



Summary of H. R. 6201, COVID-19 Relief Legislation & NYS Legislation Guaranteeing Job Protection & Sick Time

Temporary Federal Expansion of Family and Medical Leave

This federal legislation goes into effect April 2, 2020 for a qualifying need related to a public health emergency. This special program ends on December 31, 2020.

Qualifying need is defined as the employee is unable to work from home and has the need for a leave to care for a child due to a school or daycare closure.

The below chart outlines the differences between traditional FMLA that was in place prior to the pandemic, and the Temporary Expanded FMLA (E-FMLEA):

	FMLA previous to COVID-19	E-FMLEA
Applies to Employers with:	50 or more employees within 75-mile radius	1 – 499 employees
Applies to employees who have completed:	12 months of service	30 days of service
Weeks of protected leave:	12	12
Weeks of paid leave	0	The first ten days are unpaid, and employees may substitute vacation/PTO. Afterwards, 10 weeks at two-thirds pay capped at \$200 per day or \$10,000 in the aggregate.
Reinstatement requirement:	Yes	Yes, but not for employers with less than 25 employees, if due to economic conditions or changes in employer’s operations caused by the emergency.
Exceptions		Per guidelines of the DOL, health care providers, emergency responders, and small businesses with less than 50 employees if it would jeopardize viability of the business.



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Temporary Federal Paid Sick Leave

Temporary sick leave requires employers to provide full-time employees with 80 hours of sick leave related to the coronavirus and part-time employees with a number of hours equal to their average over a two-week period.

Sick leave does not roll over and is not required to be paid out if unused.

Criteria for Payment

1. Employee is subject to government quarantine related to COVID19
2. Employee has been advised by Health Care Professional to self-quarantine
3. Employee is experiencing symptoms of COVID19 and is seeking a diagnosis

4. Employee is caring for a child whose school or day care has been closed (*this sick leave can be used during the unpaid two-week waiting period before the 10 weeks of paid E-FMLEA leave goes into effect)
5. Employee is caring for an individual who is subject to a government quarantine
6. The employee is caring for an individual who has been advised by a Health Care Professional to self-quarantine

Payment

If the leave is for the employee:

(criteria 1-3 above)

- Full regular pay
- Maximum of \$511 per day
- Aggregate maximum of \$5110

If the leave if for a child or family member:

(criteria 4-6 above)

- 2/3 of regular pay
- Maximum of \$200 per day
- Aggregate maximum of \$2,000



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Refundable Tax Credits to Pay for Leave

H.R. 6201 provides employers a refundable tax credit equal to 100% of the “qualified family leave and sick leave wages” that the employer is required to pay for a given quarter under both the E-FMLEA and the temporary sick leave regulations. The employer-related credits, which are refundable, would be applied against the employer portion of the Social Security taxes for each quarter equal to the “qualifying” paid leave wages paid by the employer, plus certain health care expenses.

Summary of New York State Legislation Guaranteeing Job Protection & Sick Time

To address the immediate need of employees affected by COVID-19 who are subject to **mandatory or precautionary orders of quarantine or isolation**, the new law provides the following:

Number of Employees & Net Income	Provided Benefits
10 or fewer employees and a net income less than \$1 million	<ul style="list-style-type: none">- Will provide job protection for the duration of the quarantine order.- Compensation for the duration of the quarantine through existing Paid Family Leave and Disability Benefits policy up to \$2,884.62 per week.
11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million	<ul style="list-style-type: none">- Will provide at least 5 days of paid sick leave and guaranteed job protection for the duration of the quarantine order.- Compensation for the remainder of the quarantine through existing Paid Family Leave and Disability Benefits policy up to \$2,884.62 per week.
100 or more employees, as well as public employers (regardless of number of employees)	<ul style="list-style-type: none">- Will provide at least 14 days of paid sick leave.- Guaranteed job protection for the duration of the quarantine order.



