

COVID-19

Federal Changes Under the Families First Coronavirus Response Act Michigan Unemployment Changes

	Federal Emergency Paid Sick Leave Act	Federal Emergency FMLA Expansion Act	Michigan Unemployment Insurance
When is the law effective?	The Emergency Paid Sick Leave Act is effective April 2, 2020 and expires December 31, 2020 (unless extended). Additional regulatory guidance will be provided by April 2, 2020.	The Emergency Family and Medical Leave Expansion Act is effective April 2, 2020 and expires December 31, 2020 (unless extended). Additional regulatory guidance will be provided by April 2, 2020.	Michigan's unemployment insurance program has been in effect for many years, but was expanded by executive order of the governor on March 16, 2020 in response to the COVID-19 outbreak.
Which employers are subject?	Employers with fewer than 500 employees are subject. Certain health care providers and emergency responders are exempt. Small businesses with fewer than 50 employees may claim a hardship exemption if compliance would jeopardize the viability of the business as a going concern.	Employers with fewer than 500 employees are subject. Certain health care providers and emergency responders are exempt. Small businesses with fewer than 50 employees may claim a hardship exemption if compliance would jeopardize the viability of the business as a going concern.	With some narrow exceptions, all Michigan employers participate in the Michigan unemployment insurance program.
Which workers are eligible?	<p>Employees are immediately eligible, regardless of how long they have been employed by an employer, if they are unable to work or telework due to a need for leave for one of the following reasons:</p> <ol style="list-style-type: none"> 1. The employee is subject to a federal, state, or local COVID-19 quarantine or isolation order. 2. A health care provider has advised the employee to self-quarantine due to COVID-19 concerns. 3. The employee has COVID-19 symptoms and is seeking a medical diagnosis. 4. The employee is caring for another individual under COVID-19 quarantine. 5. The employee is caring for their child if their child's school or place of care has been closed, or the child-care provider is unavailable, due to COVID-19. 6. Some other substantially similar condition specified by the Secretary of HHS in consultation with the Labor and Treasury Secretaries. 	<p>Employees who have been employed by their employer for at least 30 calendar days are eligible if the employee is unable to work or telework due to a need for leave to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the compensated child care provider for such son or daughter is unavailable, due to a federal, state, or local declaration of a COVID-19 public health emergency.</p>	<p>Normally, workers who experience a separation from service are eligible if they lost their job through no fault of their own or, due to a lack of work, had their working hours shortened or were asked to leave by their employer. Workers are not eligible if they lose their jobs for reasons such as misconduct, drug abuse, or criminal activity.</p> <p>In Michigan Executive Order 2020-10, Governor Whitmer temporarily expanded eligibility to include</p> <ol style="list-style-type: none"> 1. Workers who have an unanticipated family care responsibility, including those who have childcare responsibilities due to school closures and those who are forced to care for loved ones who become ill. 2. Workers who are sick, quarantined, or immunocompromised and who do not have access to paid family and medical leave or are laid off. 3. First responders in the public health community who become ill or are quarantined due to COVID-19 exposure.

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What notification must workers give to begin receiving benefits?	Employees are immediately eligible. After the first day of paid sick time, an employer may require employees to follow reasonable notice procedures in order to continue receiving paid sick time under this act.	Whenever leave under this act is foreseeable, employees must provide their employer with such notice of leave as is practicable.	Workers must file with the state unemployment agency within 28 days of separation (previously 14 days). Normal in-person registration and work search requirements have been suspended.
How long can workers receive benefits?	Full-time employees are entitled to 80 hours of paid sick time. Part-time employees are entitled to a pro-rated number of hours based on the number of hours that they work on average during a two-week period.	The first ten days of leave are unpaid, though employees may choose to substitute any accrued vacation, personal, or medical or sick leave for unpaid leave. Once employees have taken ten days of unpaid leave, they qualify for up to ten weeks of paid leave.	Workers can receive unemployment benefits for up to 26 weeks. Do employers need to give 1-week notice?
How are benefits calculated?	<p>For employees qualifying for reasons 1, 2, or 3 above, paid sick time is calculated based on</p> <ul style="list-style-type: none"> the number of hours the employee would otherwise be normally scheduled to work and the greatest of <ul style="list-style-type: none"> the employee's regular rate of pay. the federal minimum wage. the state or local minimum wage, as applicable. <p>For these employees, the maximum amount of paid sick time allowed under this act is \$511 per day and \$5,110 per employee.</p> <p>Employees qualifying for reasons 4, 5, or 6 above are compensated at two-thirds of the amount calculated for employees qualifying for reasons 1, 2, or 3. For these employees, the maximum amount of paid sick time allowed under this act is \$200 per day and \$2,000 per employee.</p>	<p>Paid leave is calculated based on</p> <ul style="list-style-type: none"> an amount not less than two-thirds of an employee's regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work. <p>For employees with variable schedules, paid leave can be calculated using the average number of hours the employee was scheduled to work over past six months, including any other leave time taken.</p> <p>If the employee has been employed for less than six months, paid leave is calculated based on "the reasonable expectation of the <u>employee</u> at the time of hiring" of the average number of hours per day the employee would normally be scheduled to work.</p> <p>The maximum amount of paid leave allowed under this act is \$200 per day and \$10,000 per employee.</p>	<p>Unemployment benefits are roughly equivalent to 4.1% of the employee's recent quarterly earnings, with some modification.</p> <p>Under current law, the maximum benefit for any worker is \$362 per week.</p>

