



The Worker's Guide:

Your Rights During the Coronavirus (COVID-19)

(Last Revised July 14, 2020)*

**LEGAL
AID AT
WORK**

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*This guide is intended to provide accurate, general information regarding legal rights relating to employment in California, as of the date listed above. Yet because laws and legal procedures are subject to frequent change and differing interpretations, Legal Aid at Work, Centro Legal de la Raza, and Bet Tzedek Legal Services cannot ensure the information in this guide is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation. Please note that Coronavirus and COVID-19 are used interchangeably in this document.

1. What if I lost my job or was required to take leave?

➤ You may qualify for Unemployment Insurance Benefits:

If you have lost your job or your employer forced you to take unpaid time off, you may qualify for Unemployment Insurance benefits (UI) through the California Employment Development Department (EDD).

What are the requirements to get unemployment benefits?

- You must be “able and available to work.” That means you must be authorized to work in the U.S. AND you must be healthy. If you are sick, you may qualify for other benefits, like State Disability Insurance. For more, see [Question 6](#).
- Usually, you need to be looking for work to receive the benefits, BUT if you are temporarily out of work because of COVID-19 and expect to go back to the same employer, you may not be required to seek work.
- Generally, only employees are eligible to receive unemployment insurance, not independent contractors or self-employed workers. However, they may qualify for other benefits, like the new Pandemic Unemployment Assistance. See [Question 5](#) for more information.

When can I get unemployment benefits?

- The usual 1-week waiting period has been waived by the governor’s executive order. You may start getting benefits as soon as EDD can process your application, which usually takes about 3 weeks (note that this estimate depends on the applicant and the volume of applications, which is now at an all-time high).

How much are unemployment benefits?

- It depends on what your income was when you were working. It can be anywhere between \$40 and \$450 per week. From March 27, 2020 until July 25, 2020, all recipients of unemployment insurance benefits will receive an extra \$600 per week, under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act.¹
- Benefits are available for 26 weeks. The CARES Act provides for an additional 13 weeks under the Pandemic Emergency Unemployment Compensation program (PEUC). See [Question 15](#) for more information on PEUC.
- To estimate how much your benefits will be, try this online calculator by EDD: <https://www.edd.ca.gov/Unemployment/UI-Calculator.htm>
- For more on how benefits are calculated, check out this guidance from EDD: https://www.edd.ca.gov/pdf_pub_ctr/de8714ab.pdf

¹ The additional \$600 amount is provided by the CARES Act, which was signed into law on March 27, 2020. EDD started distributing these funds on April 11, 2020.

Where do I apply? For instructions on how to apply, please see [Question 13](#).

➤ **You may be entitled to Waiting Time Penalties:**

When your employment is terminated, your employer is required by law to pay you all your wages at the time of layoff/termination, including any vacation pay.

- If you are not paid all of your wages when they are due, you are entitled to one day of wages for every day you wait to get paid up to a maximum of thirty days.
- To claim your waiting time penalties, you need to file a claim with the California Labor Commissioner's office.

2. What if my hours were cut?

➤ **You may qualify for Unemployment Insurance Benefits.**

What are the requirements for getting unemployment when my hours are cut?

- In addition to the requirements outlined in [Question 1](#), you must meet the EDD's definition of someone who is "partially employed." This means:
 - You are still employed by your employer;
 - You worked less than your normal full-time hours because of lack of work;
 - Your normal pay is reduced because of the lack of work; and
 - Your gross pay, after deducting \$25 or 25% (whichever is greater) of your total earnings, is less than your weekly benefit.
- During the coronavirus crisis, EDD has waived the normal requirement that you submit the additional form "Notice of Reduced Earnings" ("DE 2063").
- Usually, you also need to be looking for work to receive the benefits. However, workers who have a temporarily reduced schedule due to COVID-19 and expected to return to their previous schedule with the same employer may not be required to actively seek work each week.

Where do I apply? For instructions on how to apply, please see [Question 13](#).

➤ **You may also be entitled to Reporting Time Pay.**

If you report to work as normally scheduled, but your employer sends you home before you work half of your usual or scheduled hours:

- Your employer must pay you for half of your usual or scheduled hours at your regular rate of pay, with a minimum of two hours and a maximum of four hours.
- However, an employer is not liable for reporting time pay if work is unavailable because of interruptions caused by an act of God or other cause not within the employer's control. COVID-19 is likely to be considered something outside your employer's control

3. What if my pay was reduced?

➤ **If your employer reduces your pay without notice** (i.e., without telling you ahead of time that your pay would be reduced):

- Your employer must pay you at your previous rate for any hours already worked;
- If you choose to continue working, it will be considered as if you have accepted this new reduced rate of pay going forward;
- You can try to negotiate for a different rate.

➤ **If your employer reduces your pay with notice:**

- Your options are limited to: accepting, negotiating for a different rate, or quitting your job.
- If you decide to quit your job, you may qualify for Unemployment Insurance Benefits if the EDD determines that you had “good cause” to quit your job based on a “substantial reduction” in pay. There is no set rule as to what amounts to a “substantial reduction.” To determine if there was “good cause” for a voluntary departure based on a reduction in pay, EDD may consider factors such as, but not limited to:
 - Amount of the the wage reduction;
 - The claimant’s prospects for securing other work at a wage about equal with prior earnings;
 - Loss of seniority or other rights associated with a wage level;
 - Opportunities for advancement.
- Please see [Question 1](#) above for the other requirements to receive UI.

4. What if my child's school or child care is closed and I have to miss work to care for them?

➤ **You may be eligible for Unemployment Insurance Benefits**

EDD is advising people to apply for Unemployment Insurance Benefits if they have lost income because they miss work to care for a child and have exhausted all other care options.

