

Current Resources for Employees Who are Out of Work Due to COVID-19

Earned Sick Time:

- Applies to most employees.
 - There are certain exceptions and employees may be subject to a waiting period of up to one-year.
- Employees accrue at least one hour of sick time for every 52 hours worked.
 - Employees may be limited to using a maximum of 40 hours in a year.
 - This is only ½ of the quarantine period.
 - Employees may have already used some or all of their accrued sick time.
- Employees may use earned sick time for health care appointments, if they are sick, or if a family member is sick.
 - Employers are not legally required to allow employees to use earned sick time for quarantine.

Parental and Family Leave Act:

- Applies to employees who:
 - Work for an employer that employs 15 or more employees for an average of 30 hours per week during a year; and
 - Employed by the employer for at least one year and worked an average of 30 hours per week during the past year.
- Provides unpaid, job-protected leave for the employee's serious illness or the serious illness of the employee's immediate family member.
- A serious illness means an accident, disease, or physical or mental condition that:
 - (A) poses imminent danger of death;
 - (B) requires inpatient care in a hospital; or
 - (C) requires continuing in-home care under the direction of a physician.
- An individual with COVID-19 or who is caring for a family member with COVID-19 may qualify for leave under PFLA.
- An individual who is self-quarantined likely would not qualify without a clarification to (C).
- Individuals can use accrued paid leave while on leave under PFLA.

Unemployment Insurance:

- Not intended to be used as paid sick leave.
- The federal requirement that an individual be able, available, and actively seeking work cannot be waived for individuals affected by COVID-19.
 - However, an individual who is temporarily laid off can meet this requirement by being available for work only for the employer that temporarily laid them off. For example:
 - Employees who are out of work due to the employer temporarily ceasing operation because of COVID-19 would be eligible for UI and DOL could waive the work search requirement.
 - An employee who is quarantined and will return to their employer may be eligible for UI and DOL could waive the work search requirement.

- An individual who separates from employment because of a quarantine, to care for a family member, or concern about infection and will not be returning to an employer may be eligible for UI if the basis for leaving employment is deemed to be “good cause” but the individual would have to engage in a work search.
- Individuals who are on UI currently and become ill will continue to be eligible for benefits (§ 1343(a)(3)).
- Individuals are subject to a 1-6 week waiting period if they separate from employment “because of a health condition, as certified by a health care provider, as defined in 18 V.S.A. § 9432(9), which precludes the discharge of duties inherent in such employment.” (§ 1344(a)(3)).
 - Department has indicated that it will only enforce a one week waiting period for individuals who left employment due to COVID-19, which is what it has historically done for other illnesses under this provision.
 - Does not apply to individuals who leave work to care for a family member, self-quarantine, or because of infection concerns.
- Employers can be relieved of charges for UI benefits for up to 4 weeks if the President declares that the COVID-19 outbreak constitutes a major disaster.
- Should adopt a provision providing that emergency rules are deemed to be in response to an imminent peril to public health, safety, or welfare.
- Need a legislative change to relieve experience ratings (DOL is asking for closure due to actual exposure and employee being quarantined and allowed to return to work after recovery)
- UI does not cover employees who quit work to care for a family member at present or because they are concerned about infection.

Possible Options:

- Legislation to relieve employer experience ratings from payment of UI in specific COVID-19 cases.
 - Could do it in relation to instances in which an employee is temporarily laid off due an employer closure or a quarantine period. Could also do it in instances when an employee leaves employment to care for a sick family member.
- State funded coverage may be necessary for employees taking leave to care for a family member. This is likely a significant lift unless this is created as a supplement to UI.
- May need to address quarantine in sick leave law and/or PFLA
- PFLA may need to be extended to smaller employers or more employees in the context of COVID-19.
- State-funded sick leave could be provided to employees who are not eligible for earned sick time law coverage or who exhaust their sick time.