

# COVID-19

## WORKER BENEFITS GUIDEBOOK

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## **Disclaimer**

The Western New York Council on Occupational Safety and Health (WNYCOSH) is nonprofit organization. This booklet is for informational purposes only and should not be construed as legal advice or as an official government document. This information does not supersede an official government statements. The programs outlined in this booklet are still being implemented and are subject to change. Any errors are unintentional, WNYCOSH consulted the related governmental agencies whenever possible for clarification. Please contact us at the WNYCOSH Worker Center Hotline at (716) 206-3550 with any questions, corrections, or inquiries.

WNYCOSH does not guarantee the accuracy of any translations in this document. We are working with trusted community partners, but have no way to currently verify the accuracy of these translations on such short notice.

## **About WNYCOSH**

WNYCOSH was founded in 1979 by labor, environmental, and public health activists. The founding conference of over 300 people was organized to raise public awareness about toxic exposures and illnesses at Love Canal and at the Goodyear plant in Niagara Falls, NY. Over the past 41 years, WNYCOSH has built a membership base of labor union locals, health & safety activists, as well as many public health and legal professionals and individuals interested in occupational safety and health issues. WNYCOSH has empowered hundreds of thousands of workers including young workers, refugee and immigrant workers, low-wage workers and workers in high hazard industries through direct training to identify, evaluate and control hazards in the workplace.

WNYCOSH has helped build local, state and national coalitions such as the Coalition for Economic Justice, NYS Labor-Environment Network, WNY Fair Trade Coalition, OSHA-Environmental Network and the NYS Zero Lift Task Force to protect, as well as secure, important new labor and workplace safety and health standards.

For more on our history, [click here](#).

WNYCOSH  
2495 Main Street  
Suite 438  
Buffalo, NY 14214  
Phone: (716) 833-5416  
Fax: (716) 833-7507

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## Summary of COVID-19 Worker Benefit Programs

PROGRAM	BENEFITS	ELIGIBILITY	PRO'S	CON'S
UNEMPLOYMENT	Pays benefits to workers for up to 39 weeks. The max is \$504/week with an additional \$600/week for up to 18 weeks. The extra \$600 expires 7/31/20. The additional 13 weeks expires 12/31/20.	Workers laid-off, furloughed or otherwise terminated. This includes the self-employed, independent contractors and those scheduled to begin work but are unable to begin due to COVID19.	NYS waived the 7 day waiting period. The CARES Act expanded the definition of employee and created an additional benefit of \$600/week for 18 weeks and added an additional 13 weeks of unemployment benefits.	
NYS PAID SICK TIME	Pays up to 80 hours of sick time. How it's paid out depends on size of company.	A worker must have a mandatory or precautionary order of quarantine by County DOH.	Provides benefits for all workers regardless of the size of the employer.	For employers with less than 100 employees, benefits must be applied for separately and are more restrictive.
FEDERAL PAID SICK TIME	Provides up to 80 hours of sick time paid directly through qualifying employers.	Workers who work for companies with between 50 and 500 employees are covered.	You don't have to apply for this benefit separately. Benefits are paid directly through the employer.	Workers who work for companies with fewer than 50 employees and more than 500 aren't covered.
NYS PAID CHILD SICK LEAVE	Allows a parent to stay home with a child who is quarantined or whose school is quarantined.	Currently it requires an order of quarantine for a child or their school.	Workers caring for children are covered for the duration of the quarantine.	Currently NYS Paid Child Sick Leave is only available with County DOH Order of quarantine.
NYS PAID FAMILY LEAVE	Allows for a loved one to care for a family member at up to 60% of their regular wage for 10 weeks.	If your family member has a serious health condition certified by a licensed health care provider you can qualify for NYS Paid Family Leave.	Not restricted to COVID-19 related illnesses.	Pays less than the federal program.
FEDERAL PAID FAMILY LEAVE	Allows for up to 10 weeks to care for a family member related to COVID-19.	Caring for an individual or a child related to COVID-19 including a COVID-19 school closing.	Pays up to 2/3 of weekly wages and covers precautionary school closings.	Only related to COVID-19 related issues.
FEDERAL STIMULUS CHECKS	A one-time payment of \$1200 and \$500 for dependent children under 16 years old.	File a 2018, 2019 tax return and have an income under \$75,000/individual and \$150,000/couple.	Benefit is tax free and most taxpayers will receive stimulus automatically.	Non-taxpayers will have difficulty in qualifying for stimulus.