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- These benefits only apply in cases where an employee is under an order or quarantine, either mandatory or precautionary, by the State of NY, NYS Department of Health, local Board of Health, or other government entity authorized to issue a quarantine order.
- Employees who are quarantined but are working from home do not qualify for these benefits.
- Employees who cannot work because their minor dependent child is subject to a quarantine order would qualify for benefits.
- Paid sick leave must be provided separate from an employer's PTO policies, and an employee cannot be required to use their current PTO accruals.

Please keep in mind that since this legislation is new, the legal interpretations have not yet been released. This document represents the summary of what has been released to this point.

New York State Governor, Andrew Cuomo, has provided commonly asked FAQs to his website. Below is a link to the Governor's website, in addition to the FAQs.

<https://www.governor.ny.gov/paid-sick-leave-covid-19-impacted-new-yorkers/emergency-covid-19-paid-sick-leave>

What benefits can I use for COVID-19 quarantine leave? If you are under an order of mandatory or precautionary quarantine issued by the State, New York State Department of Health, local Board of Health, or other authorized government entity you may be eligible for job-protected sick leave and compensation through a combination of disability and paid family leave benefits.

If you work for an employer with 10 or fewer employees as of January 1, 2020 and your employer made less than \$1 million in 2019: Your employer must provide you with unpaid sick leave during the period of quarantine and you may be eligible for compensation for the duration of your quarantine by applying for Paid Family Leave and disability benefits.

If you work for an employer with 10 or fewer employees as of January 1, 2020 and your employer made more than \$1 million in 2019: Your employer is required to provide you with five days of paid sick leave. After those days are used, you may be eligible for compensation for the remainder of your quarantine by applying for Paid Family Leave and disability benefits.

If you work for an employer with between 11-99 employees as of January 1, 2020: Your employer is required to provide you with five days of paid sick leave. After those days are used, you may be eligible for a combination of Paid Family Leave and disability benefits.

If you work for an employer with 100 or more employees as of January 1, 2020: Your employer is required to provide you with 14 days of paid sick leave for a COVID-19-related quarantine, which should cover the period of mandatory or precautionary quarantine or order of isolation.



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Can my employer require me to use my existing sick leave accruals or other accruals (paid time off) for a COVID-19 quarantine order? No. Employers required to provide paid sick leave must provide that leave separate from any accruals.

Do I have to apply for COVID-19 quarantine leave? You do not have to apply for paid sick days if your employer is required to offer them. If you run out of sick days from your employer, then you would need to apply for Paid Family Leave and disability benefits for compensation during the rest of your quarantine.

Is my job protected during COVID-19 quarantine leave? Yes, your job is protected during your leave and you are entitled to be restored to the position you held prior to taking leave.

What if my employer doesn't know I am entitled to benefits during quarantine leave? With the passage of this law, there has been a good deal of public outreach and information is readily available on the [Governor's website](#). The website clearly lays out both the employee benefits and the employer responsibilities.

What is the maximum pay I will receive for COVID-19 quarantine leave? If you work for a public employer or an employer with more than 100 employees as of January 1, 2020, you are entitled to at least 14 days of paid sick leave at your regular rate of pay.

If you work for an employer with 11 or more employees or for an employer with fewer than 10 employees as of January 1, 2020, whose income was greater than \$1 million dollars in 2019 you are entitled to at least 5 sick days at your regular rate of pay. After those days are used, you may be eligible to receive your weekly wages through a combination of Paid Family Leave and disability benefits up to a maximum of \$2,884.62 per week.

If you work for an employer with fewer than 10 employees as of January 1, 2020, whose income was less than \$1 million dollars in 2019 then you may be eligible to receive your weekly wages through a combination of Paid Family Leave and disability benefits up to a maximum of \$2,884.62 per week.

Will I have to repay the benefits I receive during COVID-19 quarantine leave? No, you are not required to repay any benefits.