- Please see [Question 1](#) above for the requirements to receive UI.
- You may need to provide documentation to EDD that you have exhausted your child care options.
- For instructions on how to apply, please see [Question 13](#).

➤ **You may qualify for paid leave under the Emergency Paid Sick Leave Act (EPSLA), part of the Families First Coronavirus Response Act (FFRCA).²**

What is the paid leave available under the EPSLA?

- Starting April 1, 2020, your employer is required to keep paying at least part of your wages or salary even while you are not working, for up to two weeks (80 hours) if you qualify.

Who qualifies for paid leave under the EPSLA?

- To qualify, you must be currently employed and either working or voluntarily taking time off from work. You **do not** qualify for EPSLA paid leave if you have been fired, furloughed, told there is no work, or your worksite has been shut down.
- Under the federal law, you must work for an employer with less than 500 employees. If you are seeking time off so you can care for your child because your child is out of school, some small businesses with less than 50 employees may also claim an exemption. HOWEVER, some employers not covered by the federal law are subject to state and local laws, such as:
 - Employers of food sector workers: The governor issued Executive Order N-51-20, which also requires employers in the food sector with over 500 employees to provide up to 80 hours of paid sick leave. This covers grocery workers, restaurant or fast food workers, workers at warehouses where food is stored, and workers who pick-up or deliver any food items. This law applies whether the worker is an employee or independent contractor.

² The FFCRA is a federal law which went into effect April 1, 2020. Please note that because this law is still being implemented, new guidance may be issued that changes the information provided in this guide.

- Employers in certain localities: Los Angeles, San Francisco, and San Jose have passed ordinances also requiring employers with more than 500 employees to provide up to 80 hours of sick leave. See [Appendix 1](#) for more details on these local laws.
- You also must need to take leave for one of the following reasons:
 1. You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 2. You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 3. You are experiencing symptoms of COVID-19 and are seeking diagnosis;
 4. You are caring for an individual who is subject to a quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 5. You are caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons;
 6. You are experiencing any other “substantially-similar condition” as specified by the Secretary of Health and Human Services.
 7. Some local laws, such as Los Angeles and San Jose, also require that employers provide leave if you need to take leave because you are at greater risk for coronavirus, such as if you are over 60 years old or have preexisting health conditions. See [Appendix 1](#) for details.
- To determine your eligibility for paid leave under the EPSLA, you can use this online tool from the Department of Labor:
<https://www.dol.gov/agencies/whd/ffcra/benefits-eligibility-webtool>

How much is the EPSLA paid leave?

- How much you are entitled to for your paid leave depends on the reason you are taking the leave AND your normal wage or salary.
 - If you are taking leave for reasons 1 - 3 above, you are entitled to your normal hourly wage or salary or minimum wage for each hour of leave, for a maximum of \$511 per day, or \$5,110 total.
 - If you are taking leave for reasons 4 - 6 above, you are entitled to 2/3 of your normal hourly wage or salary, for a maximum of \$200 per day, or \$2,000.

I think I qualify. How do I get paid leave under the EPSLA?

You must request EPSLA leave from your employer. You should do so in writing as soon as you know you will need to take leave.

When requesting EPSLA, you must provide your employer the following information:

- Your name
- The date(s) for which you request leave;

- The reason for leave; and
- A statement that you are unable to work because of one of the reasons listed above.

If you request leave to care for your child whose school or place of care is closed, or child care provider is unavailable, you must also provide:

- The name of your child;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement that no other suitable person is available to care for your child.

If you are requesting leave because you or a family member were ordered or advised to quarantine, provide the name of the government entity that issued the order or the health care provider that advised quarantine.

Your employer CANNOT require that you take other paid time off such as vacation time before taking Emergency Paid Sick Leave. EPSL cannot replace your other leave benefits you are entitled to. Also, your employer CANNOT require that you search for a replacement.

➤ **You may qualify for paid leave under the Emergency Family and Medical Leave Act Expansion Act (EFMLEA)³**

What is EFMLEA paid leave?

- The EFMLEA requires an employer to pay up to 10 weeks of paid leave at 2/3 the employee's regular rate of pay if they need to miss work because they need to care for a child whose regular school or childcare is closed because of COVID-19, up to \$200 per day or \$10,000 total.
- Your employer is not required to pay for the first 10 days of your leave (but you may qualify for paid leave under the EPSLA during that time, explained above).
- These benefits expire on December 31, 2020.

Who qualifies for EFMLEA paid leave?

- To qualify, you must be currently employed and either working or voluntarily taking time off from work.
- You must be unable to work or telework because you are caring for a child whose school or daycare is closing or unavailable because of the coronavirus.

³ The Emergency Family and Medical Leave Expansion Act (EFMLEA) is a federal law that went into effect April 1, 2020 as part of the FFCRA. Please note that because this law is still being implemented, new guidance may be issued that changes the information provided in this guide.

- You must work for an employer with less than 500 employees. Some small businesses with less than 50 employees are exempt, as are some healthcare providers or emergency responders.
- You must have worked for your employer for 30 days.

I think I qualify. How do I get paid leave under the EFMLEA?

You must request EFMLEA leave from your employer. You should do so in writing as soon as you know you will need to take leave. You must provide your employer the following information:

- Your name
- The date(s) for which you request leave;
- The reason for leave; and
- The name of your child;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement that no other suitable person is available to care for your child.

➤ **If you do not qualify for UI or other leave, you may qualify for Pandemic Unemployment Assistance.** See [Question 5](#) for more information on this benefit.

