

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

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 worker who is still employed. Workers in New York State may be eligible for either state permanent or emergency paid sick leave coverage, under five separate laws. If you work in New York City, you may *also* have important rights under the local paid sick leave law.

If you are unemployed, you may be eligible for unemployment insurance benefits, which were temporarily 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 laws that might give me sick time during this public health emergency?**

#### **Possible sources of sick time coverage:**

##### **A. New York State Emergency Sick Leave**

You may be eligible for leave and benefits under the NYS Emergency Sick Leave Law if you work for:

- Any public agency (except for the federal government); or
- Private entity, regardless of size

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. However, if you qualify, you can fill out a form yourself that acts as the relevant order, rather than needing to go through a government agency.
  - You may be eligible for an **order of isolation** if you have tested positive for COVID-19, whether or not you are displaying symptoms.
  - You may be eligible for an **order of quarantine** if you:
    - Have been in close contact with someone who has tested positive for COVID-19;
    - Were not up to date on your COVID-19 vaccinations (including booster shots if applicable) at the time of exposure; *and*
    - Consistent with New York State Department of Health and CDC guidance, have been in quarantine.
  - For current New York State Department of Health guidance on when you should quarantine or isolate, see [here](#).

- **Instead of getting an order from a government agency, if you qualify, you can fill out a form yourself affirming that you meet the criteria, which may be used as if it were an individual order of quarantine or isolation.**
  - NOTE: An order of quarantine when you return to the U.S. from a trip to a country that has a level 2 or 3 health notice from the Center for Disease Control and Prevention 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.
  - For information on obtaining an order of quarantine or isolation, see [here](#). For more information on COVID-19 quarantines and isolations, 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.

New York State Emergency Sick Leave covers the length of your quarantine or isolation order by providing sick pay directly from your employer for 5 calendar days 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, and 14 calendar days if your employer has 100 or more employees or a public employer of any size (other than the federal government). If your employer has 10 or fewer employees (and a net income of less than \$1 million) or your quarantine/isolation order goes longer than what is required from your employer, you can apply for special paid family leave/temporary disability insurance benefits to cover the unpaid portion of the order.

**If your minor child is eligible for a mandatory or precautionary order of quarantine or isolation (including through completing the form described above) and you must leave work to care for them *and* you work for a private sector (non-government) employer, you can apply for special paid family leave benefits during the period of quarantine or isolation. For additional information on quarantine and K-12 schools, see [here](#).**

**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.

## **B. New York State and New York City Earned Safe & Sick Time Laws**

You may be eligible for sick time if you work as an employee in New York State and do not work for the government, 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 may also have



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rights under the city's sick time law. Both laws apply if you are a full-time, part-time, or temporary employee.

Both 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 makes 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 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.

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

### **The amount of sick time that you're entitled to depends on the size of your employer.**

- Under both laws, you earn **1 hour** of sick time for every **30 hours** worked. You start earning paid 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. 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—but you can't be fired or punished for taking it.
  - If you work in New York City, you may be covered by both laws—in that case, generally speaking, your sick time under the City 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).

### **C. New York State COVID-19 Vaccination Leave and New York City Child Vaccination Leave**

You may be eligible for dedicated paid leave to receive the COVID-19 vaccine if you work as a public or private sector 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.



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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 these reasons 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.**

Additionally, under New York City's child vaccination leave law, you may be eligible for dedicated ***paid* leave to help your child receive and recover from the COVID-19 vaccine** if you work in New York City, regardless of number of hours worked. The vaccination leave law applies if you are a full-time, part-time, or temporary employee. This leave is only available for a minor child or a child who is unable to care for themselves because of a mental or physical disability.

The child vaccination leave law allows you to take **up to 4 hours of paid leave per vaccine injection per child** to help your child receive the COVID-19 vaccine and recover from related side effects. For example, if you have two children, both of whom receive a vaccine that requires two doses, you could take up to a total of 16 hours of COVID-19 child vaccination time. This vaccination leave is in addition to your earned sick time to which you may be entitled under the New York City Earned Safe & Sick Time Law.