## Introduction

Since the Coronavirus (COVID-19) crisis hit, many businesses have closed making it harder for people to provide for themselves and their families. New York State (NYS) has taken dramatic steps to limit community spread and encourage social distancing to stop the spread of the virus by ordering all non-essential businesses to close. The state and federal governments have created and expanded programs to limit the financial impact of these closures and provide financial relief. Below, please see some of the programs available to those impacted by the COVID-19 pandemic. PLEASE BE WARY OF SCAMS. Participation does not require payments, down payments, or any other form of financial exchange. If anyone asks for money to access the services they are most likely trying to take advantage of you.

Many of these services online are available only in a limited number of languages. The following immigrant services organizations *benefit support to ANYONE authorized to work in the United States*:

Journey's End Refugee Services Contact name: Hassan Alishaqi Number: (716) 882-4963 Ext. 218 Email: <a href="mailto:halishaqi@jersbuffalo.org">halishaqi@jersbuffalo.org</a>	International Institute of Buffalo Contact name: Xzavier Medina Number: (718) 614-5806 Email:
Jewish Family Services of Buffalo Contact name: Darwin Newkirk Number:(716) 390-4044 Email:	Catholic Charities of Buffalo Immigration and Refugee Assistance Employment Department Number: (716) 842-0270 Email: <a href="mailto:ecs@ccwny.org">ecs@ccwny.org</a>

## UNEMPLOYMENT

### NYS Unemployment and the CARES Act

Unemployment is an insurance program paid by your employer to provide benefits to workers who are laid-off, furloughed, or otherwise let go from work due to no fault of their own.

#### How to Qualify

Under New York (NYS) State Labor Law, you must work for 6 months (2 quarters) prior to your layoff, furlough, or termination. The amount of unemployment benefit you receive, in most cases, is calculated by dividing the quarter in which you earned the most money by 26. The maximum benefit for NYS unemployment is \$504/week. Claimants can receive benefits for 26 weeks. If your work is reduced from full-time to part-time, you can claim partial unemployment as long as your earnings are under \$504/week. Even if you don't meet the above benchmarks, but qualify under the CARES Act you can still apply for the unemployment benefit through the NYS portal or by phone. The federal CARES Act adds an additional flat rate of \$600/week to your estimated state benefit.

3 The effective date to receive this additional benefit will be when NYS officially enters the program. It will be added to your existing benefit automatically when you enroll in unemployment. This additional benefit can be claimed for up to 18 weeks but it expires on July 31, 2020. The CARES Act also adds an additional 13 weeks of unemployment at your state rate for a total available unemployment of 39 weeks. You must earn at least \$2,600/quarter to qualify. Due to the COVID-19 outbreak, NYS has waived the 7 day waiting period.

Additionally, the CARES Act has expanded the definition of an employee to include the self employed, independent contractors, and individuals who were scheduled to begin work but are now unable to start their new job. The CARES Act extends unemployment to many workers affected by COVID-19, even those who quit their jobs. This eligibility *does not* extend to those workers who are able to work from home or who are receiving paid leave while not working.

### **How to Apply**

Online: Visit this web page <https://on.ny.gov/2UbvHd6> and create a "NY.gov" account. If you already have a NY.gov account, you can just log in. *PLEASE NOTE the NYS unemployment website has very high traffic and it can be slow or crash. Be very patient and persistent.*

By Phone: Call 1 (888) 209-8124 from 8 AM - 5 PM. For most upstate immigrant languages press option 9 for "all other languages." Because of heavy call volume you may have very long hold times. To decrease call volume, NYS DOL is instructing people whose last name (surname) begins with the letter A-F to call on Monday, call Tuesday if your last name (surname) begins with G-N, call Wednesday if your last name (surname) begins with the letter O-Z. If you missed your filing day, you can file on Thursday, Friday, and Saturday and your claim will be retroactive to Monday of the current week. *PLEASE NOTE, call volume is very high and there will be multiple recorded announcements in English before you speak to an attendant. When someone answers, you can say "interpreter" and the English name of your language and the operator should be able to access an interpreter to assist you with your call.*

### **What you need to file:**

- Your Social Security number,
- Your driver license or Motor Vehicle ID card number (if you have either one),
- Your complete mailing address and zip code,
- A phone number where NYS Unemployment can reach you from 8 am - 5 pm, Monday –Friday,
- Your Alien Registration card number (if you are not a U.S. Citizen and have a card),
- Names and addresses of all your employers for the last 18 months, including those in other states, Employer registration number or Federal Employer Identification Number (FEIN) of your most recent employer (FEIN is on your W-2 forms and is often on your pay stubs)

### **How To Get Paid**

Your unemployment compensation will be paid either direct deposit into a bank account or onto a DOL issued debit card. Please note that unemployment payments are taxable. It is unclear at this time if the additional flat rate \$600/week that workers will receive under the CARES Act will be taxable. The additional \$600 will not be counted in determining eligibility for Medicaid or CHIP.