➤ **Your job may be protected under the Family School Partnership Act**

This protects you from losing your job while you need to miss work. If your employer has at least 25 employees, you may be eligible to receive up to 40 hours of job protection per year. (see California Labor Code [section 230.8](#)).

5. What if I am a gig worker, self-employed, or an independent contractor?

➤ You may be eligible for **Unemployment Insurance** if you are misclassified as an independent contractor.

Generally, only employees are eligible to receive unemployment insurance, not independent contractors. However, many workers are misclassified as independent contractors when they are, in fact, employees under California law and entitled to employee protections and benefits such as unemployment insurance.

The EDD will decide whether you were misclassified by applying California law. For more information about whether you are misclassified, go to the EDD website here: <https://www.labor.ca.gov/employmentstatus/workers/>. If the EDD decides that you are an independent contractor, you will automatically be considered for benefits under the Pandemic Unemployment Assistance (PUA) program.

- **Make sure to also check the other requirements for unemployment benefits in the response to [Question 1](#).**

➤ You may be eligible for **Pandemic Unemployment Assistance (PUA)**, provided by the CARES Act.⁴

If you are sure that you are truly an independent contractor, are self-employed, or don't qualify for UI benefits because you are a part-time worker, don't have enough employment history, have already exhausted all your UI benefits, or are serving penalty weeks, you may qualify for Pandemic Unemployment Assistance.

What is PUA?

- PUA is monetary assistance for workers that are excluded from Unemployment Insurance Benefits, including:
 - a. Self-employed workers, including independent contractors
 - b. Gig workers
 - c. Freelancers
 - d. Workers who do not have a long enough work history to qualify for unemployment benefits.
 - e. Workers who have exhausted their regular UI benefits.
- PUA is available from January 27, 2020 until December 31, 2020
- PUA is NOT available for undocumented workers.

⁴ PUA is available as part CARES Act, which was signed into law on March 27, 2020.

- PUA is NOT available if you are eligible for Unemployment Insurance Benefits, even if you are only eligible to receive a small amount of benefits.

Who qualifies for PUA?

- You must be legally authorized to work in the U.S.
- You must be unable to telework with pay and cannot be receiving paid sick pay.
- You must be ineligible to receive regular Unemployment Insurance Benefits
- You can't work because of one of these reasons:
 1. You have been diagnosed with COVID-19 or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis.
 2. You are unable to work because a health care provider advised you to self-quarantine due to concerns related to COVID-19.
 3. A member of your household has been diagnosed with COVID-19.
 4. You are providing care for a family member or a member of your household who has been diagnosed with COVID-19.
 5. A child or other person in the household for whom you have primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 and the school or facility care is required for you to work.
 6. You became the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19.
 7. You have to quit your job as a direct result of COVID-19.
 8. Your place of employment is closed as a direct result of COVID-19.
 9. You were scheduled to start a job that is now unavailable as a direct result of the COVID-19 public health emergency.
 10. You are unable to reach the place of employment as a direct result of the COVID-19 public health emergency.
 11. If you work as an independent contractor with reportable income, you may also qualify for PUA benefits if you are unemployed, partially employed, or unable or unavailable to work because the COVID-19 public health emergency has severely limited your ability to continue performing your customary work activities, and has thereby forced you to stop working.

How much is PUA?

- You will receive a minimum of \$167 per week (possibly more depending on your previous earnings). From March 29, 2020 until July 25, 2020, you will also receive an extra \$600 per week under the CARES Act.
- If eligible, claimants will be able to receive up to 46 weeks of benefits.
- Regardless of when you apply, your benefits may be retroactive to weeks starting on or after February 2, 2020. The effective date of your claim will begin the Sunday of the week when you last worked and became unemployed due to reasons directly related to COVID-19.

How do I apply for PUA? The Employment Development Department (“EDD”) started accepting online applications for PUA on April 28, 2020. The fastest way to apply for benefits is online here: https://edd.ca.gov/Unemployment/UI_Online.htm
You can also apply for PUA by phone. As of the time of this guide, the paper application has not yet been updated to include PUA. See [Section 13](#) for details.

What do I need to apply? You do not need to submit any documents to apply -- you just need your total income for the 2019 calendar year.

What if I already applied for UI but I want to apply for PUA?

If you are receiving UI benefits or qualify for UI benefits, you are not eligible for PUA. If you have applied but have been denied, or have not received a determination, you can apply for PUA using the UI / PUA application.

If you received a UI award indicating \$0 in benefits available, see the EDD’s guidance for the latest recommendations on how to proceed here:

<https://www.labor.ca.gov/pandemic-unemployment-assistance-pua-program/>.

➤ **If you work in the food sector and are still working, you may qualify for paid time off.**

In California, under the governor’s Executive Order N-51-20, hiring entities in the food sector must pay up to 2 weeks (or 80 hours) of paid leave if a worker needs to take time off for certain circumstances related to COVID-19 (see [Question 4](#) for specific circumstances). This Executive Order also applies to independent contractors and “gig” workers.

Under the Executive Order, eligible workers in the food sector range from farmworkers to those workers who work in the retail food supply chain, including pick-up, delivery, supply, packaging, retail, or preparation. This includes grocery workers, restaurant or fast food workers, workers at warehouses where food is stored, and workers who pick-up or deliver any food items.

The Executive Order applies if you are currently working or voluntarily taking leave from work. See the response to [Question 4](#) for more information. Also see the Labor Commissioner’s FAQ: <https://www.dir.ca.gov/dlse/FAQ-for-PSL.html>.

