



Paid Leave Programs: Employer Obligations due to COVID-19

Employer Services Corporation

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Amherst Chamber of Commerce

April 2, 2020



Agenda

- Lay-offs and Unemployment
- NYS COVID Paid Sick Leave
- FFCRA Leaves
- CARES Act



NY State Unemployment

- Employees who have been laid off because of staff reductions or business closings are eligible for unemployment benefits
- Employees whose schedules have been reduced due to Covid-19 may be eligible for partial unemployment
- Unemployment is not available to those who are
 - able, permitted or allowed to work remotely
 - at home under a quarantine order
 - at home to care for a child whose school or day care facility is closed
- The Governor has suspended the 1 week waiting period for benefits during the Covid-19 emergency



NY State Unemployment

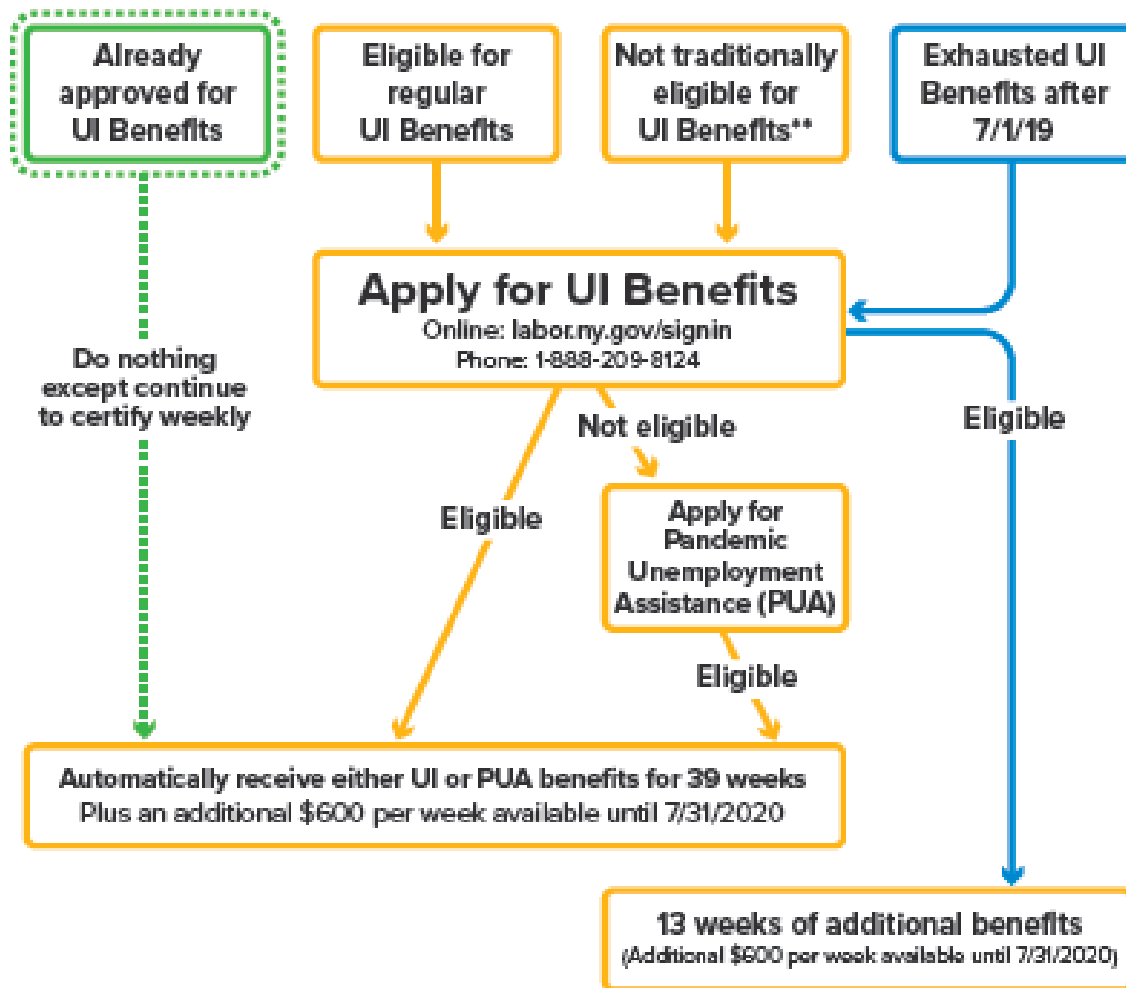
- Benefits usually last 26 weeks, are based on 50% of average wages with a cap of \$504.00 weekly
- Provisions of the CARES Act increase the normal benefit amount by \$600.00 weekly for 4 months through July 31st
- Additional benefits payments begin April 5
- The CARES Act includes provisions for Pandemic Unemployment Assistance (PUA), which may extend coverage to many who would not normally qualify for benefits
- Best course of action is to follow the DOL flow chart

RELIEF FOR WORKERS AFFECTED BY CORONAVIRUS ACT

WHAT YOU NEED TO KNOW AND DO ABOUT THE CARES ACT



The federal CARES Act was signed into law March 27, 2020. The Act provides enhanced Unemployment Insurance (UI) benefits and Pandemic Unemployment Assistance (PUA) for New Yorkers. Here's what you need to know.



