

Does the new federal Coronavirus law give me the right to take paid leave?

Unfortunately, the answer is complicated. The Families First Coronavirus Response Act gives millions of workers the right to take paid sick leave and paid family and medical leave to deal with the Coronavirus. However, due to pressure from corporate interests and Republican politicians, the law leaves out many workers. SEIU is demanding that, in future bills, Congress expand paid leave protections to cover all workers.

Emergency Paid Sick Leave

Am I covered?

The law covers (1) Federal, State, and local government employees; and (2) employees of private-sector businesses with fewer than 500 employees.

Employers can exempt emergency responders and “health care providers,” including doctors, nurse-practitioners, and other providers who certify the existence of health conditions. The definition does not appear to include most nurses and hospital staff, but employers may try to argue that it does.

Also, the Secretary of Labor has authority to issue new regulations that exclude employees of certain businesses with fewer than 50 employees and exclude more types of health care providers and emergency responders. However, those new regulations need to go through a long process before they take effect.

What can I use it for?

Employees who are covered can use emergency paid sick leave if they are unable to work (or telework) because they need leave for any of the following purposes:

- (1) to comply with a government quarantine or isolation order related to Coronavirus;
- (2) to comply with a health care provider’s advice to self-quarantine due to Coronavirus;
- (3) to seek a medical diagnosis while experiencing Coronavirus symptoms;
- (4) to care for an individual who is engaging in activities described in #1 or #2;

Emergency Paid Family and Medical Leave

Am I covered?

The law covers employees who have worked for more than 30 calendar days for (1) a State or local government; or (2) a private-sector business with fewer than 500 employees.

The law excludes most Federal government employees.

Employers can exempt emergency responders and “health care providers,” including doctors, nurse-practitioners, and other providers who certify the existence of health conditions. The definition does not appear to include most nurses and hospital staff, but employers may try to argue that it does.

Employers with fewer than 25 employees do not have to restore an employee to their position after returning from leave if the Coronavirus causes economic conditions that result in the elimination of the position.

Also, the Secretary of Labor has authority to issue new regulations that exclude employees of certain businesses with fewer than 50 employees and exclude more types of health care providers and emergency responders. However, those new regulations need to go through a long process before they take effect.

(5) to care for a child if a school or place of care has been closed, or the child care provider of the child is unavailable, due to Coronavirus; or
(6) while experiencing a “substantially similar condition” specified by HHS.

How much leave can I take?

Full-time employees can take 80 hours of leave. Part-time employees can take leave for the average amount of hours that they work in a two-week period.

How much does my employer have to pay me while I take leave?

Employers must pay employees at their regular rate of pay for purposes #1-3 above, subject to a \$5,110 total cap.

Employers must pay employees at two-thirds of their regular rate of pay for purposes #4-6 above, subject to a \$2,000 total cap.

Do I have to tell my employer that I am taking leave?

Yes, after the first working day during which you take leave under this law.

How does this law affect my other rights?

You may be entitled to more paid sick leave under State or local law or a union contract.

Does unused leave carry over into next year?

No, this law expires on December 31, 2020.

Also, employers may not:

- require employees to use other paid leave before taking this leave;
- fire or discipline employees for taking this leave; or
- require employees to find or look for a replacement before taking this leave.

What can I use it for?

An employee who is covered can use this leave if they are unable to work (or telework) because they need leave to care for their child under 18 years of age if the child’s school or place of care has been closed, or the child’s child-care provider is unavailable, due to the Coronavirus.

How much leave can I take?

Twelve weeks.

How much does my employer have to pay me while I take leave?

Employers do not have to pay employees for the first 10 days of this leave, but employees may use other accrued paid leave during those 10 days. After 10 days, employers must pay employees at two-thirds their regular rate of pay, subject to a \$10,000 total cap.

Do I have to tell my employer that I am taking leave?

Yes, if the need for leave is foreseeable, the employee must inform the employer as soon as is practicable.

How does this law affect my other rights?

You may be entitled to more family and medical leave under State or local law or a union contract.

Does unused leave carry over into next year?

No, this law expires on December 31, 2020.

Also, employers may not fire or discipline employees for taking this leave.