

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 a part-time or full-time 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 [emergency paid sick time](#) off from your employer (80 hours if you are a full-time worker, or the amount you normally work in a two-week period if you are a part-time worker). 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 (\$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.

You may use [emergency paid sick time](#) (80 hours if you are a full-time worker, or the amount you normally work in a two-week period if you are a part-time worker) 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 (\$2,000 total) if you are caring for another individual.

You can take time under this provision to care for a member of your immediate family, someone with whom you share a home, or a similar person where your relationship creates the expectation you would care for that person if that person were quarantined or self-quarantined.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

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 [emergency paid sick time](#) (80 hours if you are a full-time worker, or the amount of time and earnings you normally work in a two-week period if you are a part-time worker) 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 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, or provide certain documentation. 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.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

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 (including a shelter-in-place order or other general order to stay at home or an order affecting those in particular populations, such as those above a certain age);
- 3) have been advised to self-quarantine by a health care provider;
- 4) are caring for a child whose school/childcare 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.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

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 self-quarantine and this can be a reason for coverage under the law. 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 are also covered under this law.

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?

Yes. The FFCRA’s emergency paid sick time provision applies in instances where you are not able to work or telework because of a federal, state, or local quarantine or isolation order related to the coronavirus. This includes a shelter in place or stay at home order issued by any government authority.

Note that you may not be eligible for leave if your employer would not otherwise have work for you to do (such as if your workplace has shut down and you are not able to telework). In those circumstances, you may be eligible for unemployment insurance.

8. I was laid off or furloughed 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 Question #19). If you are furloughed or laid off, you are no longer eligible for paid leave under the law, though your employer must still pay you for any covered leave you had already taken at the time you were laid off or furloughed. 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 Question #20).

9. My hours were cut because of the crisis. Can I use my emergency paid sick time or family leave for the hours I am no longer scheduled to work?

No. You may not use emergency paid sick time or family leave for the hours you are no longer scheduled to work. You may also still use your emergency paid sick time or family leave for hours that you *are* still scheduled to work if you experience a qualifying need. However, depending on your state's rules, you may qualify for unemployment insurance for your lost income. Note that your employer cannot avoid giving you emergency paid sick time or family leave by falsely stating that they do not have work for you. If you have any questions, please contact our helpline [here](#).

10. Can I take my emergency paid sick time or family leave intermittently (in smaller chunks, rather than all at one time)?

If you are not teleworking (in other words, you are still going in to your work site), you can only take emergency paid sick time or family leave intermittently if your employer agrees *and* you are taking leave because your child's school or day care is closed or your childcare provider is unavailable. If you are not teleworking, you cannot take leave intermittently for any other reason.

If you are teleworking, you can take emergency paid sick time or family leave intermittently for any covered reason if your employer agrees.

However, if your child's school is on a hybrid-attendance schedule where your child can only go to school physically at certain times and must attend remotely for others (*e.g.* your child attends school virtually on Monday, Wednesday, and Friday, but can only go to school physically on Tuesday and Thursday), taking leave just for times your child must attend remotely is not considered intermittent leave. Under those circumstances, you can take FFCRA leave for times that your child is required to attend school remotely, while continuing to work regularly while your child is attending school in person, without needing your employer's permission.

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

Under rules set by the Department of Labor, your employer *may* choose to exclude you from receiving emergency sick time or family leave if you are a health care provider or emergency responder. You may be considered a healthcare provider for these purposes if you provide direct patient care (such as if you are a doctor, nurse, or nursing assistants), *or* if you provide services that directly support patient care (such as if you are laboratory technician). However, workers that work in a healthcare setting but are not involved in providing health care services (such as IT professionals, HR personnel, cooks, building maintenance staff, etc.), you are not considered a health care provider or emergency responder and are not

subject to this exclusion.

Prior to August 3, 2020, the Department of Labor used a broader definition of “health care provider,” which may have excluded additional workers from taking paid leave and was struck down by a court decision in the Southern District of New York. If you have any questions, please contact our helpline [here](#).

12. Are there any exceptions for employees of small businesses?

In some cases, yes. If your employer has fewer than 50 employees *and* you are taking leave because your child’s school or day care is closed or your childcare provider is unavailable, your employer may be able to claim an exception to the law if they meet certain criteria for showing that providing that leave would jeopardize the business’s viability.

13. 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.

14. Is there a waiting period before I can use this leave?

The effective date of this law was April 1, 2020. After this date, leave is available immediately for covered employees who have covered absences related to coronavirus.

15. 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. Your employer must continue your health care coverage on the same terms as if you continued to work if you take emergency paid sick time or 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.

16. 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.

17. 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.

You may also be eligible for Pandemic Unemployment Assistance (PUA) under the CARES Act. See below for more information.

18. 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 (PEUC):** 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 PEUC 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 PEUC) 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.

19. What can I do if I think my rights have been violated?

If you feel your rights have been violated, you can file a complaint with the Department of Labor. Different procedures may apply for government employees. If your employer has more than 50 employees, you may also be able to file a lawsuit if your rights to emergency family leave have been violated. For more information, call our free and confidential helpline at 1-833-NEED-ABB (1-833-633-3222).

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

20. 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 (1-833-633-3222).

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.