NYS Paid Sick Leave

Number of Employees & Net Income	Provided Benefits
10 or fewer employees and a net income less than \$1 million	<ul style="list-style-type: none">- Will provide job protection for the duration of the quarantine order.- Compensation for the duration of the quarantine through existing Paid Family Leave and Disability Benefits policy up to \$2,884.62 per week.
11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million	<ul style="list-style-type: none">- Will provide at least 5 days of paid sick leave and guaranteed job protection for the duration of the quarantine order.- Compensation for the remainder of the quarantine through existing Paid Family Leave and Disability Benefits policy up to \$2,884.62 per week.
100 or more employees, as well as all public employers	<ul style="list-style-type: none">- Will provide at least 14 days of paid sick leave.- Guaranteed job protection for the duration of the quarantine order.

NYS Paid Sick Leave

- Only applies for situations under an order of quarantine, either mandatory or precautionary
- Employees who cannot work because their minor dependent child is subject to a quarantine order would qualify for benefits
- Paid sick leave must be provided separate from an employer's PTO policies
- An employee cannot be required to use their current PTO accruals
- Most recent guidance indicates the employee must receive the same amount of money they would have earned in a calendar day period (either 5 or 14 days from the onset of the need for leave)
- **Employees who are quarantined but are working from home do not qualify for these state benefits.**



Leaves under the Families First Coronavirus Response Act (FFCRA)

- Two parts to the paid leave regulations:
 - Emergency Paid Sick Leave (E-PSL)
 - Emergency Family Medical Leave Expansion Act (E-FMLEA)
- Requires employers with less than 500 employees to provide paid leave for specified reasons related to COVID-19
- Provisions will apply from April 1 through December 31, 2020
- Recommend requiring written request from employee
- Refundable tax credit equal to 100% of the “qualified family leave and sick leave wages” (plus the cost of the employer’s health insurance premiums during leave) applied against employer portion of Social Security taxes

Emergency Paid Sick Leave (E-PSL)

	Criteria for Payment	Duration of Leave	Payment
Paid Sick Leave	1. Employee is subject to government quarantine or isolation order related to COVID-19	<ul style="list-style-type: none"> Full-time, up to 80 hours Part-time, average hours worked over a two-week period 	<ul style="list-style-type: none"> Regular rate of pay Maximum of \$511 per day Aggregate maximum of \$5110 Over a two-week period
	2. Employee has been advised by Health Care Professional to self-quarantine	<ul style="list-style-type: none"> Full-time, up to 80 hours Part-time, average hours worked over a two-week period 	<ul style="list-style-type: none"> Regular rate of pay Maximum of \$511 per day Aggregate maximum of \$5110 Over a two-week period
	3. Employee is experiencing symptoms of COVID-19 and is seeking a diagnosis	<ul style="list-style-type: none"> Full-time, up to 80 hours Part-time, average hours worked over a two-week period 	<ul style="list-style-type: none"> Regular rate of pay Maximum of \$511 per day Aggregate maximum of \$5110 Over a two-week period
	4. Employee is caring for an individual who is subject to a government quarantine as described in number 1 above or a self-quarantine as described in number 2 above	<ul style="list-style-type: none"> Full-time, up to 80 hours Part-time, average hours worked over a two-week period 	<ul style="list-style-type: none"> 2/3 of regular rate Maximum of \$200 per day Aggregate maximum of \$2,000 Over a two-week period
Paid Sick Leave and E-FMLEA	5. Employee is caring for a child whose school or day care has been closed (*this sick leave can be used during the unpaid two-week waiting period before the 10 weeks of paid E-FMLEA leave goes into effect). See chart on next page for additional E-FMLEA information.	<ul style="list-style-type: none"> Full-time, up to 12 weeks of leave at 40 hours per week Part-time, number of hours normally scheduled over that period 	<ul style="list-style-type: none"> 2/3 of regular pay Maximum of \$200 per day Aggregate maximum of \$12,000 (\$2,000 of sick pay and \$10,000 of leave pay) Over a 12-week period, 2 weeks of paid sick leave, followed by up to 10 weeks of paid E-FMLEA.

Emergency Family Leave Expansion Act (E-FMLEA)

	E-FMLEA
Applies to Employers with:	1 – 499 employees
Applies to employees who have completed:	30 days of service
Weeks of protected leave:	12
Reinstatement requirement:	Yes, but not for employers with less than 25 employees, if due to economic conditions or changes in employer's operations caused by the emergency.
Exceptions	Per guidelines of the DOL, health care providers, emergency responders, and small businesses with less than 50 employees if it would jeopardize viability of the business.

