

COVID-19 FEDERAL AND STATE LEAVE ENTITLEMENT

	Last Updated	8/28/2020				
Condition	Benefit	What it Provides	Exclusions	What Else You Need to Know	What Happens After Leave is Exhausted	Effective Dates
Employee is subject to a mandatory or precautionary quarantine or isolation order issued by a federal, state or local government	NYS COVID Leave (NY COVID not available while you are entitled to EPSLA benefits – see below)	- Public sector and employers with over 100 employees: up to 14 calendar days employer-paid leave (concurrent with EPSLA leave) - Private sector between 11 and 99 employees: five days employer-paid leave; additional leave eligible for state disability and paid family leave, if applicable - Job protection on return to work	- Not available for employees who have traveled internationally or to states on do-not-travel list - Not available for employees who are asymptomatic and able to telework - If employer has closed, furloughed or laid you off, most likely eligible for UI, not COVID Leave	MUST use EPSLA leave first - Different rules for small private-sector employers - Cap on benefits if paid under disability or paid family leave - Must get quarantine order from governmental authority - Not available to take care of family members unless you yourself are also quarantined - NYS COVID Leave is IN ADDITION to any other employer-provided or CBA-guaranteed leave, however you cannot be required to use your accrued leave first	There is no provision for additional EPSLA leave beyond the 80 hours or for NYS COVID Leave beyond 14 days for a single quarantine. If symptomatic, may be entitled to state disability (if applicable) or unpaid leave. If employee is laid off or furloughed, Pandemic Unemployment Assistance (“PUA”) may be available	- NYS COVID Leave effective as of March 18, 2020; no end date - PUA available through Dec. 31, 2020
Employee is unable to work for one of the following reasons:	Federal Emergency Paid Sick Leave Act (“EPSLA”)					Available April 1, 2020 to Dec. 31, 2020
Employee is subject to federal, state or local quarantine or isolation order related to COVID-19	EPSLA	80 hours (two-weeks pay) up to cap of \$511 per day or \$5,110 total - Pro-rated, with a cap, for part-time employees	- Health care providers and emergency Personnel may be excluded - Private employers with more than 500 employees; some small businesses under 50 employees	- Cannot be taken intermittently - Not available if working - Not limited to a single qualifying incident; however, aggregate cap of 80 hours - Cannot be required to use other accrued leave in lieu of EPSLA, but may do so with consent of employer	There is no provision for additional EPSLA leave beyond the 80 hours. May be entitled to state disability (if applicable) or unpaid leave, under FMLA or other leave. If employee is laid off or furloughed, PUA may be available	- EPSLA and expanded PUA available April 1, 2020 to Dec. 31, 2020 - State disability (if applicable) has no end date
Employee advised by Health Care Provider to Self-Quarantine	EPSLA	80 hours (two-weeks pay) up to cap of \$511 per day or \$5110 total - Pro-rated, with a cap, for part-time employees	- Health care providers and emergency personnel may be excluded - Private employers with more than 500 employees; some small businesses under 50 employees	- Employee cannot be required to use other accrued leave in lieu of EPSLA, but may do so with consent of employer - Cannot be taken intermittently - Not available if working	There is no provision for additional EPSLA leave beyond the 80 hours. If symptomatic, may be entitled to state Disability (if applicable) or unpaid leave. If employee is laid off or furloughed, PUA may be available	- EPSLA Available April 1, 2020 to Dec. 31, 2020 - State disability has no end date
Employee experiencing symptoms and seeking a medical diagnosis OR Employee experiencing “other substantially similar condition specified by HHS”	EPSLA	80 hours (two-weeks pay) up to cap of \$511 per day or \$5110 total - Pro-rated for Part-Time Employees	- Health care providers and emergency Personnel may be excluded - Private employers with more than 500 employees; some small businesses under 50 employees	- Employee cannot be required to use other accrued leave in lieu of EPSLA, but may do so with consent of employer - Cannot be taken intermittently - Not available if working - HHS has not specified any “substantially similar condition”	There is no provision for additional EPSLA leave beyond the 80 hours. May be entitled to state Disability (if applicable) or unpaid leave, under FMLA or other leave. If employee is laid off or furloughed, PUA may be available	- EPSLA and PUA available April 1, 2020 to Dec. 31, 2020 - State disability and regular FMLA have no end date