## PAID SICK TIME

### NYS COVID-19 Paid Sick Leave

NYS Paid sick leave is a new law designed to guarantee workers job protection and provide income while they are on a mandatory or precautionary quarantine due to the Coronavirus (COVID-19).

**Small Employers:** Businesses with less than 10 workers and less than a \$1,000,000 in net income. These workers are not eligible for NYS Paid Sick Leave, BUT they can get paid through a combination of NYS Paid Family Leave and NYS Disability Benefits to match their full wages.

**Medium Employers:** Businesses with between 11-99 workers and net income of more than \$1,000,000 in net income.

These workers are entitled to 5 days of paid sick leave. After that you can use a combination of NYS Paid Family Leave and NYS Disability Benefits to match your full wages for up to 14 days.

**Large Employers:** Businesses with at least 100 workers and all public employees.

Your employer must provide at least 14 days of paid sick leave for COVID-19 related illnesses. It will be paid be directly through your employer.

### How to qualify

An order of mandatory or precautionary quarantine or isolation issued by the State of New York, the Department of Health, local board of health, or any government entity duly authorized to issue such order due to COVID-19. This quarantine has to be documented by the Erie County Department of Health or other relevant government entity.

*PLEASE NOTE: The Erie County Department of Health (DOH) is only issuing orders of quarantine for a positive COVID-19 test. If you can not immediately obtain a Mandatory Order of Quarantine from DOH you can submit documentation from a licensed medical provider that has treated you to attest that you qualify for the order (essentially a doctor's note). You must process the claim through your health insurance and follow up with your local DOH within 30 days. What qualifies for quarantine is a positive COVID-19 test, contact with a known COVID-19 case, or if you have returned from a country designated as level 2, 3, or 4 advisory for COVID-19. According to Erie County DOH COVID-19 hotline this criteria may change on 4/2/20 to match the less restrictive federal guidelines for paid sick and family leave.*

Check with the CDC to see which countries have level 2, 3, and 4 advisories here: <https://bit.ly/2wAdvRy>

### How to Get Paid

In most cases, the insurance carrier will pay benefits or deny your claim within 18 days of receiving your completed request. Your insurance carrier may provide options for how you will be paid, for example: via direct deposit, debit card or paper check. If it's a business with more than 100 workers, you will not have to apply for paid sick leave, it will be paid through your payroll check as normal.

### How to Apply:



If you are entitled to Paid Sick Days for medium and large employers, those sick days will be paid directly through your employer and there is no need apply for this benefit.

If you work for a small or medium sized business, you can apply for NYS Paid Family Leave and NYS Disability Benefits by completing this form when your are quarantined or after you use your five days of NYS Paid Sick Leave here: <https://on.ny.gov/2xoPBYV>

If you need language assistance in completing the form, call 1 (844) 337-6303 press option 1, then press option 5. When the operator answers, ask for an interpreter by saying “interpreter” and the English name of your language. Please note that there are long hold times to speak to an operator and there are many announcements in English while holding.

While completing the forms linked above leave questions 11 and 12 blank on Form PFL-1 They are covered in the later SCOVID19 section of the same pdf file. Make copies of your PFL-1 form in case your employer does not return it to you. Send the completed form to your employer. They are required to return the form to you within 3 business days after they receive it.

Finally, submit your form to your employer’s workers’ compensation carrier. You can contact them and see if they can accept applications electronically, otherwise they will have to be mailed. If you need to find your employer’s workers’ compensation insurance carrier click on the link here (you will need to click through several pages) <https://on.ny.gov/2QK1KP5>

If you cannot find your employer’s insurance carrier, call the Paid Family Leave Helpline for assistance at (844) 337-6303 press option 1, then press option 5. When the operator answers ask for an interpreter by saying “interpreter” and the English name of your language. Please note that there are long hold times to speak to an operator and there are many announcements in English while holding. The Helpline is available Monday through Friday, 8:30 a.m. to 4:30 p.m.

