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Getting Paid Leave Benefits: What New Yorkers Need to Know

New York State and the federal government have recently passed emergency legislation to aid workers affected by COVID-19. Workers throughout New York State that have been affected by COVID-19 may be eligible for leave under state, local, or federal law. Depending on which law a worker is using to take leave, the application process and notice and documentation requirements may differ.

If you qualify for sick time under the **New York City Earned Sick and Safe Time Act**:

- **Application:** This benefit is provided directly by your employer so you do not need to apply.
- **Notice:** For leave that is needed immediately you only need to notify your employer as soon as possible. However, for advance leave (leave you know about before it is needed) you may be required to provide **notice** to your employer up to 7 days before you use the sick time.
- **Documentation:** You may need to provide **documentation** to your employer (such as a doctor's note) if you use sick time for **more than 3 days in a row**.

If you qualify for sick leave under the **Westchester County Earned Sick Leave Law**:

- **Application:** This benefit is provided directly by your employer so you do not need to apply.
- **Notice:** For leave that is needed immediately you only need to notify your employer as soon as possible. However, for advance leave (leave you know about before it is needed) you may be required to provide **notice** to your employer up to 7 days before you use the sick time.
- **Documentation:** You may need to provide **documentation** to your employer (such as a doctor's note) if you use sick leave for **more than 3 days in a row**.

If you qualify for *paid sick leave* under the **Families First Coronavirus Response Act (Emergency Paid Sick Leave Act) (which is available for a variety of COVID-19 reasons)**:

- **Application:** This benefit is provided directly by your employer so you do not need to apply.
- **Notice:**
 - If you're taking paid sick leave because you're caring for a child whose school or childcare provider has been closed because of COVID-19 and the leave was foreseeable, you need to provide **notice** to your employer as soon as possible. Otherwise, you need to notify your employer after your first day (or portion of a day) of paid sick leave.
 - If you're taking paid sick leave for any reason other than because you're caring for a child whose school or childcare provider has been closed because of COVID-19, you need to notify your employer after your first day (or portion of a day) of paid sick leave.
- **Documentation:** You need to provide **documentation** to your employer that includes your name, the date(s) you're requesting paid sick leave, the COVID-19-related reason for leave, and an oral or written statement that you are unable to work because of that COVID-19-related reason. You must *also* provide your employer with:

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- The name of the government entity that issued the quarantine or isolation order if you are taking leave because you're under quarantine or isolation or to care for someone who is under quarantine or isolation;
- The name of the health care provider that advised self-quarantine if you are taking leave because you're under self-quarantine or to care for someone who is under self-quarantine;
- The name of the child, the name of the school or childcare provider that closed, and a statement representing that no other suitable person is available to care for the child for the dates of leave requested if you are taking leave because you're caring for a child whose school or childcare provider has been closed because of COVID-19.

If you qualify for *emergency family leave* under the **Families First Coronavirus Response Act (Emergency Family and Medical Leave Expansion Act)** (which is only for caring for your son or daughter whose school or place of care has been closed or whose child care provider is unavailable):

- **Application:** This benefit is provided directly by your employer so you do not need to apply.
- **Notice:** You need to provide **notice** to your employer as soon as possible if the leave was foreseeable. Otherwise, you need to notify your employer after your first day (or portion of a day) of emergency family leave.
- **Documentation:** You need to provide **documentation** to your employer that includes your name, the date(s) you're requesting emergency family leave, the COVID-19-related reason for leave, and an oral or written statement that you are unable to work because of that COVID-19-related reason. You must *also* provide your employer with the name of your child, the name of the school or childcare provider that closed, and a statement representing that no other suitable person is available to care for the child for the dates of leave requested.

If you qualify for leave or benefits under the **New York State Emergency Sick Leave Law**:

- **Application:**
 - If you only need emergency sick leave and your employer has 11 or more employees, this benefit is provided directly by your employer so you do not need to apply.
 - If you need paid leave beyond emergency sick leave, or if your emergency sick leave is unpaid (as explained below), you will need to apply for special disability or paid family leave benefits. For step-by-step instructions on how to apply for special disability and paid family leave, see page 4 below.
 - If your employer has 10 or fewer employees *and* a net annual income of \$1 million or less in the last tax year, your emergency sick leave will be unpaid. To receive pay, you will need to apply for special disability and paid family leave benefits.
 - If your employer has between 11 and 99 employees *or* 10 or fewer employees *and* a net annual income of more than \$1 million in the last tax year, your emergency sick leave will be paid for a period of 5 calendar days. To receive pay beyond that period, you will need to apply for special disability and paid family leave benefits.

