19 sick leave law for up to three orders of quarantine or isolation. Accordingly, you may be entitled to leave under the NYS Emergency Sick Leave Law for the duration of your order of quarantine/isolation, for up to three separate orders of quarantine/isolation; this could include separate orders that occur back to back, such as if you complete a period of quarantine/isolation and then immediately test positive again. The second and third orders of quarantine/isolation must be based on a positive COVID-19 test. See [here](#) for more information.

NOTE: If you're a domestic worker and do not work for an agency, you are only eligible for family leave and disability benefits if you work for at least **40 hours per week for a single employer** (or if your employer chooses to cover you). If this is your situation, please call us for more information at 1-833-NEED-ABB.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

9) I qualify for benefits under the NYS Emergency Sick Leave Law, but my employer does not have paid family leave/temporary disability insurance. What can I do?

All employers covered by the paid family leave law must carry paid family leave/temporary disability insurance or self-insure. If you are entitled to coverage and your employer is not carrying paid family leave/temporary disability insurance and does not self-insure, you have a right to receive benefits through something called the Special Fund. To apply, you can submit your application directly to the Workers' Compensation Board.

If your employer is covered by the law, but does not have insurance or self-insure, please call us for more information at 1-833-NEED-ABB.

10) Will I be paid differently if I work part-time?

New York State and NYC Earned Safe & Sick Time and Westchester County Earned Sick Leave: When you use your sick time, you will receive the same rate of pay you normally earn, if you are entitled to *paid* sick time as explained in Section A above.

NYS Emergency Sick Leave:

- If you work directly for a family or household:
 - If your employer has 10 or fewer employees (and a net income of less than \$1 million in the last tax year) and you **do not** work 40 hours per week for a single employer, your time may be unpaid, because you are **not automatically entitled to special paid family leave/temporary disability insurance benefits**. However, your employer can always choose to cover you by purchasing an insurance policy.
 - If your employer has either between 11 and 99 employees, or 10 or fewer employees with a net annual income of more than \$1 million in the last tax year:
 - You are entitled to sick pay directly from your employer for up to five calendar days, regardless of how many hours you work.
 - If you do not work at least 40 hours per week for a single employer, the remainder of your time may be unpaid, because you are not automatically entitled to special paid family leave/temporary disability insurance benefits to cover the unpaid portion of the order. However, your employer can always choose to cover you.
 - If your employer has 100 or more employees, you are entitled to sick pay directly from your employer for up to 14 calendar days, regardless of how many hours you work.
- If you work for an agency, such as a cleaning service agency or home care agency, you're probably covered under the law, regardless of how many hours you work per week. See [here](#) for more information.

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

11) Is my job safe if I use these benefits?

Under all of these laws, you are entitled to return to your job and are protected against retaliation after you have taken permanent or emergency sick leave or have received special disability and paid family leave benefits. You are also entitled to continuation of your employer-provided health insurance while you are on leave under any of these laws. Any leave under any of these laws should not be counted as an absence that may lead to or result in discipline, discharge, demotion, or any other adverse action.

12) Do I have to use accrued sick leave or paid leave separate from emergency coronavirus sick time before I use New York State Emergency Sick Leave?

If you are eligible for leave and benefits under the NYS Emergency Sick Leave law, you are *not* required to use your accrued sick leave or other accrued paid leave that your employer may provide before using emergency leave. For more information on the NYS Emergency Sick Leave law, see [here](#).

13) When can I start using my sick leave?

New York State Earned Safe & Sick Time: You begin earning sick time as soon as you begin employment and you can use it as soon as it's earned.

NYC Paid Safe & Sick Time: You begin earning sick time as soon as you begin employment and you can use it as soon as it's earned. If you know in advance that you will need sick time, your employer can require you to tell him/her up to 7 days before. Otherwise you can be required to tell your employer as soon as possible. If you use sick time for more than 3 work days in a row, your employer can require a note from a health care provider. The note does not need to describe the health issue—only your need for the amount of sick time taken. However, if your employer requests a doctor's note, they must reimburse you for any fee your health care provider charges you to provide documentation.