CARES Act Considerations

ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
ELIGIBLE EMPLOYERS	<p>Potentially forgivable SBA Paycheck Protection loans will be available to:</p> <ul style="list-style-type: none"> • Small Business Concerns: determined using the standard SBA definitions based on employee count, receipts, and industry classification (most small businesses expected to qualify) -- affiliation rules apply. Business generally must be independently owned, for-profit that operates primarily in the US, and that is not "dominant in its field of operation" • Other Business Concerns: meeting the SBA definition of "business concern" with no more than 500 employees -- affiliation rules apply except for businesses receiving Small Business Investment Act financial assistance • Certain Non-Profit Entities: Internal Revenue Code (Code) section 501(c)(3) entities; Code section 501(c)(19) veterans organizations; and tribal business concerns with no more than 500 employees -- affiliation rules expected to apply • Hospitality and Food Service Concerns: <ul style="list-style-type: none"> ○ NAICS code must begin with "72" ○ No more than 500 employees, but 500 employee count satisfied provided each separate physical location has 500 or less employees (not based on total) ○ Affiliation rules do not apply • Franchises (regardless of sector): No more than 500 employees -- affiliation rules do not apply <p>[Note that SBA regulations provide that businesses that enter into a co-employer arrangement with a PEO are not affiliated with the PEO solely on the basis of the agreement. 13 CFR § 121.103(b)(4)]</p>	<p>Available to employers:</p> <ol style="list-style-type: none"> (1) that were carrying on a trade or business during calendar year 2020, and (2) with respect to any calendar quarter: <ul style="list-style-type: none"> ○ had its operations fully or partially suspended under government orders due to COVID-19, or ○ had a decline of at least 50% in gross receipts as compared to the same calendar quarter in the prior year <p>Special rules to be provided for employers that were not in operation for all of 2020</p> <p>Tax-exempt employers described in Code section 501(c) are treated as having met the conditions for eligibility (i.e., they are deemed to satisfy the trade or business requirement and the full or partial suspension requirement)</p>	<p>All employers are eligible (subject to the exception described in the last row below)</p>

CARES Act Considerations (continued)

ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
POTENTIAL BENEFITS	<p>LOAN TERMS -- Potentially forgivable SBA loans will be made available to eligible employers. Applies to loans made between 2/20/20 and 6/30/20</p> <ul style="list-style-type: none"> • Maximum Loan Amount: 250% of average monthly payroll costs (based on 12-month look back) <ul style="list-style-type: none"> o Maximum loan amount capped at \$10 million o Payroll costs include: <ul style="list-style-type: none"> ▪ Salary, wage, commission, or similar compensation (generally capped at \$100,000/employee) ▪ Cash tips or equivalent ▪ Pay for vacation, parental, family, medical, or sick leave ▪ Allowance for dismissal or separation ▪ Group health care benefits "including insurance premiums" ▪ Retirement benefits ▪ State or local tax assessed on the compensation of employees ▪ Certain sole proprietor and independent contractor compensation • Generous Loan Terms: <ul style="list-style-type: none"> o Loans will be 100% guaranteed by the SBA o No application fees allowed o No closing costs allowed o First 6 months of principal and interest automatically deferred o Maximum interest rate of 4% o Maximum loan term of 10 years • Streamlined Loan Procedures: <ul style="list-style-type: none"> o Nonrecourse; no collateral; no personal guarantees o Waiver of requirement to explore credit availability from other sources o Borrower must only certify that: (a) loan is necessary to support ongoing operations; (b) funds will be used to retain employees and maintain payroll or make mortgage payments, lease payments, or utility payments; and (c) no prior loan under this program has been received and there are no applications pending for duplicate amounts <p>LOAN FORGIVENESS -- Some (or all) of the loan will be forgiven</p> <ul style="list-style-type: none"> • Maximum Eligible Loan Forgiveness: Generally, loans will be forgiven to the extent the borrower demonstrates that the proceeds were used to cover the following during the period between 2/15/20 through 6/30/20: <ul style="list-style-type: none"> o Payroll costs (as defined above) o Rent obligated under a lease in effect before 2/15/20 o Utility costs for services which began before 2/15/20 o Interest on the business' mortgage obligations • No Tax on Loan Forgiveness: Forgiven Loans Not Subject to Tax 	<p>Employer generally entitled to a tax credit equal to 50% of "qualified wages" with respect to each employee for the quarter</p> <p>Credit can be taken immediately against the employer portion of Social Security taxes (Code section 3111(a)) that are due (and potentially against other federal employment tax obligations that the IRS specifies). If employer is not able to claim entire credit against applicable employment taxes due, any excess credit is treated as an overpayment to be refunded promptly by the IRS.</p> <p>"Qualified wages" are calculated as follows:</p> <ul style="list-style-type: none"> • For employers with 100 or fewer full-time employees: all employee wages paid • For employers with more than 100 full time employees: wages paid to employees not performing services due to COVID-19-related circumstances (either suspension of operations or reduction in gross receipts) • Maximum total wages considered for any employee are capped at \$10,000 (i.e., max credit is \$5,000 per employee) • Credit calculation includes employer's "properly allocable" qualified health plan expenses with respect to the employee • Wages considered under paid sick/family leave (FCRA) (i.e., those that receive a separate 100% credit) are excluded 	<p>Employers may defer employer share of Social Security tax deposits (Code section 3111(a)) due for the period beginning 3/27/20 through 12/31/2020.</p> <p>Payment schedule for deferred taxes:</p> <ul style="list-style-type: none"> o 50% due by 12/31/2021 o 50% due by 12/31/2022 <p>PEO <u>client employers</u> would assume sole liability for payment of any deferred taxes when the client directs the PEO to defer tax payment with respect to wages paid by the PEO under this deferral option. IRS expected to issue guidance on rules for the administration and enforcement of these provisions</p> <p>Comparable tax deferral provisions are provided to partners with respect to ½ of SECA taxes for the period beginning 3/27/20 through 12/31/2020</p>

CARES Act Considerations (continued)

ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
	<ul style="list-style-type: none"> • Reductions in Loan Forgiveness: The portion of the loan that will be forgiven will be reduced if there is a reduction in the employee count and/or the extent to which there is a significant reduction in wages paid to an employee. <ul style="list-style-type: none"> ○ Employee Count Reduction: The loan forgiveness amount will be reduced based on the ratio of <ul style="list-style-type: none"> (i) the average number of full-time equivalent employees (FTEEs) during the 8-week period beginning on origination date of Paycheck Protection Program loan (the "covered period"); divided by (ii) the average number of FTEEs during a choice period. For this purpose, the choice period will, at election of borrower, be either (a) 2/15/19 to 6/30/19, or (b) 1/1/20 to 2/29/20 ○ Wage Reduction: In addition, the amount of loan forgiveness will be further reduced by the amount of reduction in total salary and wages of any employee during the covered period when compared to the most recent full quarter during which the employee was employed before the covered period. This reduction would not apply to any employer who received wages or salary at an annualized rate of more than \$100,000 for any pay period in 2019. 	<p>Full-time employee count is determined in same manner as the Affordable Care Act's shared responsibility provisions (Code section 4980H).</p> <p>IRS authorized to provide guidance to clients and PEOs on documentation necessary to substantiate the eligible employer status of clients</p>	
RESTRICTIONS ON OVERLAPPING BENEFITS	<p>A business with an SBA Paycheck Protection loan will <u>not</u> be eligible for the employee retention credit (described to the right)</p> <p>A business that has had indebtedness forgiven under the SBA Paycheck Protection program will <u>not</u> be eligible for deferral of Social Security taxes (described in far right column)</p>	<p>Credit <u>not</u> available if eligible employer receives a covered loan under SBA's new Paycheck Protection program (described to the left)</p> <p>Also, no double benefit with:</p> <ul style="list-style-type: none"> ○ Work opportunity credit (Code section 51) ○ Employer credit for paid family and medical leave added in 2017 tax reform legislation (Code sec. 45S) 	<p>Social Security tax deferral is <u>not</u> available if taxpayer has had indebtedness forgiven under new SBA loan forgiveness provisions (described to the left)</p> <p>However, it is possible that the IRS will determine that partners in an LLP may be eligible for SECA tax deferral even if the LLP obtains an SBA Paycheck Protection loan</p>



Thank You

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COVID-19 PAID SICK LEAVE



EMPLOYEES

Under legislation signed by Governor Cuomo, New York workers are guaranteed job protection and financial compensation while they are on a **mandatory or precautionary quarantine order** due to COVID-19.

YOU ARE ENTITLED TO THE FOLLOWING PROTECTIONS AND BENEFITS IF YOU ARE SUBJECT TO A MANDATORY OR PRECAUTIONARY QUARANTINE ORDER:

If you work for a business with **10 or fewer** employees and it had a **net income less than \$1 million** last year you are entitled to:

- Guaranteed job protection for the duration of the quarantine order.
- Paid Family Leave (PFL) and Disability Benefits (DB) through your employer's existing policy. You will receive your salary up to a maximum of \$2,884.62 per week for the duration of your mandatory or precautionary quarantine.

If you work for a business with **10 or fewer** employees and it had a **net income greater than \$1 million** last year you are entitled to:

- **At least 5 days of paid sick leave** and guaranteed job protection for the duration of the quarantine order.
- After these paid sick days, you are eligible for PFL and DB through your employer's existing policy. You will receive your salary up to a maximum of \$2,884.62 per week for the duration of your mandatory or precautionary quarantine.

If you work for a business with **11-99** employees you are entitled to:

- **At least 5 days of paid sick leave** and guaranteed job protection for the duration of the quarantine order.
- After these paid sick days, you are eligible for PFL and DB through your employer's existing policy. You will receive your salary up to a maximum of \$2,884.62 per week for the duration of your mandatory or precautionary quarantine.

If you work for a business with **100 or more** employees you are entitled to:

- Guaranteed job protection for the duration of the quarantine order.
- **At least 14 days of paid sick leave.**

If you work for a public employer (no matter the number employees) you are entitled to:

- **At least 14 days of paid sick leave.**

IMPORTANT NOTES:

- **If you are quarantined but are able to work from home you do not qualify for these benefits.**
- If your business is closed due to COVID-19, your employees may immediately apply for Unemployment Insurance.
- You may be eligible for additional leave under PFL and DB. Please call the hotline for more information.

QUESTIONS:

For more information go to ny.gov/COVIDpaysickleave

Novel Coronavirus (COVID-19) Paid Sick Leave Hotline: **844-337-6303**

COVID-19 PAID SICK LEAVE



EMPLOYERS

Under legislation signed by Governor Cuomo, New York workers are guaranteed job protection and financial compensation while they are on a **mandatory or precautionary quarantine order** due to COVID-19.

WHAT EMPLOYERS NEED TO KNOW ABOUT COVID-19 PAID SICK LEAVE:

If you have **10 or fewer** employees and you had a **net income less than \$1 million** last year you must provide your employees with:

- Guaranteed job protection for the duration of the quarantine order.
- Compensation for the duration of their quarantine through your existing Paid Family Leave (PFL) and Disability Benefits (DB) policy up to \$2,884.62 per week.

If you have **10 or fewer** employees and you had a **net income greater than \$1 million** last year you must provide your employees with:

- **At least 5 days of paid sick leave** and guaranteed job protection for the duration of the quarantine order.
- Compensation for the remainder of their quarantine through your existing PFL and DB policy up to \$2,884.62 per week.

Employers with **11-99** employees must provide their employees with:

- **At least 5 days of paid sick leave** and guaranteed job protection for the duration of the quarantine order.
- Compensation for the remainder of their quarantine through your existing PFL and DB policy up to \$2,884.62 per week.