Employee caring for individual subject to an order of self-quarantine	EPSLA	80 hours (two-weeks pay) at 2/3 regular rate of pay, subject to \$200 per day/\$2,000 aggregate - Pro-rated for part-time employees	- Health care providers and emergency personnel may be excluded - Private employers with more than 500 employees; some small businesses under 50 employees	- Employee cannot be required to use other accrued leave in lieu of EPSLA, but may do so with consent of employer - Law does not require, but with employer consent may be able to use contractual time to make up the one-third - Cannot be taken intermittently - Not available if working	There is no provision for additional EPSLA leave beyond the 80 hours. May be entitled to FMLA leave, state paid family leave (if applicable) or unpaid leave, if applicable.	- EPSLA and PUA available April 1, 2020 to Dec. 31, 2020 - State disability and regular FMLA have no end date
Employee caring for minor child if school or child care is closed/unavailable	EPSLA + Emergency Family Medical Leave Expansion (“EFMLEA”)	80 hours of EPSLA (two-weeks pay) at 2/3 regular rate of pay, subject to \$200 per day/\$2,000 aggregate - Followed by 10 weeks of EFMLEA at 2/3 regular rate of pay, subject to \$200 per day; if EPSLA used for another condition, first two weeks will be unpaid followed by 10 paid weeks 10 weeks of EFMLEA will be reduced by any FMLA already taken - Pro-rated for part-time employees	- For EFMLEA, must have been employed 30 days - Health care providers and emergency personnel may be excluded - Private employers with more than 500 employees; some small businesses under 50 employees	- Employee cannot be required to use other accrued leave in lieu of EPSLA, but may do so with consent of employer - Law does not require, but with employer consent may be able to use contractual time to make up the one-third - Employee can be required to use other leave, as with FMLA, for EFMLEA - Can be taken intermittently; employer consent may be required outside Southern District - Not available if working	After EPSLA and EFMLEA exhausted, may be able to seek PUA benefits if continued inability to work, or state paid family leave benefits if eligible	EPSLA and expanded PUA Available April 1, 2020 to Dec. 31, 2020 State paid family leave (if applicable) has no end date
Employee has lost their job due to COVID-related reasons see https://dol.ny.gov/pandemic-unemployment-assistance for specific reasons	NYS Unemployment Insurance CARES Act Supplement	Up to 26 weeks of partial wage replacement, up to \$504 per week, plus 13 week federal extension. \$600 per week supplement expired July 31, 2020	- Must meet hours eligibility applicable to UI - Not available if able to telework or receiving other benefits	- Special rules apply to certain education between terms and semesters, but individuals should apply - On Aug. 8, 2020, the White House initiated a program for extended supplemental benefits beginning Aug.1; not currently in effect in New York		13 Week extension available through Dec. 31, 2020; \$600 per week extension expired July 31, 2020; As currently written, the COVID-19 expanded eligibility for UI will also expire on Dec. 31, 2020
Employee is unable to work because of contracting COVID-19 (other than at the workplace)	NYS Temporary Disability Insurance	Up to 26 weeks at \$170 per week	Not available to most employees who work for an educational institution		Employee may be first be entitled to EPSLA and/or NYS COVID Leave, depending on the circumstances	Effective March 18, 2020; no end date
Employee is unable to work because of contracting COVID-19 at the workplace	NYS Workers Compensation	Partial wage replacement and medical care for the work-related illness or injury up to \$934.11 per week	Will need to show that illness was contracted at the workplace	May be required to show some “attachment to the labor market” if on partial workers’ comp	Employee may first be entitled to EPSLA and/or NYS COVID Leave, depending on the circumstances	No end date
Employee is unable to work because caring for a family member who has COVID-19 or minor child subject to quarantine or isolation	New York Paid Family Leave	Up to 10 weeks of partial wage replacement up to \$840.70 per week	Not available to most public-sector employees unless employer has opted into program		Employee may also be entitled to EPSLA and/or EFMLEA at 2/3 pay; New York Paid Family Leave may make up the difference up to the \$840.70 weekly cap	Effective March 18, 2020; no end date for NY Paid Family Leave

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