➤ **You may also be eligible for other benefits:**

- CalFresh (food stamps): Apply here: <https://www.getcalfresh.org/>
- General Assistance: More here: <https://www.cdss.ca.gov/county-offices>

6. How can I get money if I am sick or am quarantined?

You may be eligible for several forms of monetary relief if you get sick or are quarantined, including California Paid Sick Days, EPSLA Paid Leave, State Disability Insurance, and Workers Compensation.

➤ California Paid Sick Days

What are California paid sick days?

- In California, all employees have a right to at least 3 paid sick days. An employee starts accruing paid sick days when the employee starts work, and the employee can use the sick days after they have worked for the employer for 90 days.

When can I use paid sick days?

- Employees are entitled to use accrued sick days for absences due to:
 - Their own illness;
 - Diagnosis, care, or treatment of an existing health condition; or
 - Preventative care (includes self-quarantine if recommended by civil authorities and time off due to potential exposure or travel to high risk areas).
 - You may also use paid sick days when your workplace closes because of COVID-19, so long as you have not been fired. However, your employer cannot force you to take paid sick days, it is your choice as a worker to take those days.

How many sick days do I get?

- Employers may limit sick days an employee can use to 3 days, unless the employer is operating in a city that provides additional sick days, for example:
 - In the City of Los Angeles, employees are entitled to 6 paid sick days.
 - Places like [Berkeley](#), [Emeryville](#), [Oakland](#), [San Diego](#), [San Francisco](#) and [Santa Monica](#) require employers to provide more than 3 sick days.

How do I use my paid sick days?

- Provide notice to your employer as soon as you can once you know you need to miss work. You do not need to provide a doctor's note.
- Your employer CANNOT *retaliate* against you for using your paid sick days.
- Your employer CANNOT *force* you to take paid sick days.

➤ **You may qualify for paid time off under the Emergency Paid Sick Leave Act (EPSLA).**

The EPSLA requires employers to pay up to 2 weeks (or 80 hours) of paid leave if you have been diagnosed with COVID-19, are experiencing symptoms and seeking diagnosis, you have been advised by a healthcare provider to self-quarantine, or you are caring for someone experiencing symptoms or advised by a healthcare provider to self-quarantine.

The EPSLA applies if you are currently working or voluntarily taking leave from work, and, in some areas of the state, only if your employer has less than 500 employees. See the response to [Question 4](#) for more information.

➤ **You may qualify for income from State Disability Insurance (SDI)**

What is Disability Insurance (SDI)?

- If you are sick or required to quarantine, you may qualify for SDI.
- SDI pays you up to 60% or 70% of your wages, up to \$1,300 per week depending on your former income, for up to 52 weeks.

What are the requirements to get State Disability Insurance?

- You must be employed or actively looking for work at the time your disability begins.
- You must have medical certification of illness, disability, or required quarantine.
- You must have paid into SDI during the base period. How do you know if you paid into SDI? Take a look at your paycheck. If there is a deduction for “CA SDI,” you paid into SDI.
- **Workers who are undocumented MAY QUALIFY.** Undocumented workers can apply using a paper application and leaving blank the box requesting a social security number. You may need to provide your W2s.

When can I get State Disability Insurance benefits?

The usual 1-week waiting period has been waived by the governor’s executive order. You may start getting benefits as soon as EDD can process your application.

Where do I apply?

Apply with EDD online here: https://www.edd.ca.gov/Disability/SDI_Online.htm. If you are undocumented, you may apply using a paper application and leaving blank the box requesting a social security number.

➤ **If you got sick at work, you may qualify for Workers' Compensation**

If you believe you contracted coronavirus on the job during the regular course of your work, you may be eligible for workers' compensation benefits, including disability payments and medical treatment.

On May 6, 2020, Governor Newsom signed Executive Order N-62-20, which states that if you test positive for or are diagnosed with COVID-19 within 14 days after you performed work for your employer outside of your home, it is presumed that you contracted COVID-19 at work. This order applies only if the day you performed work for your employer outside the home was after March 19, 2020. Your employer can submit evidence to try to show that you did not contract COVID-19 at work. The Executive Order is available online here:

<https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf>

What benefits would I get with Workers' Compensation?

- Disability payments: Payments are generally 2/3 of the gross wages you lose while you are recovering from a work-related illness or injury, up to a maximum weekly amount set by law.
 - If you have paid sick leave available that was provided specifically in response to COVID-19, you may be required to use that paid sick leave before being paid disability benefits.
- Medical treatment

How do I get Workers' Compensation benefits?

To file a workers' compensation claim an employee must file a DWC-1 claim form with their employer. Learn more about your eligibility for workers' compensation here:

<https://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.ht>

To qualify for benefits under the governor's COVID-19 Executive Order, you must obtain certification of your temporary disability.

- If you tested positive *on or after* the date of the Order (May 6, 2020):
 - Initial Certification: You must be certified for temporary disability within the first 15 days after the initial diagnosis.
 - Subsequent Certifications: You must be recertified every 15 days after for 45 days after diagnosis.
- If you tested positive or were diagnosed *before* the date of the Order:
 - Initial Certification: You must obtain a certification within 15 days of the order documenting the period that you were temporarily disabled and unable to work.
 - Subsequent Certifications: You must be recertified for temporary disability every 15 days thereafter, for the first 45 days following diagnosis.

7. If I can't work because I need to take care of a family member who is sick, how can I get money?

There is more than one potential way to get income replacement when taking care of a sick family member, including Paid Sick Days, EPSLA Paid Leave, and Paid Family Leave.

➤ **California Paid Sick Days**

You can take paid sick days for 1) taking care of family members (including a parent, child, spouse, registered domestic partner, grandparent, grandchild, or sibling); 2) school closure; 3) quarantine; and 4) self isolation. Please see our response to [Question 6](#) above for more details.