I work for a public employer. What benefits are available for COVID-19 quarantine leave? All public employers (for example, town, public school, public college or university, district, county, city, village, fire district and state), must provide at least 14 days of paid sick leave, regardless of how many employees they have.



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What if I independently decide to quarantine - can I take COVID-19 quarantine leave? This new law provides benefits in cases where an individual is under an **order** of quarantine – either mandatory or precautionary. Entities that may issue an “order” include the State of New York, New York State Department of Health, local Board of Health or any government entity authorized to issue such order.

What if my employer temporarily closes or goes out of business because of COVID-19? You may be eligible for Unemployment Insurance. For more information or to apply online, visit the [NYS Department of Labor website](#).

When will I get paid for the disability benefit and Paid Family Leave portion of my quarantine leave? Your employer’s insurance carrier must pay or deny benefits within 18 calendar days of receiving your completed request for benefits. To ensure timely payment, make sure you completely fill out the required forms and attach the order of mandatory or precautionary quarantine.

How long do I have to submit my disability benefit and Paid Family Leave application for quarantine leave? You must submit your Paid Family Leave application within 30 days from the first day you are taking leave to avoid losing any benefits.

How do I apply for the Paid Family Leave/disability benefits component of COVID-19 quarantine leave for myself? To apply for Paid Family Leave/disability benefit compensation during a quarantine, notify your employer and submit your completed request for paid family leave forms to your employer’s insurance carrier no later than 30 days from your first day of leave to avoid losing any benefits.

You will need to complete the [Request for COVID-19 Quarantine Leave for Yourself Package](#). You can also find the forms at [PaidFamilyLeave.ny.gov/COVID19](#).

You will need to complete the employee sections on both forms in the package.

Then send these completed forms to your employer to complete the employer sections on both forms. Your employer has three business days to complete these sections and return the forms

to you. If you do not receive the forms within three business days, you can proceed to the next step and submit your application.



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Next, you will submit your completed forms together with your mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity to your employer's disability and Paid Family Leave insurance carrier.

The insurance carrier must pay or deny your claim within 18 calendar days of receiving your completed request.

How do I apply for the Paid Family Leave benefits of COVID-19 quarantine leave if I am unable to work because my minor dependent child is subject to a quarantine order?

You need to complete the [Request for COVID-19 Quarantine Leave for Minor Child package](#). You can also find the forms at PaidFamilyLeave.ny.gov/COVID19.

You will need to complete the employee sections on both forms in the package.

Then send these completed forms to your employer to complete the employer sections on both forms. Your employer has three business days to complete these sections and return the forms to you. If you do not receive the forms within three business days, you can proceed to the next step and submit your application.

Next, you will submit your completed forms together with your mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity to your employer's disability and paid family leave insurance carrier.

The insurance carrier must pay or deny your claim within 18 calendar days of receiving your completed request.

Where do I get an application for the Paid Family Leave/disability benefits component of COVID-19 quarantine leave?

All forms are located at PaidFamilyLeave.ny.gov/COVID19. You may also be able to obtain them from your employer's insurance carrier.

Where do I send my completed application for Paid Family Leave/disability benefits quarantine leave?

Submit your completed request package to your employer's disability and paid family leave insurance carrier within 30 days after the start of your leave. For information on who your



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employer's carrier is, you should ask your employer or check part B of the PFL-1 form after your employer completes their section.

What documents do I need to provide for Paid Family Leave/disability benefits quarantine Leave?

For every Paid Family Leave claim you must submit the *Request for Paid Family Leave (Form PFL-1)*. Additionally, depending on the type of leave you are taking you will need to submit either the [Request for COVID-19 Quarantine Leave for Yourself](#) or the [Request for COVID-19 Quarantine Leave for Minor Child](#). You will also need to submit the mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity.

It has been more than 18 days since my insurance carrier received my completed request for DB/PFL quarantine leave and they still have not paid or denied it. What should I do?