If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers’ Compensation Board:

NYS Workers’ Compensation Board  
Paid Family Leave  
PO Box 9030,  
Endicott, NY 13761-9030

### **How to Get Paid**

After the initial payment, any additional payments are made biweekly. Your insurance carrier may provide options for how you will be paid, for example, via direct deposit, debit card or paper check.

PLEASE NOTE: Paid Family Leave benefits are taxable. Taxes will NOT automatically be withheld from benefits, but workers can request voluntary tax withholding. You will be responsible to pay the taxes on benefits received when you file your taxes.

## **Federal Paid Sick Leave (Families First Coronavirus Response Act: Employee Paid Leave Rights FFCRA)**

The FFCRA takes effect April 1, 2020. The FFCRA is not retroactive for paid sick time. The federal legislation also offers temporary COVID-19 related paid sick leave for up to 80 hours at your regular rate of pay to a maximum of \$511 / day or \$5,110/2 weeks. This applies to workplaces between 50-500 workers. Employers with less than 50 workers may qualify for exemption from offering this benefit. Workers must be employed for at least 30 days to qualify for this benefit.

In order to qualify for federal paid sick leave you must meet one of the following:

- be subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- be advised by a health care provider to self-quarantine related to COVID-19;
- are experiencing COVID-19 symptoms and are seeking a medical diagnosis;

Federal Paid Sick Leave will be paid directly through the employer. For employers with between 50-99 workers the federal legislation means that you can get your full two weeks through your employer. For all qualifying workers the federal legislation is currently easier to qualify for. A note from your healthcare provider is sufficient documentation to qualify for the claim.

*PLEASE NOTE: There is likely to be a lot of confusion about which law the employer is responsible to follow. The answer depends on net income or the number of workers. For workplaces with between 50-500 employees the federal legislation offers a similar benefit, but it is currently easier to qualify for. You may need to present the federal and state guidance to your employer so they know which program(s) they are responsible to follow.*

Federal Guidance for Employers: <https://bit.ly/2UiNVt7>

State Guidance for Employers: <https://on.ny.gov/2WMrLkA>

## PAID FAMILY LEAVE

### NYS Paid Family Leave

#### If Your Child or your Child's School is Quarantined

The New York State Paid Family Leave law has been adapted for COVID-19 allowing you to stay home if your minor dependent child (a child under 18 years old you are responsible for) is under a mandatory or precautionary order of quarantine or isolation issued by New York State, the NYS Department of Health, County Department of Health or authorized local government.

#### How to Qualify

If your child is under a mandatory or precautionary order of quarantine, or isolation, or if your child's school has been closed due to quarantine or isolation due to a suspected outbreak of COVID-19, you qualify. *If your child's school is closed for preventative social distancing you are not eligible for NYS Paid Family Leave.* You can however qualify for Federal Extended Paid Family Leave under the FFCRA (See Below). NYS Paid family leave is capped at 60% of your weekly wage (last 8 weeks of employment) for a maximum benefit of \$840.70/week for the duration of the quarantine.

*PLEASE NOTE the Erie County Department of Health (DOH) is only issuing orders of quarantine for positive COVID-19 tests. If you can not immediately obtain a Mandatory Order of Quarantine from DOH, you can submit documentation from a licensed medical provider that has treated you to attest that you qualify for the order (essentially a doctor's note). You must process through your insurance and follow up with your local DOH within 30 days. What qualifies for quarantine is a positive COVID-19 test, contact with a known COVID-19 case, or if you have returned from a country designated as level 2, 3, or 4 advisory for COVID-19. According to Erie County DOH COVID-19 hotline, this criteria may change on 4/2/20 to match the less restrictive federal guidelines for paid sick and family leave.*

### Family Care

If you have a family member who has a "serious health condition" you may be eligible for paid family leave to be able to care for a family member for up to 10 weeks. NYS Paid family leave is capped at 60% of your weekly wage (last 8 weeks of employment) for a maximum benefit of \$840.70/week.

#### How to Qualify

If your *family member* has a *serious health condition* certified by a *licensed health care provider* you can qualify for NYS Paid Family Leave by following the instructions below.