➤ **Emergency Paid Sick Leave**

The EPSLA requires employers to pay up to 2 weeks of paid leave if you are caring for someone who is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. You may qualify for Emergency Paid Sick Leave if paid leave if you are currently working or voluntarily taking leave from work, and, in some areas of the state, only if your employer has less than 500 employees. See [Question 4](#) for more details.

➤ **Paid Family Leave (PFL)**

What is Paid Family Leave?

- Paid Family Leave pays part of your wages or salary if you need to take unpaid time off work or are unable to look for work because you are bonding with a new baby or caring for a close family relative who has a serious health condition. This includes caring for a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or domestic partner.

How much is Paid Family Leave?

- Paid Family Leave can give you 60% or 70% of your income, up to \$1,300 per week, for up to 6 weeks.
- Applicants who file after July 1, 2020 will be eligible up to 8 weeks of PFL.

Who is eligible for Paid Family Leave?

- You must be employed or actively looking for work at the time your family leave begins.
- The serious health condition must be certified by a healthcare provider or a public health officer.
- You must have paid into State Disability Insurance (noted as “CA SDI” or “State Tax” on paystubs) in the past 5 to 18 months.

- For a complete list of requirements, go to the EDD website:
https://edd.ca.gov/Disability/Am_I_Eligible_for_PFL_Benefits.htm
- **Citizenship and immigration status do not affect eligibility**

Where do I apply?

Apply online with EDD [here](#). If you are undocumented, you may apply using a paper application and leaving blank the box requesting a social security number. You may need to provide your W2s.

8. Is my job protected if I get sick or am quarantined?

There are several laws that may protect your job (and possibly your health insurance benefits) so that when you come back from time off, your job or a similar one will be waiting.

➤ **California Family Rights Act (CFRA) & Family Medical Leave Act (FMLA)**

What is the CFRA / FMLA?

- The CFRA and FMLA can each provide unpaid leave for up to 12 weeks to care for a serious health condition. This protects your job while you are on leave, which means that you cannot be fired & at the conclusion of your leave you have the right to be reinstated to the same or comparable position (regardless of layoffs). The 12 weeks do not have to be taken all at once.
- During your leave, your employer must continue your health benefits.

Who is eligible for CFRA / FMLA leave?

- A worker that has a serious health condition that requires time off from work.
 - Coronavirus is a serious medical condition, but FMLA / CFRA leave is not available for people who are quarantined or complying with shelter-in-place orders who do not have any symptoms.
- The worker must have worked for the employer for at least 1 year (but the year of service doesn't need to be consecutive)
- The worker worked at least 1250 hours for the employer in the previous year;
- The worker's employer must have more than 50 employees within a 75 mile radius of the worker's job location.

How do I request CFRA / FMLA leave?

- Contact your employer in writing (for example, by text or email) and communicate your desire for leave under the FMLA / CFRA.

➤ **Fair Employment and Housing Act (FEHA) & Americans with Disabilities Act (ADA)**

What is the FEHA / ADA?

- Under the FEHA / ADA, your employer may be required to provide you with unpaid leave from work as an accommodation for your medical condition.
- There is no requirement under the FEHA or ADA that your employer continue your health benefits.

Who is protected under the FEHA / ADA?

- The worker's employer must have at least 5 employees (under the FEHA) and 15 employees (under the ADA).

- The worker must have an “actual disability,” which may include having a compromised immune system, or if you are experiencing severe complications from coronavirus, such as pneumonia.

How do I get protection under the FEHA / ADA?

- Contact your employer in writing (for example, by text or email) and explain that you have a disability under the ADA and FEHA definition and that you are requesting an accommodation of unpaid leave. You need to state when you expect to return to work (e.g., 8 weeks).

9. Is my job protected if I need to take care of a sick family member?

There are state and federal laws that protect your job when you take care of sick family members, making sure that you can go back to your job after your leave.

➤ **California Family Rights Act (CFRA) & Family Medical Leave Act (FMLA)**

- Up to 12 weeks of unpaid leave is available under the CFRA / FMLA for workers that need to take time off work to care for a parent, spouse, domestic partner, minor child, adult dependent child with a serious health condition. This protects your job while you are on leave. It also requires that employers continue your health benefits.
- For requirements and eligibility, see [Question 8](#) above.
- You may also be entitled to all or part of your salary while you are on leave. See [Question 8](#) above for more information.

10. What if my employer discriminates or retaliates against me for being sick?

If your employer discriminates or retaliates against you because you are sick, there are several laws that may protect you.

➤ **Fair Employment and Housing Act (FEHA) / American with Disabilities Act (ADA)**

What is protected under the FEHA and ADA?

- Under the FEHA and ADA, an employer may not discriminate or retaliate against an employee because of the employee's disability. This includes discriminating against an employee for being associated with someone with a disability.
 - For example, an employer may not:
 - Fire an employee because they have or have been exposed to coronavirus.
 - Fire an employee because they have a family member who has been exposed to coronavirus.
- If you have a disability (as defined by the FEHA / ADA), you have the right to reasonable accommodation, such as teleworking.
- Your employer must keep employee medical information confidential and private.
- Employers may not ask employees who do not have coronavirus symptoms if they have medical conditions that put them at increased risk of coronavirus.

Who is protected under the FEHA and ADA?

- The FEHA and ADA only apply to employers of a certain size. The FEHA applies to employers with 5 or more employees, and the ADA applies to employers with 15 or more employees
- The employee must have a "disability" as defined by the law, be "regarded as" having a disability, or be associated with a person with a disability.

