

20 March 2020

# NY “Emergency COVID-19 Paid Sick Leave”

As of March 20, 2020, updated March 24, 2020



Until the Federal program (“Families First Coronavirus Response Act”) becomes effective in April to help ease some of the financial strains from the COVID-19 outbreak (the illness caused by the novel Coronavirus), NY State is helping fill the void on the State level through “Emergency COVID-19 Paid Sick Leave” for employees who can’t work while under quarantine. This means, **starting April 1st, the Federal program becomes the primary source of COVID-19 paid sick leave.**

## How is COVID-19 quarantine defined under the NY law? Under what circumstances does a quarantine qualify for benefits under this act?

“Emergency COVID-19 Paid Sick Leave” applies to **employees who are ordered by the State of NY, Department of Health, a local Board of Health, or any other governmental entity to be under mandatory or precautionary quarantine/isolation due to COVID-19.**

- The “Order for Quarantine” is official written documentation issued to individuals who need to be isolated. [See a sample here.](#)
- The quarantine/isolation under this act does NOT apply to New York State on Pause or general stay-at-home orders.
- The Centers for **Disease Control and Prevention (CDC)\*** define isolation and quarantine as follows:
  - **Isolation** separates sick people with a quarantinable communicable disease from people who are not sick.
  - **Quarantine** separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.

Further, in order to qualify, the employee must be **unable to perform their core job duties** or any alternative responsibilities the employer may offer during the quarantine.

If the **employee doesn’t show any symptoms** (or has not been diagnosed yet) and can work while under quarantine, “Emergency COVID-19 Paid Sick Leave” **benefits do not apply.**

## Does the NY law apply to employees *not working due to* “New York State on Pause” or stay-at-home orders in NY State?

No, the “Emergency COVID-19 Paid Sick Leave” or “New York State on Pause” does not apply if an employee has to stay home or work remotely for circumstances other than a mandatory quarantine described above. This means, the following situations, for example, do not apply:

- Watching kids during school closure
- Working from home
- Voluntarily self-quarantining “just in case”
- Being home because the business is temporarily closed

## How does the COVID-19 Paid Sick Leave work?

Eligible employees receive job protection (in form of job restoration and non-retaliation provisions) and paid sick leave during the time of their qualified quarantine. The actual benefit structure depends on the size and annual net income of the employer:

Employer Size (by employee count)	Job protection	Covered Duration Starting 3/18/20	Employer’s Role	Employee’s pay/benefits Starting 3/18/20
1-10 (less than \$1m annual net income)	Yes	Duration of quarantine until Federal program starts	Unpaid sick leave until end of quarantine	Sick leave is entirely compensated through DBL/PFL benefits concurrently:  Combined maximum of \$2,884.62/week
1-10 (more than \$1m annual net income)	Yes	Duration of quarantine until Federal program starts	At least 5 days paid sick leave by ER  +  Unpaid sick leave until end of quarantine	Days 1-5: Full salary continuation by employer  Days 6+ Concurrent DBL/PFL benefits:  Combined maximum of \$2,884.62/week



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- COVID-19 Updates (4)
- Client Information (8)
- Corporate Updates (15)
- Events (16)
- Industry Updates (8)
- Insurance Education (18)
- News (22)
- Recognition (9)
- Social Responsibility (11)
- Various (10)

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Mon	Tue	Wed	Thu	Fri	Sat	Sun
24	25	26	27	28	29	1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31	1	2	3	4	5

<b>11-99</b>	Yes	Duration of quarantine until Federal program starts	At least 5 days paid sick leave by ER + Unpaid sick leave until end of quarantine	Days 1-5: Full salary continuation by employer  Days 6+ Concurrent DBL/PFL benefits: Combined maximum of \$2,884.62/week
<b>100+</b>	Yes	At least 14 days	Full duration paid at regular salary by ER	Full salary continuation by employer
<b>Public Employers</b>	Yes	At least 14 days	Full duration paid at regular salary by ER	Full salary continuation by employer

## How long does the COVID-19 Sick Leave last?

The intended duration is the period of quarantine only, i.e. 14 days. However, there are a few things to note:

- “Emergency COVID-19 Paid Sick Leave” became effective on March 18<sup>th</sup> and does not retroactively apply to quarantines before that date.
- If an eligible quarantine started prior to that date and stretches past March 18<sup>th</sup>, only the days from March 18<sup>th</sup> onward qualify.
- Once the Federal program goes into effect, benefits under the NY program will be replaced by the Federal program, even if the 14-day quarantine is not completed yet. This means, employees will have to file a new, federal claim for the remainder of their quarantine. [Visit this post](#) for details on the Federal “[Families First Coronavirus Response Act](#)”.