- A *family member* for purposes of the law are a spouse, domestic partner (including same and different gender couples; legal registration not required), child / stepchild and anyone for whom you have legal custody, parent / stepparent, parent-in-law, grandparent, or a grandchild;
- A *serious health condition* is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider;
- A *licensed health care provider* includes: Physician, physician assistant, chiropractor, dentist, physical therapist, nurse practitioner, registered professional nurse, podiatrist, optometrist, psychologist,

clinical social worker, occupational therapist, midwife, mental health practitioner, speech-language pathologists, audiologists completing the documentation within their area of practice. Health care providers outside of New York, including outside the United States, who are certifying that an worker's request for Paid Family Leave is medically justified, must have a valid license in the state or country where they practice.

## **How to Apply**

### **If Your Child or your Their School is Quarantined**

Download and complete this packet of forms from the internet: <https://on.ny.gov/2xoPBYV>

If you need language assistance in completing the form call (844) 337-6303 press option 1, then press option 5. When the operator answers, ask for an interpreter by saying "interpreter" and the English name of your language. Please note that there are long hold times to speak to an operator and there are many announcements in English while holding.

While completing the forms linked above leave questions 11 and 12 blank on Form PFL-1. They are covered in the later SCOVID19 section of the same pdf file. Make copies in case you employer does not return the forms to you in a timely manner. Send the completed form to your employer. They are required to return the form to you within 3 business days after they receive it.

Finally, submit your form to your employer's workers' compensation carrier. You can contact them and see if they can accept applications electronically, otherwise they will have to be mailed. If you need to find your employer's workers' compensation insurance carrier click on the link here (you will need to click through several pages) <https://on.ny.gov/2QK1KP5>

## **Family Care**

Download and complete this packet of forms from the internet: <https://on.ny.gov/2wIXzMB>

The packet includes:

- Request for Paid Family Leave (Form PFL-1)
- Release of Personal Health Information Under the Paid Family Leave Law (Form PFL-3)
- Health Care Provider Certification for Care Of Family Member with Serious Health Condition (Form PFL-4)

### **Complete Form PFL-1**

Form PFL-1 has sections that need to be completed by you and by your employer.

Fill out your section, make a copy of the document and give, mail or email this form to your employer. Your employer is required to return Form PFL-1 to you within three business days. If your employer fails to return the form to you, submit the copy of the Form PFL-1 along with the rest of your request package, to your employer's insurance carrier.

### **Complete Form PFL-3**

Your family member (the care recipient) completes Form PFL-3 and submits the form to their health care provider to keep on file. This form authorizes a health care provider to release information regarding your family member's serious health condition to your employer's insurance carrier. **DO NOT SEND THIS FORM TO THE INSURANCE CARRIER.**

### Complete Form PFL-4

Form PFL-4 has sections that need to be completed by you and by your family member's health care provider. Fill out your section, make a copy and give the form to the health care provider. Ask the provider to complete their portion of the form and return it to you in a timely manner.

### Submit to your Employer's Insurance Carrier

You must submit your completed request package to your employer's insurance carrier within 30 days after the start of your leave to avoid losing benefits. If you cannot get documentation to support a leave request within this timeframe, the insurance carrier can deny the request. Mail or fax your Form PFL-1, Form PFL-4, and all supporting documentation to your employer's insurance carrier. To find out who your employer's insurance carrier is you can search your employer's name to look up their insurance carrier using the link below. If you need to find your employer's workers' compensation insurance carrier click on the link here (you'll need to click through several pages).

<https://on.ny.gov/2QK1KP5>

If you cannot find your employer's insurance carrier, call the Paid Family Leave Helpline for assistance at 1 (844) 337-6303, press option 1, then press option 5. When the operator answers ask for an interpreter by saying "interpreter" and the English name of your language. Please note there are long hold times to speak to an operator and there are many announcements in English while holding. The Helpline is available Monday through Friday, 8:30 a.m. to 4:30 p.m.

If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board:

NYS Workers' Compensation Board  
Paid Family Leave  
PO Box 9030,  
Endicott, NY 13761-9030

### How to Get Paid

After the initial payment, payments are made biweekly. Your insurance carrier may provide options for how you will be paid, for example, via direct deposit, debit card or paper check. Please note that it could take up to 45 days to receive benefits from the time you begin the process.

PLEASE NOTE: Paid Family Leave benefits are taxable. Taxes will NOT automatically be withheld from benefits, but workers can request voluntary tax withholding. You will be responsible to pay the taxes on benefits received when you file your taxes.