11. What benefits can I receive if I am undocumented?

➤ **If you otherwise meet the requirements, you may be eligible to receive:**

- [State Disability Insurance](#)
- [California Paid Sick Days](#)
- [Paid Family Leave](#)
- [Emergency Paid Sick Leave](#)
- [Emergency Paid Family Leave](#)
- [Workers' Compensation](#)

➤ **Do I qualify for Unemployment Insurance Benefits?**

No. You are not eligible for UI benefits or Pandemic Unemployment Assistance (PUA) unless you have some form of work authorization.

Some resources are available at these websites:

- Legal Aid at Work
 - Relief Funds: <https://legalaidatwork.org/blog/relief-funds/>
 - Employment Rights: <https://legalaidatwork.org/factsheet/undocumented-workers-employment-rights/>
- California COVID-19 Guide for Immigrant Californians: <https://covid19.ca.gov/guide-immigrant-californians/>
- L.A. County Resources: <http://www.publichealth.lacounty.gov/media/Coronavirus/resources.htm>
- City and County of San Francisco Resources: <https://sf.gov/topics/coronavirus-covid-19>
- Alameda County Resources: <http://www.acphd.org/2019-ncov/resources-residents.aspx>
- Contra Costa County Resources: <https://www.contracosta.ca.gov/7773/COVID-19-Resources#:~:text=Unemployment%20and%20economic%20information%20and,pm%2C%20for%20information%20and%20resources.>

➤ **Public Charge Rule:** United States Citizenship and Immigration Services (USCIS) has stated that it will not consider treatment or preventative care related to COVID-19 as part of the public charge inadmissibility determination. State benefits that are not funded by federal dollars will not be considered under the Public Charge rule. For more information on how obtaining benefits may impact your application for adjustment of status, consult an immigration attorney.

12. What if I am pregnant and I need to take leave?

If you are pregnant and need to take leave, you may be eligible for job protection and income replacement.

➤ **Job Protection: Pregnancy Disability Leave (PDL)**

What is pregnancy disability leave?

- The Pregnancy Disability Leave Act provides a worker up to 4 months of unpaid leave if they are “disabled by pregnancy.” A worker can be “disabled by pregnancy” if there is a risk to the pregnancy or after successful completion of pregnancy.
 - You may qualify if your pregnancy is at risk due to possible exposure to the coronavirus.
- During your leave, your employer must continue your health benefits.
- If you need more than 4 months of leave, the California Family Rights Act may provide additional job protection. See more information in [Question 8](#) above.

Who does it protect?

- California’s Disability Leave law applies to most employers with 5 or more employees.

➤ **Income: State Disability Insurance (SDI) and Paid Family Leave (PFL)**

- During your pregnancy and after birth, you may be eligible for income replacement through State Disability Insurance. See [Question 6](#) for details.
- After your baby’s birth, you may be eligible for Paid Family Leave while you are bonding with your baby. See [Question 7](#) for details on requirements.

13. How do I apply for unemployment or Pandemic Unemployment Assistance?

You can apply for unemployment benefits online, by fax, by mail, or by phone.

- Online: https://www.edd.ca.gov/Unemployment/UI_Online.htm
- Phone: English 1-800-300-5616
Spanish 1-800-326-8937
- By Mail or Fax: You can find the forms online here:
https://www.edd.ca.gov/Unemployment/Forms_and_Publications.htm#FillInForms

For instructions please see the following videos provided by EDD:

- English:
 - Benefit Programs Online Overview and Registration for New Users
<https://www.youtube.com/watch?v=l0O37hyLU5Y&feature=youtu.be>
 - UI Online Overview and Registration
<https://www.youtube.com/watch?v=-00AJjsrLjw&feature=youtu.be>
- Spanish:
 - Benefit Programs Online Overview and Registration for New Users
<https://www.youtube.com/watch?v=kkdtgavMjgl&feature=youtu.be>
 - UI Online Overview and Registration
https://www.youtube.com/watch?v=FnZF_dOcRIY&feature=youtu.be

14. What information will I need to start a claim for Unemployment Insurance?

- Personal Information: Social Security Number, drivers license or State ID card number, work authorization documents (if not a United States Citizen).
- Work History Information: Employer information including legal company name, supervisor's name, address (mailing and physical location) and phone number.
 - Try to use the official name of the business on your paycheck or W-2.
 - Information on all the employers you worked for during the past 18 months, including name, address (mailing and physical location), the dates of employment, gross wages earned, hours worked per week, hourly rate of pay, and the reason you are no longer working.
- Helpful employment related documents to have on hand:
 - Last paystub and W-2 from last employer (or 1099 if you believe you were improperly paid as an independent contractor).
- Also see the EDD checklist at this link: https://www.edd.ca.gov/pdf_pub_ctr/de2326.pdf

15. What if I already exhausted all of my Unemployment or PUA benefits?

- **You may qualify for the Pandemic Emergency Unemployment Compensation (PEUC):**⁵ PEUC provides an additional 13 weeks of UI or PUA benefits, in addition to the regular 26 weeks of benefits.

How do I get PEUC?

If your benefits started on or after June 2, 2019, EDD will automatically file for PEUC for you. EDD has stated that it will begin filing these extensions starting on May 27, 2020. You should receive a notice through the mail about 5-7 days after the PEUC extension has been filed by EDD. You can also check for updates on your UI Online account, if you have one.

If your benefits started before June 2, 2019, EDD is recommending that you file another UI claim through UI Online. EDD will determine if you qualify for a new regular UI claim or the PEUC extension. EDD will begin reviewing these applications in July 2020.