## Is the COVID-19 sick leave coming from the employee's own bucket of accrued sick leave days?

No, the Sick Leave provided under this act is not taken from an employee's accruals.

## Is the COVID-19 benefit duration under DBL/PFL reducing the total available benefit time available under those coverages?

Yes, DBL/PFL time taken under COVID-19 benefits counts as duration taken under State disability (maximum of 26 weeks per year) and Paid Family Leave (maximum of 10 weeks in 2020) and reduces the remaining benefit durations accordingly.

## How much is the DBL/PFL benefit?

The **combined maximum of \$2,884.62/week** consists of a **Paid Family Leave portion** and a **short-term disability** portion. Both benefits run **concurrently**, meaning one part of your COVID-19 sick pay is paid through PFL and the rest through DBL at the same time:

- The **first 60%** of the weekly salary are paid **through the Paid Family Leave benefit bucket, to a maximum of \$840.70/week**.
- The amount of the DBL benefit depends on the employee's weekly salary – it's the difference between the salary less the PFL portion of the benefit. The **DBL portion is capped at \$2,043.92/week**.

Here are 3 examples:

	Weekly salary	PFL benefit portion (60% of weekly salary, capped at \$840.70)	Weekly salary minus PFL amount (capped at \$2,043.92)	Total Benefit amount/week
<b>Jane</b>	\$1,000.00	\$600.00	\$400.00	\$1,000.00
<b>Jamal</b>	\$2,000.00	\$840.70	\$1,159.30	\$2,000.00
<b>Anne</b>	\$3,000.00	\$840.70	\$2,043.92	\$2,884.62

## When does the DBL/PFL benefit start?

For purposes of the “Emergency COVID-19 Paid Sick Leave”, the 7-day waiting period under DBL is waived. **Benefits start on the employee's first full day of unpaid quarantine starting March 18<sup>th</sup>**. Here's what that means:

- If an eligible quarantine started prior to that date and stretches past March 18<sup>th</sup>, only the days from March 18<sup>th</sup> onward qualify.
- Employees at a **small business with less than 10 employees** – and that has less than \$1m in annual net income – are eligible to get their income replacement back to **day 1 of the quarantine** through their DBL/PFL insurance.
- However, if a **small business with 1-10 employee has more than \$1m in annual net income**, the employer has to pay the first 5 days before **DBL/PFL benefits become payable to cover the remaining quarantine time from day 6 on**.
- The same applies to businesses that have between 11 and 99 employees.
- Employees at organizations with **100+ employees** and employees of public employers **do not get their paid sick leave through DBL/PFL** benefits under this act – their employer must continue their full salary for the duration of the quarantine.

## Does Emergency COVID-19 Paid Sick Leave apply to the Quarantine/Isolation of an Employee's Child?

Yes. The legislation provides Paid Family Leave for working parents if their minor dependent child has to go into mandatory or precautionary quarantine/isolation. In addition to job protection, eligible employees may receive a maximum benefit of \$840.70 per week for the duration of the quarantine.

## When does the Emergency COVID-19 Paid Sick Leave take effect?

The provisions of the quarantine legislation take effect immediately upon the date of Governor Cuomo's signature (March 18, 2020) ensuring that New York workers will be able to take advantage of these benefits starting March 18<sup>th</sup>. However, the "Emergency COVID-19 Paid Sick Leave" does not retroactively apply to quarantines before that date. So, if an eligible quarantine started prior to that date and stretches past March 18<sup>th</sup>, only the days from March 18<sup>th</sup> onward qualify.

## How does NY's Emergency COVID-19 Paid Sick Leave relate to the Federal "Families First Coronavirus Response Act"?

Once the Federal Program goes into effect in April, it will become the primary source for COVID-19 benefits. In other words, most New Yorkers looking to request benefits after that date, need to file for support on the Federal, not the State, level.

After that date, the NY program will only be available for New Yorkers who exceed the Federal program's salary cap and can file for supplemental benefits bridging between the Federal and State caps.

We will post updates on the claims process and other details in our [COVID-19 resource center](#) as they emerge, such as clarifications on:

- NY program apply to quarantines that started before the Governor signed enacted the "Emergency COVID-19 Paid Sick Leave"
- Whether a doctor's COVID-19 letter of diagnosis is acceptable instead of a formal quarantine order
- And more.

So, be sure to [subscribe for updates](#) to stay current on the latest information we have available.

\* <https://www.cdc.gov/quarantine/aboutlawsregulationsquarantineisolation.html>

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