### **Federal Paid Expanded Family and Medical Leave (Families First Coronavirus Response Act: Employee Paid Leave Rights, FFCRA)**

The FFCRA takes effect April 1, 2020. The FFCRA is not retroactive for paid medical leave. The FFCRA offers up 10 weeks of paid expanded family and medical leave at 2/3 of the worker's gross regular rate of pay. If the worker has been employed for at least 30 calendar days and is unable to work due to a bonafide need to care for a child whose school or child care provider is closed for

reasons related to COVID-19 they qualify for this benefit. This applies to workers employed by businesses with more than 50 workers and fewer than 500 workers.

In order to qualify for federal paid sick leave you must meet one of the following:

- be caring for an individual subject to an order or quarantine
- be caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

For workers caring for an individual quarantined, or advised by a health care provider to self quarantine, a full-time worker is eligible for 80 hours of leave, and a part-time worker is eligible for the number of hours of leave that the worker works on average over a two-week period.

For workers caring for children whose school or daycare is closed for reasons related to COVID-19, a full-time worker is eligible for up to 12 weeks of leave for full-time workers (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave), and a part-time worker is eligible for leave for the number of hours that the worker is normally scheduled to work over that period.

### **How to Get Paid**

Federal Paid Family Leave will be paid directly through the employer. For all qualifying workers, the federal legislation is currently easier to qualify for. A note from family member's healthcare provider is sufficient documentation for the claim, or if your child's school is closed either for a mandatory or precautionary quarantine that also qualifies.

*PLEASE NOTE: There is likely to be a lot of confusion about which law the employer is responsible to follow. The answer depends on net income or the number of workers. For workplaces with between 50-500 employees, the federal legislation offers a similar benefit, but it is currently easier to qualify for. You may need to present the federal and state guidance to your employer so they know which program(s) they are responsible to follow.*

Federal Guidance for Employers: <https://bit.ly/2UiNVt7>

State Guidance for Employers: <https://on.ny.gov/2WMrLkA>

## Federal Stimulus Checks

Most single adults will get a one time payment of up to \$1200 and an additional \$500 for dependent children under 17 years old. Married couples without children will receive up to \$2400

To Qualify:

- Must have a valid Social Security number and are authorized to work in the United States
- Single Adults with income of less than \$75,000
- Taxpayers who filed "Head of Household" with income of less than \$112,500
- Married couples with no dependent children with an income of less than \$150,000

Those with incomes above these levels may receive Stimulus Checks but at a reduced rate. Please note that if your 2018 or 2019 income is too high, but you anticipate changes to your income in 2020 you are still ineligible.

You do not have to apply to receive a payment. If you filed a 2018 or 2019 tax return and your mailing address and banking information has not changed, you should expect to receive payment by April 24. Everyone who qualifies for a payment will receive a separate notification that the Stimulus Check has been sent out that would include any payment information.

*If you have not filed a tax return since 2018 it could impact your eligibility or how quickly you receive a check. One suggestion is to file a 2019 tax return even if it's not required.*

If you receive Social Security retirement and disability payments, if you are a veteran, or unemployed you also qualify for a stimulus payment.

*These stimulus checks are not taxable.*

## **RIGHT TO REFUSE DANGEROUS WORK**

There are two protected options for workers to refuse dangerous work: Protected Concerted Activity and the OSHA right to refuse dangerous work. Workers have used the concerted activity protections successfully to improve COVID-19 working conditions including refusing dangerous work where necessary. The OSHA right to refuse unsafe work is generally viewed as more restrictive.

### **Concerted Activity**

Concerted activity is when two or more coworkers talk about and/or advocate for changes in their workplace. Concerted activity can include reporting unsafe working conditions or violations of law to the state or federal government. Even one employee acting alone can participate in a concerted activity if it is done for the benefit of all of their co-workers. Concerted activity can include many different things, including refusing unsafe work. For more information on concerted activity visit the WNYCOSH website: <https://wnycosh.org/concerted-activity/> Whenever possible contact WNYCOSH or a labor attorney prior to engaging in concerted activity to ensure your actions meet the standard.