- **You may qualify for Pandemic Unemployment Assistance (PUA):**⁶ PUA is available for claimants who have collected all unemployment benefits for which they were eligible and remain employed or partially unemployed as a result of COVID-19. This means that you were qualified for regular UI but have exhausted those benefits, as well as any extended benefits (such as PEUC). See [Question 5](#) for more on PUA.

⁵ PEUC is provided by the CARES Act, which was signed into law on March 27, 2020.

⁶ PUA is provided by the CARES Act, which was signed into law on March 27, 2020.

16. What if I am required to work but I do not think that it is safe to do so?

➤ **You may qualify for Emergency Paid Sick Leave**

The EPSLA requires employers to pay up to 2 weeks of paid leave if you are caring for someone who is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. You may qualify for Emergency Paid Sick Leave if you are currently working or voluntarily taking leave from work, and, in some areas of the state, only if your employer has less than 500 employees. See the response to [Question 4](#) for more information.

➤ **You may have protections under Labor Code Section 6311.**

Under California Labor Code Section 6311 a worker may refuse to perform unsafe work as long as it is hazardous enough that any reasonable person would think that their health and safety would be in danger. Here are some steps you can take:

- First, offer to do the work only if the employer is willing to make work safe. Under the current circumstances, that may be only to offer to work from home. Alternatively, the employer should provide proper personal protective equipment to make the work safe.
- If the employer refuses, and the worker refuses to do work because they reasonably find it to be unsafe, the worker should offer to do other work that they consider to be safe.

17. My employer is asking me to return to work. How will my Unemployment Insurance Benefits be affected?

➤ If you decide **not** to return to work:

Your UI benefits may be affected if you refuse an offer of “suitable” employment when it is offered to you. However, if an offer to work is not “suitable,” you may have “good cause” not to return to work and would be eligible to continue to receive UI benefits. The EDD will determine whether an offer to return to work is “suitable” in light of factors such as the degree of risk involved to the individual’s health and safety.

An offer to return to work may not be “suitable” if any of these circumstances apply:

- Your employer is not permitted to reopen under the governor’s executive order because it is not an essential service or one of the industries reopening under the state’s reopening plan. More on that plan here: <https://covid19.ca.gov/roadmap/>
- You have a health condition that is “high risk” for COVID-19 and your employer will not allow you to telework. “High risk” conditions are defined by the California Department of Public Health and include individuals over 65, immunocompromised, or have certain serious chronic health conditions (such as heart disease, lung disease, or diabetes);
- Your employer is not complying with all government safety regulations, such as providing protective equipment such as masks and enforcing social distancing recommendations in the workplace.
 - Statewide industry guidance on safety is available here: <https://covid19.ca.gov/industry-guidance/>.
 - Counties are also issuing their own reopening protocols, which are available on the county website, such as Los Angeles County’s website here: <http://www.publichealth.lacounty.gov/media/Coronavirus/>
- If the wages, hours, or working conditions being offered to you are “substantially less favorable” than those prevailing for similar work in the locality. For example, if you are offered a job at \$20 per hour but other jobs in your community doing the same type of work at your skill level are typically paid at \$30 per hour, you may have good cause to refuse the work.

If you are offered work, you must report this work offer to EDD when you certify for your continued UI benefits. This will trigger an eligibility interview by the EDD. During that interview, you will have the opportunity to inform the EDD of the facts surrounding the offer of employment that you turned down.

➤ **If you decide to return to work but then become unemployed again:**

Regular unemployment claims are good for one year. If before that year ends, you stop certifying benefits for two consecutive weeks, but then become partially or fully unemployed again, you must reopen the claim to collect any remaining benefits. However, if your benefit year has ended, you must file a new claim.

For updated information on this issue, see EDD's FAQ:

https://www.edd.ca.gov/about_edd/coronavirus-2019/faqs.htm#UIBenefits

18. Can my employer force me to take Paid Time Off, Vacation Time, or Paid Sick Time?

If a worker is quarantined due to the virus, an employer cannot require that the worker use paid sick leave; that is the worker's choice.

If the worker decides to use paid sick leave, the employer can require they take a minimum of two hour of paid sick leave. The determination of how much paid sick leave will be used is up to the employee.

HOWEVER, employers may require employees to use their vacation or PTO before they are allowed to take unpaid leave.

19. What if I still need to pay my taxes?

Deadline to File: In response to COVID-19, the IRS has moved "Tax Day" (the deadline to file your 2019 taxes) from April 15, 2020 to July 15, 2020.

- If you cannot file by July 15th, request an extension so you do not get a penalty. If the extension is granted, you will likely need to file by October 15, 2020.
- If you OWE any taxes, you still need to pay by July 15, 2020.

Deadline to Pay: The April 15, 2020 deadline to pay any 2019 taxes you may owe with your return has also been extended to July 15, 2020.

- The IRS will begin to assess penalties and interest on taxes you may owe, on July 15, 2020 if they go unpaid.
- **If you are expecting a refund, file your return as soon as possible.**

MORE RESOURCES ON TAX ISSUES:

Bet Tzedek's Low Income Tax Clinic Quick Facts: Available [here](#) in English and Spanish

IRS: <https://www.irs.gov/coronavirus>

California Franchise Tax Board:

<https://www.ftb.ca.gov/file/when-to-file/due-dates-personal.html>

20. Other Resources

GENERAL RESOURCES

Benefits Summary for Workers Impacted by COVID-19:

<https://www.labor.ca.gov/coronavirus2019/#chart>

Legal Aid at Work FAQs about coronavirus: <https://bit.ly/2IJOd5F>

Labor & Workforce Development Agency: <https://www.labor.ca.gov/Coronavirus2019/>

Labor Commissioner: <https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm>