If it has been more than 18 days since the insurance carrier received your completed request, you may file a request for arbitration based on the carrier's untimely decision. Arbitration is handled by NAM (National Arbitration and Mediation). More information can be found on [NAM's website](#).

What if I received a denial?

If you received a denial of Paid Family Leave benefits, you may file a request for arbitration to have your claim reviewed by a neutral arbitrator. Arbitration is handled by NAM (National Arbitration and Mediation). More information can be found on [NAM's website](#).

My child's school is closed due to Coronavirus/COVID-19. Can I take Paid Family Leave/disability benefits quarantine leave to stay home with them?

It depends. If the school is closed due to a mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity, you may be eligible to take paid family leave. If your child's school closes for preventative social distancing, you may want to check with your employer to see if there are any benefits that may be available to you.

I have been quarantined due to Coronavirus/COVID-19. Can I take Paid Family Leave/disability benefits quarantine leave for myself?



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Yes, if you are under a mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity, you may be eligible to take disability and Paid Family Leave benefits for yourself unless you are not showing symptoms and are physically able to work through remote access or similar means. You must use your available quarantine paid sick leave before taking Paid Family Leave and disability benefits, and then you can apply for these benefits for the remainder of your quarantine.

I'm able to work from home but I'm under a mandatory or precautionary quarantine. Am I eligible for quarantine leave?

No, if you are not showing symptoms and are physically able to work through remote access or similar means you are not eligible for quarantine leave.

My employer is refusing to complete their section on the Request for COVID-19 Quarantine form. What do I do?

If it has been more than three business days since you provided your employer with the completed Request for COVID-19 Quarantine Leave package, you may submit the forms you filled out, along with the mandatory or precautionary quarantine or order of isolation to your employer's paid family leave insurance carrier. The carrier may not deny your request solely because the employer's sections are not completed.

Is there a waiting period before I will receive my Paid Family Leave/disability benefits quarantine leave benefits?

No, there is no waiting period for benefits claimed as a result of a mandatory or precautionary quarantine or order of isolation.

What if I am quarantined because I have recently returned from traveling to another country?

You are not eligible for quarantine leave if you are subject to a quarantine because you voluntarily traveled to a country with level two or three health notice from the CDC if your travel was not at

the direction of your employer and you were provided notice of the travel health notice and knew about this restriction in the new law.



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Is quarantine leave available retroactively?

Yes. You may take quarantine leave if you are still currently under an order of mandatory or precautionary quarantine or order of isolation issued by the State, department of health, local board of health, or government entity even if that order was issued prior to the enactment of the COVID-19 quarantine leave (March 18, 2020).

If I am an employer, what new benefits do I have to provide for quarantine leave?

If you are a public employer, you must provide at least 14 days of paid sick leave.

If you had 10 or fewer employees as of January 1, 2020: If you are a private employer with one or more employees in employment, you already provide disability and Paid Family Leave benefits to your employees. This requirement has not changed with the new rules related to Coronavirus/COVID-19. Those insurance policies will provide compensation to employees who are on quarantine.

If you had between 11-99 employees or you are an employer with fewer than 10 employees as of January 1, 2020 and had an annual income greater than \$1 million in 2019: You are required to provide employees with at least five days of paid sick leave while on quarantine. If your employees do not have more sick leave while on quarantine, you should help them apply with your Paid Family Leave and disability insurance carrier.

If you had 100 or more employees as of January 1, 2020: You are required to provide employees with 14 days of paid sick leave.

As an employer, what part of the Paid Family Leave/disability benefits quarantine leave application do I need to fill out as the employer?

As the employer your responsibility is to complete and return to the employee Part B of the Request for Paid Family Leave (Form PFL-1) and either section 3 of the Request for COVID-19 Quarantine DB/PFL section 4 of the Request for COVID-19 Quarantine PFL - Child, depending on the leave the employee is requesting. These sections must be completed and returned to the employee within three business days.

ESC clients please contact your HR Business Partner with any questions on the above.