Employers with **100 or more** employees must provide their employees with:

- Guaranteed job protection for the duration of the quarantine order.
- **At least 14 days of paid sick leave.**

If you are public employer (no matter how many employees) you must provide:

- **At least 14 days of paid sick leave.**

HERE'S WHAT YOU NEED TO DO BEFORE AND AFTER YOUR EMPLOYEES ARE QUARANTINED.

1. Let your employees know they are entitled to paid/unpaid days off
2. Promptly help your employees as needed apply for PFL or DB
3. If you have questions call the hotline

IMPORTANT NOTES:

- **If your employees are quarantined but are able to work from home they do not qualify for these benefits.**
- If your business is closed due to COVID-19, your employees may immediately apply for Unemployment Insurance.

QUESTIONS:

For more information go to ny.gov/COVIDpaysickleave
Novel Coronavirus (COVID-19) Hotline: 1-888-364-3065

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at $\frac{2}{3}$ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



WH1422 REV 03/20



Notice on New Financing and Tax Relief for Businesses Dealing with the COVID-19 Crisis

March 31, 2020

The President recently signed legislation that includes important provisions to help you keep your employees on the payroll during the COVID-19 crisis. These benefits are potentially available to all employers and, in some cases, the federal government will cover many of the costs of continuing to pay your employees for a period of time.

However, these new programs are complicated and there are important choices to make in deciding how to best utilize them. As outlined in more detail on the attached summary of programs chart, there are three new ways that you can now get assistance with payroll expenses during this crisis:

Small Business Administration (SBA) Paycheck Protection Loan Program:

The biggest change is a new streamlined SBA loan program to provide eligible businesses with cash to meet payroll (including benefits) and other fixed costs (such as rent, interest on mortgages, and utility payments) for up to eight weeks. The maximum loan amount would be 250% of the employer's average monthly payroll costs, capped at \$10 million. The law expands the previous SBA definitions of small employer in a number of ways to increase the availability of these loans and makes changes in the traditional SBA loan process that should speed-up the process of obtaining a loan. Additionally, after the borrowing business demonstrates that the loan proceeds were actually used to maintain previous payroll or pay those other fixed costs, the loans (and any interest due) would be eligible for very generous loan forgiveness (and the forgiven amounts would not be taxable).

50% Employee Retention Tax Credit:

Another option allows employers (regardless of size) that are uniquely affected by COVID-19 to claim a refundable tax credit against the employer portion of payroll tax equal to 50% of certain wages paid to an employee between March 13, 2020, through the end of the year. Only \$10,000 of wages could be taken into account for any employee. This 50% credit would be available to businesses (i) that have had their operations fully or partially suspended by government order due to COVID-19 or (ii) that experienced a 50% decline in gross receipts during a 2020 calendar quarter when compared with the same quarter in 2019.

Social Security Tax Deferral:

Another provision that is available to employers of all sizes is the ability to defer the payment of the employer portion of Social Security taxes (6.2% of wages) for the remainder of 2020. Fifty percent of those deferred taxes would have to be repaid by the end of 2021, with the remainder due by the end of 2022.



Notice on New Financing and Tax Relief for Businesses Dealing with the COVID-19 Crisis

You Can't Choose All of the Above

Each of these new alternatives provide very generous tax subsidies to assist employers, but you'll still need to make choices.

- If you obtain one of the new SBA loans, you are not eligible for the 50% employee retention tax credit.
- If you have a new SBA loan forgiven, you cannot take advantage of the Social Security tax deferral.
- If you claim the 50% employee retention credit, you will no longer be eligible for an SBA loan.
- If you take advantage of the Social Security tax deferral, you will no longer be eligible to have your SBA loan forgiven.

It is critical that you carefully evaluate your eligibility for and the benefits of each of these options, since the amount of assistance provided by the federal government could vary greatly depending on which path you choose. Right now, we don't have all the details and are awaiting further guidance from the SBA and IRS.

COVID-19 Paid Leave Requirements Take Effect April 1st

Keep in mind that the new rules requiring most employers to provide paid sick leave and FMLA leave for COVID-19 related reasons will go into effect on April 1, 2020. The federal government will reimburse employers for most of those costs through a tax credit, although we are awaiting further guidance on this from the IRS, including information about how the credit may be advanced to employers. Significantly, recent guidance from the U.S. Department of Labor suggests that, if your business closes for any reason, the paid sick leave and expanded FMLA requirements would not apply as of the date your business closes.

We are here as a resource and working hard to keep you informed of additional information as it becomes available.

Source: https://napeo.blob.core.windows.net/cdn/docs/default-source/covid-19/sample-notice-to-clients-on-new-cares-act-options.pdf?sfvrsn=bd7a29d4_2

SUMMARY OF THE PAYROLL ASSISTANCE PROGRAMS
IN THE
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT)
(Enacted March 27, 2020)

ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
ELIGIBLE EMPLOYERS	<p>Potentially forgivable SBA Paycheck Protection loans will be available to:</p> <ul style="list-style-type: none"> • Small Business Concerns: determined using the standard SBA definitions based on employee count, receipts, and industry classification (most small businesses expected to qualify) -- affiliation rules apply. Business generally must be independently owned, for-profit that operates primarily in the US, and that is not “dominant in its field of operation” • Other Business Concerns: meeting the SBA definition of “business concern” with no more than 500 employees – affiliation rules apply except for businesses receiving Small Business Investment Act financial assistance • Certain Non-Profit Entities: Internal Revenue Code (Code) section 501(c)(3) entities; Code section 501(c)(19) veterans organizations; and tribal business concerns with no more than 500 employees -- affiliation rules expected to apply • Hospitality and Food Service Concerns: <ul style="list-style-type: none"> ○ NAICS code must begin with “72” ○ No more than 500 employees, but 500 employee count satisfied provided each separate physical location has 500 or less employees (not based on total) ○ Affiliation rules do not apply • Franchises (regardless of sector): No more than 500 employees -- affiliation rules do not apply <p>[Note that SBA regulations provide that businesses that enter into a co-employer arrangement with a PEO are not affiliated with the PEO solely on the basis of the agreement. 13 CFR § 121.103(b)(4)]</p>	<p>Available to employers:</p> <p>(1) that were carrying on a trade or business during calendar year 2020, and</p> <p>(2) with respect to any calendar quarter:</p> <ul style="list-style-type: none"> ○ had its operations fully or partially suspended under government orders due to COVID-19, or ○ had a decline of at least 50% in gross receipts as compared to the same calendar quarter in the prior year <p>Special rules to be provided for employers that were not in operation for all of 2020</p> <p>Tax-exempt employers described in Code section 501(c) are treated as having met the conditions for eligibility (i.e., they are deemed to satisfy the trade or business requirement and the full or partial suspension requirement)</p>	<p>All employers are eligible (subject to the exception described in the last row below)</p>

ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
POTENTIAL BENEFITS	<p>LOAN TERMS -- Potentially forgivable SBA loans will be made available to eligible employers. Applies to loans made between 2/20/20 and 6/30/20</p> <ul style="list-style-type: none"> • Maximum Loan Amount: 250% of average monthly payroll costs (based on 12-month look back) <ul style="list-style-type: none"> ○ Maximum loan amount capped at \$10 million ○ Payroll costs include: <ul style="list-style-type: none"> ▪ Salary, wage, commission, or similar compensation (generally capped at \$100,000/employee) ▪ Cash tips or equivalent ▪ Pay for vacation, parental, family, medical, or sick leave ▪ Allowance for dismissal or separation ▪ Group health care benefits “including insurance premiums” ▪ Retirement benefits ▪ State or local tax assessed on the compensation of employees ▪ Certain sole proprietor and independent contractor compensation • Generous Loan Terms: <ul style="list-style-type: none"> ○ Loans will be 100% guaranteed by the SBA ○ No application fees allowed ○ No closing costs allowed ○ First 6 months of principal and interest automatically deferred ○ Maximum interest rate of 4% ○ Maximum loan term of 10 years • Streamlined Loan Procedures: <ul style="list-style-type: none"> ○ Nonrecourse; no collateral; no personal guarantees ○ Waiver of requirement to explore credit availability from other sources ○ Borrower must only certify that: (a) loan is necessary to support ongoing operations; (b) funds will be used to retain employees and maintain payroll or make mortgage payments, lease payments, or utility payments; and (c) no prior loan under this program has been received and there are no applications pending for duplicate amounts <p>LOAN FORGIVENESS – Some (or all) of the loan will be forgiven</p> <ul style="list-style-type: none"> • Maximum Eligible Loan Forgiveness: Generally, loans will be forgiven to the extent the borrower demonstrates that the proceeds were used to cover the following during the period between 2/15/20 through 6/30/20: <ul style="list-style-type: none"> ○ Payroll costs (as defined above) ○ Rent obligated under a lease in effect before 2/15/20 ○ Utility costs for services which began before 2/15/20 ○ Interest on the business’ mortgage obligations • No Tax on Loan Forgiveness: Forgiven Loans Not Subject to Tax 	<p>Employer generally entitled to a tax credit equal to 50% of “qualified wages” with respect to each employee for the quarter</p> <p>Credit can be taken immediately against the employer portion of Social Security taxes (Code section 3111(a)) that are due (and potentially against other federal employment tax obligations that the IRS specifies). If employer is not able to claim entire credit against applicable employment taxes due, any excess credit is treated as an overpayment to be refunded promptly by the IRS.</p> <p>“Qualified wages” are calculated as follows:</p> <ul style="list-style-type: none"> • For employers with 100 or fewer full-time employees: all employee wages paid • For employers with more than 100 full time employees: wages paid to employees not performing services due to COVID-19-related circumstances (either suspension of operations or reduction in gross receipts) • Maximum total wages considered for any employee are capped at \$10,000 (i.e., max credit is \$5,000 per employee) • Credit calculation includes employer’s “properly allocable” qualified health plan expenses with respect to the employee • Wages considered under paid sick/family leave (FFCRA) (i.e., those that receive a separate 100% credit) are excluded 	<p>Employers may defer employer share of Social Security tax deposits (Code section 3111(a)) due for the period beginning 3/27/20 through 12/31/2020.</p> <p>Payment schedule for deferred taxes:</p> <ul style="list-style-type: none"> ○ 50% due by 12/31/2021 ○ 50% due by 12/31/2022 <p>PEO <u>client employers</u> would assume sole liability for payment of any deferred taxes when the client directs the PEO to defer tax payment with respect to wages paid by the PEO under this deferral option. IRS expected to issue guidance on rules for the administration and enforcement of these provisions</p> <p>Comparable tax deferral provisions are provided to partners with respect to ½ of SECA taxes for the period beginning 3/27/20 through 12/31/2020</p>