COVID-19 child vaccination leave under this law is available beginning on **November 2, 2021 until December 31, 2022.**



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## FREQUENTLY ASKED QUESTIONS ABOUT THESE RIGHTS

### **1) 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?**

**New York State Emergency Sick Leave:** You may be eligible for New York State emergency sick leave **IF** you can obtain a specific, personal government-issued mandatory or precautionary order of quarantine or isolation. **Instead of getting an order from a government agency, if you qualify, you can fill out a form yourself affirming that you meet the criteria, which may be used as if it were an individual order of quarantine or isolation.**

If you qualify for an order of quarantine or isolation, and the duration of that your quarantine or isolation period is longer than the period for which you can use emergency sick leave (see below at FAQ #5 for length of emergency sick time benefits under New York State law), then you may be eligible for special **temporary disability and paid family leave** benefits simultaneously. You can only receive special disability or paid family leave benefits if you [apply](#) (typically to your employer's insurance carrier), and can only receive them while the order of quarantine or isolation is in effect. There is no waiting period for special temporary disability benefits. If you are eligible for emergency paid sick leave, then you must exhaust your emergency paid sick leave before using special TDI/PFL benefits (but not other employer provided leave).

**If you take emergency sick leave that is paid by your employer**, your employer will pay you the same amount of pay that you would ordinarily have received during your period of leave. **If you are eligible to receive special disability and paid family leave benefits**, you can receive special paid family leave benefits equal to **67% of your pay, up to \$840.70/week**. In addition, you can receive special disability benefits in addition to special paid family leave for the amount of your wages not covered by special paid family leave, so that you receive benefits equal to **a total of 100% of your pay, up to a total of \$2,884.62/week (combined family leave and disability benefits)**.

**New York State and NYC Paid Safe & Sick Time:** Both 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 New York State's emergency sick leave law, 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. Domestic workers may have different sick time rights under the law—for more information, click [here](#).



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- **If you work in New York State or New York City**, you earn **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 B above.

**2) 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. I am caring for that child. What can I do to receive income while I’m not working?**

**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 the child you are caring for qualify for a **personal mandatory or precautionary order of quarantine or isolation (see Question 1 above)** . However, if your child qualifies for such an order (for example, because your child has tested positive for COVID-19), you *may* be eligible for [paid family leave](#) benefits (not special TDI benefits).

**New York State Paid Safe & Sick Time:** The New York State paid 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 paid safe & sick time law before accessing the New York State emergency coronavirus sick time. You can find more information on this permanent paid sick time law [here](#).

**NYC Paid Safe & Sick Time:** The New York City Earned Safe and Sick Time Act gives workers the right to earn and use sick time for a variety of sick and safe time purposes whether related to 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 you under this law.** There is no requirement that you use sick time to which you are entitled under New York City’s paid sick & safe time law before accessing the New York State emergency coronavirus sick time. You can find more information on this permanent paid sick time law [here](#).

**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. What can I do to receive income while I’m not working?**

**New York State Emergency Sick Leave/Special Paid Family Leave:** The New York State Emergency Sick Leave law specifically allows paid family leave to be used to care for a minor dependent child who

qualifies for an order or quarantine or isolation due to COVID-19. See Question 1 above for more information on who qualifies. Therefore, if the person you are caring for is a minor dependent child and is qualified for such a specific order (for example, because they have tested positive for COVID-19), you *may* be eligible for **paid family leave** benefits (not special TDI benefits). **Instead of getting an order from a government agency, if you qualify, you can fill out a form yourself affirming that you meet the criteria, which may be used as if it were an individual order of quarantine or isolation.**

**Non-Emergency NYS Paid Family Leave** might be available if the individual you are caring for is a **family member (child, parent, parent-in-law, spouse, domestic partner, grandchild, or grandparent)**. New York's Paid Family Leave law provides leave rights that may be useful if you need time off to care for a covered family member. 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 diagnosed with COVID-19, covered workers can take New York Paid Family Leave to care for them. For more about New York Paid Family Leave, see [here](#).

**New York State and NYC Paid Safe & Sick Time:** You can use regular paid sick time to care for a **family member** who needs 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 for workers in New York State and New York City.

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

- Under New York State's paid 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 a relationship.

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

As of March 12, 2021, public and private sector 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 paid sick time laws. For more information, see Section C above.



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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 B above.

### **5) My child has an appointment to receive the COVID-19 vaccine. What are my leave rights?**

As of November 2, 2021, employees throughout New York City have the right to up to **4 hours** of paid leave per vaccine injection per child to help your child receive the COVID-19 vaccine and recover from related side effects. Thus, if you have two children, both of whom receive a vaccine that requires two doses, you could take up to a total of 16 hours of COVID-19 child vaccination time. This leave is only available for a minor child or a child who is unable to care for themselves because of a mental or physical disability. COVID-19 child vaccination leave is available until December 31, 2022. Time off under the COVID-19 vaccine law is separate from and in addition to your earned sick time to which you may be entitled under the New York City Earned Safe & Sick Time Law. 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 B above.

