

Paid COVID-19 Leave: Navigating Available Benefits Under the Federal Families First Coronavirus Response Act and New York State Law

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In response to the COVID-19 outbreak, the federal government and New York State have passed legislation providing eligible employees with paid leave for virus-related reasons. New York State's law and the federal Families First Coronavirus Response Act ("FFCRA") overlap to some extent, and the chart included in this alert illustrates the benefits available to eligible employees.

Importantly, employees may be eligible for benefits under both laws. Such employees may claim the benefits available under New York's law when they exceed those available under the FFCRA. For example, an employee subject to a quarantine order might be eligible for \$2,884.62 in weekly benefits under New York's law and \$2,555 in such benefits under the FFCRA. Because the difference between the benefits available under New York's law and the FFCRA is a positive number—in this case, \$329.62—the employee is entitled to the greater amount.

To be eligible for COVID-19-related leave, employees may have to provide their employers with an order of quarantine or isolation. Employees can obtain such orders from their local health departments, and a list of local health departments in New York State is available [here](#).

There are two important considerations for covered employers under the FFCRA: (1) the small business exemption; and (2) tax credits that refund employers, dollar-for-dollar, for all COVID-19-related leave paid.

Although the FFCRA applies to employers with fewer than 500 employees, small businesses with fewer than 50 employees may be eligible for an exemption from certain of the law's leave requirements. Specifically, these small businesses may be exempt from the FFCRA's requirements to provide leave to employees whose children's schools or places of care are closed, or whose child care providers are unavailable, if:

- Providing such leave would result in the business's expenses and financial obligations exceeding available revenues, and cause the business to cease operating at a minimal capacity;
- The absence of the employee(s) requesting leave would entail a substantial risk to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities; or
- There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee(s) requesting such leave, and these labor or services are needed for the business to operate at a minimal capacity.

Employers with additional questions about the FFCRA should consult [this website](#), which contains a wealth of useful information in the form of FAQs.

Finally, the FFCRA provides employers with refundable tax credits that reimburse them, dollar-for-dollar, for the cost of paying COVID-19-related leave. [This website](#) hosted by the IRS explains how these tax credits work in precise detail.

**Paid COVID-19 Leave:
The FFCRA and New York State Law**

Subject to a COVID-19 quarantine/isolation order.

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>0-10 employees.</i>	No paid COVID-19 leave, but employer still required to provide unpaid, job-protected leave for duration of the quarantine/isolation order.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).
<i>0-10 employees, and more than \$1mm in net income.</i>	5 days of paid COVID-19 leave. For the duration of the quarantine or isolation order, paid family leave ("PFL") and short-term disability benefits ("DBL") of up to \$2,884.62 per week.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).
<i>11-99 employees.</i>	5 days of paid COVID-19 leave. For the duration of the quarantine or isolation order, PFL and DBL of up to \$2,884.62 per week.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).
<i>100-499 employees.</i>	14 days of paid COVID-19 leave.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).
<i>500 or more employees.</i>	14 days of paid COVID-19 leave.	Not available.

**Advised by health care provider to self-quarantine for COVID-19
(but no COVID-19 quarantine/isolation order).**

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>Fewer than 500 employees.</i>	Not available.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).

**Experiencing COVID-19 symptoms and seeking medical diagnosis
(but no COVID-19 quarantine/isolation order).**

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>Fewer than 500 employees.</i>	Not available.	Two weeks of paid COVID-19 leave, with a maximum of \$511 per day (\$2,555 per week, or \$5,110 over the entire two week period).

**Caring for someone subject to a quarantine/isolation order or advised to self-quarantine
(but no COVID-19 quarantine/isolation order).**

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>Fewer than 500 employees.</i>	Not available.	Two weeks of paid COVID-19 leave, with a maximum of \$200 per day (\$1,000 per week, or \$2,000 over the entire two week period).

**Caring for child whose school/place of care is closed for reasons related to COVID-19
(but no COVID-19 quarantine/isolation order).**

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>Fewer than 500 employees.</i>	Not available.	<p>Two weeks of paid COVID-19 leave, with a maximum of \$200 per day (\$1,000 per week, or \$2,000 over the entire two week period).</p> <p>Such employees may take up to twelve weeks of total leave to care for their children whose schools have closed due to COVID-19.</p> <ul style="list-style-type: none"> • They will receive no more than \$200 per day (or \$12,000 over the twelve week period). • As an alternative, they may substitute employer-provided leave or PTO for the first two weeks of that twelve week period, even if they would receive more than \$200 per day.

**Experiencing any similar condition specified by the Secretary of Health and Human Services
(but no COVID-19 quarantine/isolation order).**

<u>Employer Size</u>	<u>New York State Paid COVID-19 Leave</u>	<u>Federal Paid COVID-19 Leave</u>
<i>Fewer than 500 employees.</i>	Not available.	Two weeks of paid COVID-19 leave, with a maximum of \$200 per day (\$1,000 per week, or \$2,000 over the entire two week period).