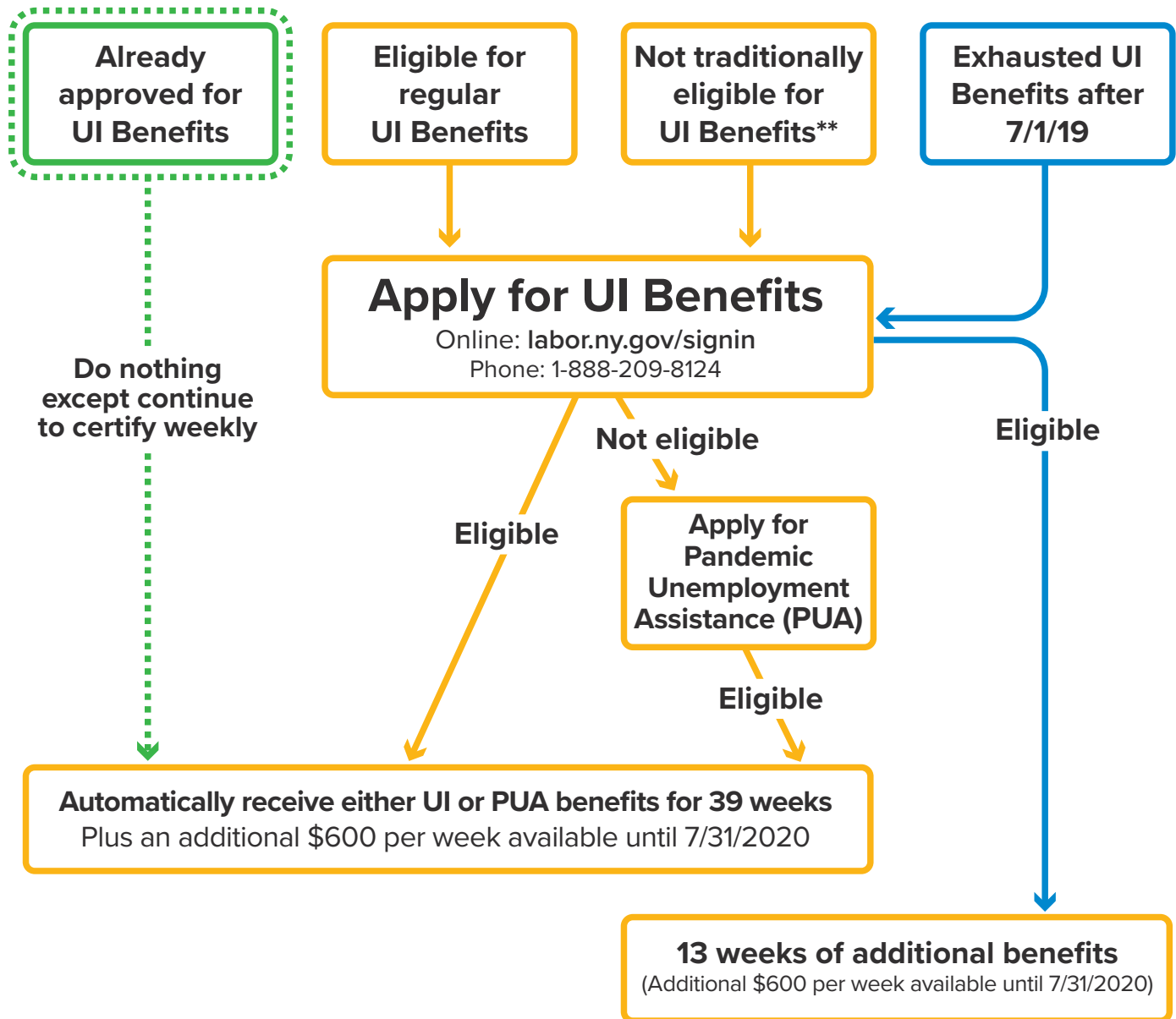
ISSUE	SMALL BUSINESS ADMINISTRATION (SBA) PAYCHECK PROTECTION PROGRAM	EMPLOYEE RETENTION TAX CREDIT	DEFERRAL OF PAYMENT OF EMPLOYER'S SOCIAL SECURITY TAXES
	<ul style="list-style-type: none"> • Reductions in Loan Forgiveness: The portion of the loan that will be forgiven will be reduced if there is a reduction in the employee count and/or the extent to which there is a significant reduction in wages paid to an employee. <ul style="list-style-type: none"> ○ Employee Count Reduction: The loan forgiveness amount will be reduced based on the ratio of <ul style="list-style-type: none"> (i) the average number of full-time equivalent employees (FTEEs) during the 8-week period beginning on origination date of Paycheck Protection Program loan (the “covered period”); divided by (ii) the average number of FTEEs during a choice period. For this purpose, the choice period will, at election of borrower, be either (a) 2/15/19 to 6/30/19, or (b) 1/1/20 to 2/29/20 ○ Wage Reduction: In addition, the amount of loan forgiveness will be further reduced by the amount of reduction in total salary and wages of any employee during the covered period when compared to the most recent full quarter during which the employee was employed before the covered period. This reduction would not apply to any employer who received wages or salary at an annualized rate of more than \$100,000 for any pay period in 2019. 	<p>Full-time employee count is determined in same manner as the Affordable Care Act’s shared responsibility provisions (Code section 4980H).</p> <p>IRS authorized to provide guidance to clients and PEOs on documentation necessary to substantiate the eligible employer status of clients</p>	
RESTRICTIONS ON OVERLAPPING BENEFITS	<p>A business with an SBA Paycheck Protection loan will <u>not</u> be eligible for the employee retention credit (described to the right)</p> <p>A business that has had indebtedness forgiven under the SBA Paycheck Protection program will <u>not</u> be eligible for deferral of Social Security taxes (described in far right column)</p>	<p>Credit <u>not</u> available if eligible employer receives a covered loan under SBA’s new Paycheck Protection program (described to the left)</p> <p>Also, no double benefit with:</p> <ul style="list-style-type: none"> ○ Work opportunity credit (Code section 51) ○ Employer credit for paid family and medical leave added in 2017 tax reform legislation (Code sec. 45S) 	<p>Social Security tax deferral is <u>not</u> available if taxpayer has had indebtedness forgiven under new SBA loan forgiveness provisions (described to the left)</p> <p>However, it is possible that the IRS will determine that partners in an LLP may be eligible for SECA tax deferral even if the LLP obtains an SBA Paycheck Protection loan</p>