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- If your employer has 100 or more employees *or* if you work for a public employer, your emergency sick leave will be paid for a period of 14 calendar days.
- **Notice:**
 - If you are only taking emergency sick leave as provided by your employer, the law does not provide any specific notice requirements.
 - If you are taking special disability or paid family leave benefits, you may be required to notify your employer as soon as possible.
- **Documentation:**
 - Although there are no specific rules regarding documentation of emergency sick leave provided directly by your employer, you are only entitled to this benefit if you have a specific order of quarantine or isolation. If your employer asks for documentation related to your application for that order including your health care provider's determination that you should stay at home due to a coronavirus test or symptoms, you should be prepared to provide that.
 - Some cities and counties throughout New York State have issued standing isolation/quarantine orders, or have established online portals for obtaining such an order. For example, if you live or work in New York City, you can get an order of quarantine or isolation by filling out the appropriate appendix [here](#) and attaching any other required documentation (as explained in the appendix), such as test results or evidence of a medical consultation. If you live outside New York City, you should check whether your county has issued a similar order or created a specific process for getting an order.
 - If you are taking special disability or paid family leave benefits, you will need to provide a copy of your (or your minor dependent child's) mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity with your application for special disability or paid family leave benefits. Click [here](#) for more information on obtaining an order of quarantine or isolation. If you are unable to immediately obtain such an order, you can submit documentation from a licensed medical provider that states your basis for qualifying for a mandatory or precautionary order of quarantine or isolation and submit a copy of the order to your disability and paid family leave insurance provider as soon as it is available. Local Health Departments must provide requested orders within 30 days.

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How do I apply for special disability and paid family leave?

Step 1: Let your employer know that you will be taking leave.

Let your employer know you need to take special disability and paid family leave as soon as possible.

Step 2: Find out who your employer's disability and paid family leave insurance carrier is.

Next, ask your employer who their disability and paid family leave insurance carrier is. You can ask your supervisor or, if applicable, your employer's Human Resources or payroll department. You can also look up who your employer's disability and paid family leave insurance carrier is [here](#). If you still cannot identify the insurance carrier, call the New York State Paid Family Leave hotline at (844) 337-6303.

Step 3: Get a claim form.

To apply, you will need a disability or paid family leave claim form for the type of leave you will be taking: [quarantine leave for yourself](#), [quarantine leave for your minor dependent child](#). You can download these forms from the [state website](#).

Step 4: Fill out the employee sections on both claim forms.

Fill out the sections of the claim forms for employees and make a copy for your records.

Step 5: Give the form to your employer.

Give the forms to your employer. They will have to provide information relevant to your claim, such as how long you have been employed and how much you earn. Your employer is required to complete the employer information and return the form to you *within 3 business days*. If your employer does not return the form to you, give us a call at 1-833-NEED-ABB.

Step 6: Get documentation of the need for leave.

As part of your application to your disability and paid family leave insurance carrier, you will need to submit a copy of your or your minor dependent child's mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health, or government entity.

If you are unable to immediately obtain such an order from one of the aforementioned entities, you can submit documentation from a licensed medical provider that states your basis for qualifying for a mandatory or precautionary order of quarantine or isolation and submit a copy of the order to your disability and paid family leave insurance provider as soon as it is available. Local Health Departments must provide requested orders within 30 days.

Step 7: Submit application to disability and paid family leave insurance carrier.

Once you have completed these steps, submit your application to your employer's disability and paid family leave insurance provider. The insurance carrier must either pay or deny your claim within 18 calendar days of receiving your application and must notify you if there are problems with your application. You do *not* need to wait for your claim to be approved before starting your leave. If you do not hear from your insurance carrier within 18 days, give us a call at 1-833-NEED-ABB.