

International Union of Operating Engineers Local Union No. 94 94A, 94B



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I.U.O.E. Local 94 Memorandum

COVID-19 PAID LEAVE AND UNEMPLOYMENT BENEFITS FOR EMPLOYEES

QUESTIONS AND ANSWERS

This information is being provided as a service to the Local 94 membership. Recent changes to federal and state law enacted to provide financial assistance to worker through the Coronavirus pandemic can be confusing. We have tried to distill the important points for our members. Keep in mind that, as the situation evolves, there may be changes and updates to the laws that are described below. We will make every effort to update you. If you have questions, or need further clarification, please contact your business representative.

PANDEMIC UNEMPLOYMENT COMPENSATION

1. If I am laid off by my employer, what financial assistance is available to me? You should apply for unemployment insurance (UI) benefits through the New York State Department of Labor's website (labor.ny.gov/signin) or call center at 888-209-8124. New York State has waived the 7-day waiting period for benefits for people who are out of work due to Coronavirus (COVID-19) closures or quarantines. You are not entitled to UI benefits while you are receiving paid sick leave under state or federal law.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020 provides an additional \$600 per week in UI benefits. This amount will be added to the regular weekly benefit which in New York State is a maximum of \$504.00 per week. The CARES Act also provides an additional 13 weeks of UI benefits which becomes available after you exhaust your regular UI benefits which in New York State last 26 weeks, so unemployed workers in New York State are eligible for up to 39 weeks of UI benefits.

2. My employer has reduced my hours, can I receive for UI Benefits? If you work less than four days a week and earn \$504 per week or less, my may be eligible for partial unemployment benefits. You should apply and the Department of Labor will process your claim and advise you if you are eligible.

EMERGENCY PAID SICK LEAVE

3. What if I become sick with COVID-19 or I have been exposed to someone who has or may have COVID-19? Under federal law (the Families First Coronavirus Response Act (FFCRA)), starting on April 1, 2020, employers with 500 or fewer employees must provide emergency paid sick leave of up to 80 hours to employees who are unable to work (or unable to work from home) for any of the following reasons:

- a. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- b. The employee has been advised by a health care provider to self-quarantine related to COVID-19; or

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c. The employee is subject to a federal, state or local quarantine order related to COVID-19 (NOTE, New York City is not under quarantine).

NOTE: There is a small business exemption to FFCRA. Employers with less than 50 employees whose business would be jeopardized as a going concern by providing emergency sick leave can claim this exemption. However, if an employer is part of an “integrated employer” under common management, control, and interrelationship of operations, with another employer or employers and they meet the 50 employee threshold, they cannot claim the exemption.

4. What if my employer tells me to stay home for 14 days because I am not feeling well or I was working around someone who was not feeling well? If your employer is covered by FFCRA and you are experiencing symptoms COVID - 19 symptoms and are seeking a medical diagnosis by contacting your health care provider, you should be eligible for the 80 hours of sick leave. Also, if you were advised to stay home by a health care provider because you were exposed to someone who may have COVID-19, you also should be eligible for 80 hours of sick leave.

NOTE: However, if your employer sends you home to be on the safe side or in an abundance of caution and you do not fit into one of the two categories above, both of which require you to be in touch with a health care provider, you could be considered to be laid off due to COVID-19. In that case, you should apply for unemployment benefits.

5. What amount of paid sick leave do I get if I am sick from COVID-19, or have to self-quarantine? Full-time employees are eligible for up to 80 hours of paid leave and part-time employees are eligible for the number of hours of leave that the employee works on average over a two-week period.

You are entitled to pay at your regular rate up a cap of \$511 per day and \$5,110 total over a two week period.

5. What if I have to stay home to care for a family member who has been directed by a health care provider to self-quarantine or because my child’s school is closed? A sick leave benefit under FFCRA is available to workers who have to care for an individual (not limited to family members) who has been directed by a health care provider to self-quarantine or because the school or child care provider is closed or unavailable for reasons related to COVID-19.

If you have to stay home for these reasons, as a full-time employee, you are entitled to 2/3rds of your regular rate of pay up to \$200 per day because or \$2,000 over a two week period.

NYS COVID-19 QUARANTINE PAID LEAVE

7. Is there additional paid sick leave provided under the NYS COVID-19 Paid Leave Act? The New York State Paid Leave Act of COVID-19 provides job-protected leave but it applies only to workers who are subject to an order of mandatory or precautionary quarantine or isolation for COVID-19 issued by New York State, a local board of health, or any other governmental entity authorized to issue such orders. At the present time, NYC is not under a quarantine order. The Governor’s Executive Order restricting the businesses that can operate to essential businesses is not a quarantine or isolation order.

EMERGENCY PAID FAMILY AND MEDICAL LEAVE

8. What if I have to stay home to care for a child whose school or place of care of closed or whose childcare provider is unavailable for reasons related COVID-19?

Under FFCRA which covers employers with less than 500 employees and is effective April 1, 2020, a full time employee is entitled to up to 12 weeks of job protected leave if you are required to take care of a child (under 18 years of age) due to COVID-19 school and childcare closures.

The first ten days of that leave are unpaid, but you can use the emergency sick leave provided under FFCRA for those two weeks. As noted above, the emergency sick leave if used for this reason is a maximum of \$200 per day or \$2000 over a two-week period. Employees may choose to substitute employer paid leave for this period. This is followed by ten weeks of job-protected leave during which you are entitled to receive 2/3 of your regular rate of pay up to a maximum of \$200 per day or \$12,000 over a 10 week period.

NOTE: The U. S. Department of Labor's guidance on the expanded emergency family and medical leave advises that this leave is part of, not additional to, an employee's entitlement under the Family and Medical Leave Act. So if an employee has already taken some of the 12 weeks of FMLA leave for other reasons, he or she will only get the balance remaining to use for this emergency family and medical leave.