Westchester County Earned Sick Leave: Domestic workers can start earning sick time immediately at a rate of 1 hour of sick time for every 7 days worked, but you cannot use it until 90 days after the start of your employment. If you use sick time for more than 3 consecutive work days, your employer can require a note from a health care provider. The note does not need to describe the health issue—only your need for the amount of sick time taken.

NYS Emergency Sick Leave: Emergency sick and special family leave or special temporary disability insurance benefits are immediately available if you qualify. For more information on the NYS Emergency Sick Leave law, see [here](#).

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

14) I'm self-employed, am I eligible for leave and benefits in New York?

Some domestic workers, such as certain housecleaners, may be self-employed. However, you should know that businesses and employers sometimes call people independent contractors when they are actually employees under the law. If this is your situation, you may qualify for protections as an employee under other laws. For more information, see guidance from the New York Department of Labor [here](#).

Families First Coronavirus Response Act: Under a federal law called the Families First Coronavirus Response Act, 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 certain coronavirus-related reasons, up to certain caps and other conditions. This tax credit is available for leaves until March 31, 2021. However, you should know that businesses sometimes call people independent contractors who are actually employees under the law; if this is your situation, you may qualify for protections as an employee under other laws. For more information, click [here](#).

NYS Emergency Sick Leave: As a self-employed worker, you can receive special disability and paid family leave benefits if you have opted in to temporary disability insurance and paid family leave coverage by purchasing a policy. However, if you are not already opted into this program, you will not be covered for paid family leave benefits until you have carried coverage for two years unless you have recently (within the last 26 weeks) become self-employed; note that this waiting period does not apply to disability benefits.

You may also be eligible for unemployment benefits through the [NY Department of Labor](#) and the CARES Act (see below).

15) I have lost my job because of the coronavirus. What can I do?

If you have lost your job because of COVID-19, you may be eligible for state unemployment insurance. Prior to **September 5, 2021**, you may have been eligible for benefits under the Coronavirus Aid, Relief, and Economic Security ([CARES Act](#)), which included several provisions dealing with unemployment benefits that will be paid for by the federal government. For more information on the current status of unemployment provisions, see the following resources [here](#) and [here](#).

Headquarters

40 Worth Street, 10th Floor
New York, NY 10013
tel: 212.430.5982

info@abetterbalance.org
abetterbalance.org

Southern Office

2301 21st Avenue South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

16) How can I file a complaint if I think my rights have been violated?

New York State Earned Safe & Sick Time: If you believe your rights have been violated by your employer under New York State's safe & sick time law, you can file a complaint with the New York State Department of Labor.

NYC Earned Safe & Sick Time Act: You have two years after a violation of the law to enforce your rights under the NYC Earned Safe and Sick Time Act by filing a complaint with the New York City Department of Consumer and Worker Protection.

Westchester County Earned Sick Leave: You have one year after a violation of the law to enforce your rights under the Westchester County Earned Sick Leave law by filing a complaint with the Westchester County Office of Weights and Measures in the Department of Consumer Protection.

New York State Emergency Sick Leave Law: If you believe your rights have been violated by your employer under the New York State Emergency Sick Leave law, you can file a complaint with the New York State Department of Labor. If you believe an insurance carrier has wrongfully denied your claim for special paid family leave benefits, you can challenge that denial through arbitration.

New York State COVID-19 Vaccination Leave Law: If you believe your rights have been violated by your employer under New York State's COVID-19 vaccination leave law, you can file a complaint with the New York State Department of Labor.

All covered workers are protected against being fired or punished for using emergency sick leave or special disability and paid family leave benefits. If you have a problem—or want more information—call A Better Balance's **free** legal clinic at **1-833-NEED-ABB**.

Please note that this fact sheet does not represent an exhaustive overview of the sick leave laws 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.