### **6) 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 Emergency Sick Leave:** Not available for this purpose.

**New York State and NYC Safe & Sick Time:** Under the regular paid 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 paid sick leave in this situation where a doctor has advised quarantine due to a health condition.

**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, please see this page about the [Americans with Disabilities Act](#).

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

You are entitled to leave under the NYS Emergency Sick Leave Law for the duration of your quarantine/isolation order but the way in which you can access the emergency sick leave and how much money you are eligible for depends on the size or nature of your employer:

- If your employer has **10 or fewer employees (with net annual income of less than \$1 million in the last tax year)**, you can apply to receive temporary disability and paid family leave benefits that become payable on your first full day of unpaid quarantine or isolation. Although your employer is not obligated to pay you, you can take unpaid sick leave for the duration of your quarantine or isolation order.
- If your employer has **between 11 and 99 employees or your employer has a net annual income of more than \$1 million**, you can take paid sick leave for a period of 5 calendar days, followed by unpaid sick leave for the remainder of the quarantine/isolation order. If your quarantine or isolation lasts longer than 5 days, you can apply to receive disability and paid family leave benefits that become payable on your first full day of unpaid quarantine or isolation.
- If your employer has **100 or more employees**, you can take paid sick leave for a period of 14 calendar days during the quarantine/isolation order.
- If you work for a **public employer**, such as a school district, you can take paid sick leave for a period of 14 calendar days during the quarantine/isolation order.

**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 a private sector (non-government) employer**, you can apply for special paid family leave benefits during the period of quarantine or isolation.

**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.



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## 8) My employer mandated that I remain out of work due to exposure or potential exposure to COVID-19. Can I qualify for benefits under the NYS Emergency Sick Leave Law?

As discussed in Question #1 above, you can qualify for leave under the NYS Emergency Sick Leave law if you *are* subject to a mandatory or precautionary order of quarantine or isolation (such as if you test positive for COVID-19). **Instead of getting an order from a government agency, if you qualify, you can fill out a form yourself affirming that you meet the criteria, which may be used as if it were an individual order of quarantine or isolation.**

In addition, if your employer is requiring you to remain out of work due to exposure or potential to COVID-19 *but you are not subject to a mandatory or precautionary order of quarantine or isolation*, you may still be entitled to paid time off. See [here](#) for more information.

Keep in mind that, as noted in Section A above, you are not eligible for leave and benefits under NYS Emergency Sick Leave if you are not sick *and* can work remotely.

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

**NYS Emergency Sick Leave:** No. Under the law, part-time employees should be paid the normal rate they would be paid for the amount of time during the 5 or 14 calendar day period, depending on the size of their employer.

**New York State and NYC:** Part time workers will earn the same rate of pay they normally earn for the hours for which they take sick time under the law.

## 10) 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 emergency sick leave or have received special disability and paid family leave benefits. You are also entitled to continuation of your 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.

## 11) 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?

No, you are not required to use your accrued sick leave or other accrued paid leave that your employer may provide before using New York State Emergency Sick Leave. Emergency sick leave provided by your employer is available for immediate use, regardless of how long you have been employed; if your



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benefits are provided through special paid family leave or temporary disability benefits, you may need to have been employed by your employer for a certain period of time to qualify. The New York State Emergency Sick Leave Law offers emergency leave and benefits for eligible employees in addition to paid sick leave offered through employers. It does not count against your accrued sick leave or other paid time off. If you are also eligible for paid sick leave through your employer, then you will receive the ordinary amount of pay for the specified period (5 or 14 calendar days).

### 12) When can I start using my sick leave?

**NYS Emergency Sick Leave:** Emergency sick and special family leave or special temporary disability insurance benefits are immediately available if you qualify.

**New York State 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.

**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.

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

**NYS Emergency Sick Leave:** As a self-employed worker (including freelancers and independent contractors), 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.

### 14) 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.



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

**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 Paid Safe & Sick Time:** If you believe your rights have been violated by your employer under New York State's paid 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.

**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.

**New York City COVID-19 Child Vaccination Leave Law:** If you believe your rights have been violated by your employer under New York City's COVID-19 child vaccination leave law, you can file a complaint with the New York City Department of Consumer and Worker Protection.

**All covered workers are protected against being fired or punished for using emergency sick leave, New York State or New York City sick time, 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 emergency paid sick leave law 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.*