EDD: https://edd.ca.gov/about_edd/coronavirus-2019.htm

Cal-OSHA: <https://www.dir.ca.gov/dosh/coronavirus/>

FOR GIG WORKERS / MISCLASSIFIED WORKERS

[Gig Workers Rising: https://gigworkersrising.org/get-informed/covid19-resources/](https://gigworkersrising.org/get-informed/covid19-resources/)

GENERAL RESOURCES FOR UNDOCUMENTED CALIFORNIANS

Legal Aid at Work:

- Relief Funds: <https://legalaidatwork.org/blog/relief-funds/>
- Employment Rights:
<https://legalaidatwork.org/factsheet/undocumented-workers-employment-rights/>

California COVID-19 Guide for Immigrant Californians:

<https://covid19.ca.gov/guide-immigrant-californians/>

OTHER GENERAL RESOURCES

Western Center on Law and Poverty:

<https://wclp.org/covid-19-coronavirus-information-response-and-considerations/>

21. Appendix 1: Local Paid Sick Leave Laws⁷

Locality	Who is an employer required to provide leave under the ordinance?	Who is an employee entitled to leave?	For what reasons can the employee take leave?	Other notes:
<p>City of Los Angeles</p> <p>Effective April 7, 2020 until end of emergency period (TBD)</p>	<p>Applies to employers with either (i) 500 or more employees within the City of Los Angeles or (ii) 2,000 or more employees within the United States.</p>	<p>Any employee that performs work within the city of L.A.</p> <p>The employee must have been employed with the same employer from February 3, 2020 through March 4, 2020.</p>	<p>All reasons specified under the federal EPSLA (See Question 4)</p> <p>In addition, if an employee has a preexisting condition such as being over 65, asthma, heart disease, diabetes, or weakened immune system.</p>	<p>An employer cannot require a doctor's note to take leave.</p> <p>Some exemptions, such as healthcare providers or emergency responders apply.</p>
<p>County of Los Angeles</p> <p>Effective March 31, 2020 through Dec. 31, 2020, unless extended</p>	<p>Applies to employers with 500 or more employees nationally and not covered by the EPSLA (See Question 4) or governor's Executive Order for food sector workers (See Question 5)</p> <p>Exempts government agencies, emergency responders, and healthcare providers.</p>	<p>Employees that perform work within the unincorporated areas of L.A. County.</p>	<p>All reasons specified under the federal EPSLA (See Question 4)</p> <p>In addition, employees that need to take time off work because a family member's senior care provider is closed or unavailable.</p> <p>Requests for leave must be made in writing.</p>	<p>The ordinance provides a private right of action if covered employers fail to provide leave or retaliates against an employee that has requested leave. Workers that sue in court may obtain attorneys' fees.</p>
<p>San Francisco</p> <p>Effective April 17, 2020, through August 17, 2020, unless reenacted, or the end of the emergency, whichever occurs first.</p>	<p>Applies to employers with 500 or more employees worldwide with respect to their covered San Francisco employees.</p>	<p>Any employee, including a part-time or temporary employee, who performs work within the geographic boundaries of the City of San Francisco.</p>	<p>All reasons specified under the federal EPSLA (See Question 4)</p> <p>It also includes any employee who is a member of a "vulnerable population" including (1) people 60+ years old; (2) people with certain</p>	<p>Employer may limit use by health care providers and emergency responders to inability to work due to (1) self-quarantine advised by a health care provider or (2) experiencing COVID-19 symptoms, seeking a</p>

⁷ Note that these local laws are frequently being amended and revised. In addition, similar ordinances are being considered in many other localities. Check your locality's website for updated information.

			health conditions such as heart disease, lung disease, diabetes, kidney disease, and weakened immune systems; and, (3) people who are pregnant or were pregnant in the last two weeks.	diagnosis, and not meeting CDC guidance criteria to return to work.
<p>Oakland</p> <p>Effective May 12, 2020, through December 31, 2020, unless extended.</p>	<p>Applies to any employer who has an employee who performed at least two hours of work within the geographic city boundaries (including the Port of Oakland) after February 3, 2020.</p> <p>Exempts employers who had fewer than 50 employees between February 3 and March 4, 2020, unless they are unregistered janitorial employers or franchisees associated with a franchisor or network of franchises where that franchisor or network employs more than 500 employees.</p>	<p>Any employee who performed at least two hours of work within the geographic city boundaries (including the Port of Oakland) after February 3, 2020.</p>	<p>All reasons specified under the federal EPSLA (See Question 4)</p> <p>In addition, if an employee has a preexisting condition such as being over 65, asthma, heart disease, diabetes, kidney disease, weakened immune system, or any other health condition identified by public health officials or certified by a healthcare professional as putting the individual at increased risk if exposed to COVID-19.</p>	<p>An employer may not require a doctor's note, other than to verify that the employee is at a heightened risk if exposed to COVID-19.</p> <p>Employers cannot require an employee to use leave in more than one-hour increments. Leave may also be used intermittently.</p> <p>Some exemptions, such as healthcare providers or emergency responders and employers who, after Feb. 3, 2020, are providing at least 80 hours of paid personal leave, apply.</p>
<p>San Jose</p> <p>Effective April 8, 2020, through December 31, 2020</p>	<p>Applies to all employers with over 500 employees and under 50 employees.</p> <p>Employers must have a facility in the city or be subject to the city's business license tax.</p>	<p>Any employee who has worked at least 2 hours within the city's geographic boundaries.</p> <p>The employee must need to leave home to provide work for the employer.</p>	<p>All reasons specified under the federal EPSLA (See Question 4)</p>	<p>Employers that already provide equivalent leave are exempt.</p>