

NJDOL Benefits and the Coronavirus (COVID-19):

What Employees Should Know

New Jersey has among the most comprehensive [Earned Sick Leave](#), [Temporary Disability](#) and [Family Leave Insurance](#) laws in the country, which cover all employees – full-time, part-time, temporary and seasonal.

New Jersey's [Earned Sick Leave Law](#) even covers public health emergencies – employees can use [Earned Sick leave](#) if their workplace or child's school or daycare is closed due to an epidemic, or if a public health authority determines the need for a quarantine.

[Earned Sick Leave](#) can be used for self-care, or for a person to care for a family member, which includes a child, grandchild, sibling, spouse, parent or grandparent, domestic or civil union partner, anyone related by blood to the employee, or anyone whose close association with the employee is the equivalent of family.

That said, variables affect eligibility as well as the applicable benefit or protection. The Labor Department examines cases on an individual basis, and makes eligibility determinations in accordance with the law.

Please do not apply for benefits if you continue to be paid by your employer during COVID-19.

The scenarios below are for state benefits and protections. Clearly, many employers have their own more generous policies.

1. A Person has COVID-19, or symptoms of COVID-19

If an individual has tested positive for COVID-19, or has symptoms of COVID-19 and is unable to work, he/she:

- **Can use accrued [Earned Sick Leave](#):** As of October 2018, employers of all sizes must provide full-time, part-time, and temporary employees with up to 40 hours of [earned sick leave](#) per year so they can care for themselves or a loved one.

If an employee uses up their [Earned Sick Leave](#) and still cannot return to work, they may apply for one of the following programs, depending on their situation and eligibility:

- **Can apply for [Temporary Disability Insurance \(TDI\)](#):** A claim would need to be filed online at myleavebenefits.nj.gov; the health care provider would give the diagnosis and the duration the individual is expected to be out of work. Available wage records on file would determine the amount of TDI benefits. It is against the law for employers to retaliate against employees for taking or seeking to take TDI benefits. In addition, some NJ workers are eligible for job-protected medical leave under the [Federal Family and Medical Leave Act \(FMLA\)](#).

- **May be eligible for Workers' Compensation:** If a person contracts the virus because he/she waited on or worked with someone who had the virus, or contracted the virus for any other work related reason, that person could be eligible for workers' compensation.

2. A person who was exposed to corona virus during their course of work and has been told to self-quarantine (healthcare workers, wait staff, retail, teachers, etc.)

- **May be able to use accrued Earned Sick Leave:** The [Earned Sick Leave law](#) states, in part: *"Time during which the employee is not able to work...because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others."*
- **May be eligible for Workers' Compensation:** If a person is directed to self-quarantine by their employer or a public health official following known exposure to the virus *during the course of their work*, that person could be eligible for workers' compensation.

3. A person is unable to work because their child's school is or daycare is ordered closed.

Can use accrued Earned Sick Leave: A school or childcare closure for cleaning or other coronavirus preparation would be considered an allowable use of Earned Sick Leave.

The [Earned Sick Leave law](#) states, in part: *"Time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others."*

4. A person is out of work because their employer voluntarily closed (temporarily or otherwise) because of COVID-19

Could be eligible for Unemployment Insurance benefits (UI): A claim would need to be filed at myunemployment.nj.gov, preferably online, and benefits amount would be determined through available wage records. This claim would initially be considered a temporary layoff, thus suspending the provision that the worker be able, available and actively seeking work. As of now, a layoff lasting longer than eight weeks would require the person to be able, available and actively looking for employment.

5. A person who is unable to work because their place of business is closed by a public official for a public health reason

- **Can use accrued Earned Sick Leave:** The [Earned Sick Leave law](#) states, in part: *"Time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others."*

- **If an employee uses up their Earned Sick Leave and cannot return to work, they may apply for Unemployment Insurance benefits (UI):** A claim would need to be filed at myunemployment.nj.gov, preferably online, and the benefit amount would be determined through available wage records. This claim would initially be considered a temporary layoff, thus suspending the provision that the worker be able, available and actively seeking work. As of now, a layoff lasting longer than eight weeks would require the person to be able, available and actively looking for employment. If, however, the individual subsequently contracts the virus, then the claim would be switched over to Disability During Unemployment.

6. A person refuses to go to work because although their place of business was ordered closed by a public official or for a public health reason, it remains open in defiance of that directive.

Can use accrued Earned Sick Leave: The Earned Sick Leave law states, in part: *"Time during which the employee is not able to work because of a closure of the employee's workplace, or the school or place of care of a child of the employee, by order of a public official due to an epidemic or other public health emergency, or because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others."*

7. A person is losing hours because of a reduction in force related to COVID-19

Could be eligible for partial Unemployment Insurance (UI) benefits: If a person is still employed, but the regular hours of work have been reduced, depending on the number of hours that have been reduced and the amount of earning for the week, the person would be eligible for reduced UI benefits. To be eligible for [partial unemployment benefits](#), the person cannot work more than 80% of the hours normally worked.

For example, if a person normally works 40 hours a week, they cannot work more than 32 hours in a week to be eligible. Additionally, if the person earns 20% or less of their weekly benefit rate, the person would receive the full weekly benefit. For earnings greater than the 20%, the weekly benefit would be reduced.

8. A person who does not go to work because their healthcare provider says they are greater risk due to a pre-existing health condition

- **Can use accrued Earned Sick Leave:** The Earned Sick Leave law states, in part, the permitted use of self-care: *"Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury, or other adverse health condition, or for preventative medical care for the employee;"* and, the permitted use to protect public health: *"because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others."*
- **Could be eligible for Temporary Disability Insurance (TDI):** A claim would need to be filed online at myleavebenefits.nj.gov; the health care provider would give the pre-existing diagnosis and the duration the individual is expected to be out of work. Available wage records on file would determine the amount of TDI benefits. It is against the law for employers to retaliate against employees for taking or seeking to take TDI benefits. In

addition, some NJ workers are eligible for job-protected medical leave under the Federal Family and Medical Leave Act (FMLA).

9. A person who is told to self-quarantine due to virus exposure **outside** of the workplace.

Can use accrued Earned Sick Leave: The Earned Sick Leave law states, in part, the permitted use of self-care: "*Time needed for diagnosis, care, or treatment of, or recovery from, an employee's mental or physical illness, injury, or other adverse health condition, or for preventative medical care for the employee;*" and, the permitted use to protect public health: "*because of the issuance by a public health authority of a determination that the presence in the community of the employee, or a member of the employee's family in need of care by the employee, would jeopardize the health of others.*"

10. A person who has cared for a relative or loved one with the corona virus or symptoms of COVID-19

- **Can use accrued Earned Sick Leave:** The Earned Sick Leave law states in part, "*time needed for the employee to aid or care for a family member of the employee during diagnosis, care, or treatment of, or recovery from, the family member's mental or physical illness or other adverse health condition, or during preventive medical care for the family member.*"
- **If an employee uses up their Earned Sick Leave and still cannot return to work, they may apply for Family Leave Insurance:** If caring for a family member who has the coronavirus or symptoms of COVID-19, a claim would need to be filed at myleavebenefits.nj.gov and the family member's health care provider would give the diagnosis and the expected length of time the caregiver will need to be out of work. Available wage records would determine the amount of benefits. It is against the law for employers to retaliate against employees for taking or seeking to take Family Leave benefits. In addition, many NJ workers are eligible for job-protected family leave under the NJ Family Leave Act (NJFLA).