### **OSHA Right to Refuse Dangerous Work\***

You are allowed to refuse work if the assigned tasks could expose you to serious injury or death because of a hazardous condition at the workplace. In order to be protected under this standard workers must meet ALL of the following conditions:

- Where possible, ask the employer to eliminate the danger, and the employer fails to do so; and
- You refused to work in "good faith." This means that you must genuinely believe that an imminent danger exists; and
- A reasonable person would agree that there is a real danger of death or serious injury; and
- There isn't enough time, due to the urgency of the hazard, to get it corrected through regular enforcement channels, such as requesting an OSHA inspection

If the worker, with no reasonable alternative, refuses in good faith to expose themselves to the dangerous conditions, they would be protected against discrimination. PLEASE NOTE: This can be a difficult standard to enforce and employees have been fired when exercising this right. If you feel your life is at imminent risk make sure you follow the 4 steps above. If there is an opportunity to call, you can contact us at the WNYCOSH Worker Center Hotline at (716) 206-3550. The message are monitored closely during business hours and you will receive a return call within one hour for urgent requests.

\*OSHA 29 CFR §1977.12(b)(2) Exercise of any right afforded by the Act.



## REFERENCES

Families First Coronavirus Response Act: Employee Paid Leave Rights, FFCRA  
FFCRA Act:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

Updated Guidance 3/27/20:

<https://www.dol.gov/newsroom/releases/whd/whd20200327>

FAQ:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Factsheet for Employers:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

Coronavirus Aid Relief, and Economic Security Act, CARES Act:

<https://www.politico.com/f/?id=00000171-1429-d270-a773-777f92a00000>

NELP CARES Act Analysis

<https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>

New York Times FAQ

<https://www.nytimes.com/article/coronavirus-stimulus-package-questions-answers.html>

NYS Department of Labor

Unemployment Insurance

<https://labor.ny.gov/unemploymentassistance.shtm>

NYS Paid Sick Leave:

<https://paidfamilyleave.ny.gov/if-you-are-quarantined-yourself>

NYS Paid Sick Leave for Quarantined Child:

<https://paidfamilyleave.ny.gov/COVID19>

NYS Paid Sick Leave How to Obtain and Order of Quarantine:

<https://paidfamilyleave.ny.gov/system/files/documents/2020/03/obtaining-order-of-quarantine.pdf>

CDC COVID-19 Travel Recommendations by Country:

<https://www.cdc.gov/coronavirus/2019-ncov/travelers/map-and-travel-notice.html>

NYS Paid Family Care:

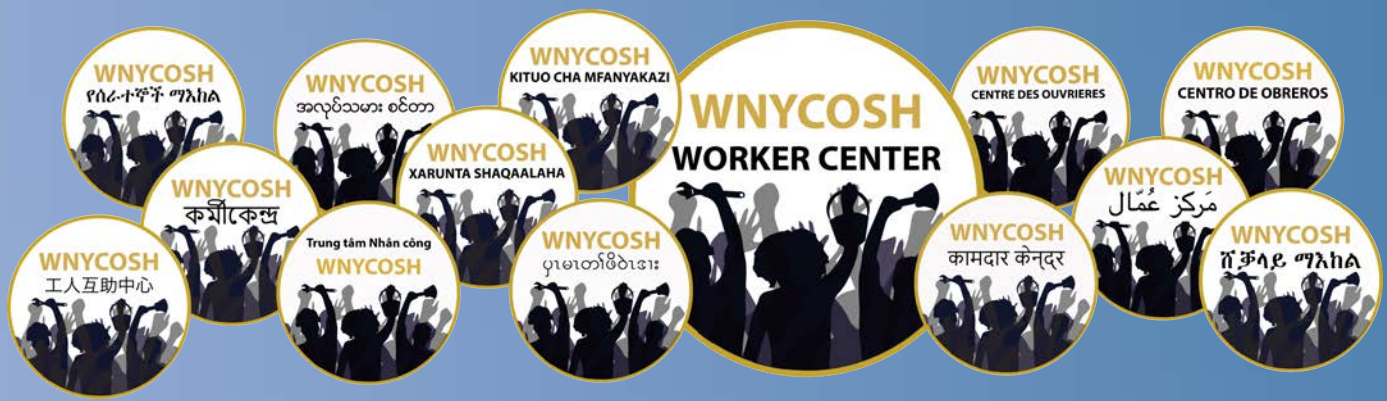
<https://paidfamilyleave.ny.gov/paid-family-leave-family-care>

NYS Paid Family Leave COVID-19 FAQ:

<https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs>

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**For more information  
Please contact:**

**WNYCOSH WORKER CENTER  
HOTLINE  
(716) 206-3550**

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