RELIEF FOR WORKERS AFFECTED BY CORONAVIRUS ACT

WHAT YOU NEED TO KNOW AND DO ABOUT THE CARES ACT



The federal CARES Act was signed into law March 27, 2020. The Act provides enhanced Unemployment Insurance (UI) benefits and Pandemic Unemployment Assistance (PUA) for New Yorkers. Here's what you need to know.



**labor.ny.gov/ui/pdfs/pandemic-unemployment-assistance.pdf

MORE INFORMATION:

See Frequently Asked Questions About UI During the Coronavirus Emergency:
labor.ny.gov/ui/pdfs/ui-covid-faq.pdf

To apply for UI benefits file on these days:

Filing for UI benefits is based on your last name.

A - F file on Monday | G - N file on Tuesday | O - Z file on Wednesday

Missed your day? File on Thurs-Fri-Sat

RELIEF FOR WORKERS AFFECTED BY CORONAVIRUS ACT

Pandemic Unemployment Assistance (PUA)



Pandemic Unemployment Assistance (PUA) provides payment to workers not traditionally eligible for unemployment benefits (self-employed, independent contractors, workers with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency.

COVID-19 SCENARIOS	COVERED	NOT COVERED
Diagnosed with COVID-19 or with COVID-19 symptoms and seeking diagnosis	✓	
Member of household has been diagnosed with COVID-19	✓	
Providing care for family or household member diagnosed with COVID-19	✓	
Primary caregiver for child unable to attend school or another facility closed due to COVID-19	✓	
Unable to reach place of employment due to an imposed quarantine or because advised by medical provider to self-quarantine due to COVID-19	✓	
Scheduled to commence new employment and cannot reach workplace as direct result of COVID-19	✓	
Became major breadwinner because head of household died from COVID-19	✓	
Quit job as a direct result of COVID-19	✓	
Place of employment closed as a direct result of COVID-19	✓	
Self-employed / Independent Contractors / 1099 filers / Farmers – and affected by COVID-19	✓	
Seeking part-time employment but affected by COVID-19	✓	
With insufficient work history and affected by COVID-19	✓	
Otherwise not qualified for regular or extended UI benefits and affected by COVID-19	✓	
Individuals that can telework with pay		X
Individual receiving paid sick leave or other paid leave benefits (regardless of meeting a category listed above)		X

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IF YOU ARE ALREADY APPROVED FOR UI BENEFITS:

WHAT YOU SHOULD DO

- **Do nothing except continue to certify weekly.** Your benefits will automatically be updated. **Please do not call**, it will only make it difficult for others to reach an agent.

WHAT YOU MAY QUALIFY TO RECEIVE

- 39 weeks of UI benefits.
- An additional \$600/week until 7/31/2020.
(Payments begin 4/5/2020)

IF YOU ARE FILING A NEW UI CLAIM:

WHAT YOU SHOULD DO

- Apply online at labor.ny.gov/signin.
- You may also call **1-888-209-8124** if you do not have access to a computer.

WHAT YOU MAY QUALIFY TO RECEIVE

- 39 weeks of UI benefits.
- An additional \$600/week until 7/31/2020.
(Payments begin 4/5/2020)

IF YOU ARE NOT TRADITIONALLY ELIGIBLE FOR UI BENEFITS:

WHAT YOU SHOULD DO

- Check your eligibility for PUA labor.ny.gov/ui/pdfs/pandemic-unemployment-assistance.pdf
- If you believe you are eligible, apply online at labor.ny.gov/signin.
- You may also call **1-888-209-8124** if you do not have access to a computer.

WHAT YOU MAY QUALIFY TO RECEIVE

- 39 weeks of PUA benefits.
- An additional \$600/week until 7/31/2020.
(Payments begin 4/5/2020)

IF YOU'VE EXHAUSTED 26 WEEKS OF BENEFITS AFTER 7/1/2019:

WHAT YOU SHOULD DO

- Apply online at labor.ny.gov/signin.
- You may also call **1-888-209-8124** if you do not have access to a computer.

WHAT YOU MAY QUALIFY TO RECEIVE

- 13 weeks of benefits.
- An additional \$600/week until 7/31/2020.
(Payments begin 4/5/2020)

MORE INFORMATION:

See Frequently Asked Questions About UI During the Coronavirus Emergency:
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