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Who provides benefits to workers?	Employers pay employees for sick time required under this act.	Employers pay employees for leave under this act.	The Michigan unemployment agency pays eligible out-of-work workers. Employers fund the state unemployment insurance agency through quarterly tax payments.
What tax breaks are available to employers for providing these benefits?	<p>Employers may claim a refundable payroll tax credit equal to 100% of qualifying paid sick time, up to \$511 per day (\$5,110 maximum per employee) for leave taken for reasons 1, 2 or 3 above and up to \$200 per day (\$2,000 maximum) for leave taken for reasons 4, 5, or 6 above. The tax credit will be administered by the IRS and be creditable against the employer's portion of Social Security taxes, with any excess refunded to the employer.</p> <p>The credit is available for certain health plan expenses related to paid sick leave and for multiemployer arrangements under collective bargaining agreements.</p> <p>The Secretary of the Treasury has commented publicly that support will be available to employers with cash flow problems so that employers can meet their obligations.</p>	<p>Employers may claim a refundable payroll tax credit equal to 100% of qualifying paid leave, up to \$200 per day (\$10,000 maximum per employee). The tax credit will be administered by the IRS and be creditable against the employer's portion of Social Security taxes, with any excess refunded to the employer.</p> <p>The credit is available for certain health plan expenses related to paid sick leave and for multiemployer arrangements under collective bargaining agreements.</p> <p>The Secretary of the Treasury has commented publicly that support will be available to employers with cash flow problems so that employers can meet their obligations.</p>	State unemployment taxes paid can reduce an employer's federal unemployment tax liability. Unemployment tax payments are also deductible for income tax purposes.
Can self-employed individuals receive a tax credit also?	Yes. Self-employed individuals may qualify for a refundable credit against self-employment tax for qualified sick leave from regular self-employment.	Yes. Self-employed individuals may qualify for a refundable credit against self-employment tax for qualified leave from regular self-employment.	N/A

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What other provisions and rules apply for the new federal acts?	<p>Employers cannot require an employee to search for or find a replacement employee to cover the hours during which the employee is using paid sick time.</p> <p>Employers cannot require an employee to use other paid leave before the employee uses the paid sick time provided under this act.</p> <p>Employers cannot retaliate or discriminate against an employee who takes paid sick time provided under this act.</p> <p>Paid sick time under this act must be available for immediate use but does not carry over from year to year.</p> <p>Paid sick time under this act is a separate and additional grant of sick leave over and above an employer's existing sick leave policy.</p> <p>The act contains provisions denying "double benefits" for either employers or employees when paid sick time is taken.</p>	<p>As with regular FMLA leave, employees who take leave under these expanded FMLA provisions must be restored to the same position they held when leave commenced, or equivalent position.</p> <p>This requirement does not apply to employers with fewer than 25 employees if</p> <ul style="list-style-type: none"> • the employee takes leave under the Emergency FMLA Expansion Act, • the position held by the employee when the leave commenced no longer exist due to economic conditions or other operating conditions of the employer caused by a public health emergency during the period of leave, • the employer makes reasonable efforts to restore the employee to an equivalent position, and • if such reasonable efforts fail, the employer makes reasonable efforts to contact the employee if an equivalent position becomes available during a one-year "contact period" beginning on the earlier of <ul style="list-style-type: none"> • the date on which the qualifying need related to a public health emergency concludes, or • the date that is 12 weeks after the date on which the employee's leave under the Emergency FMLA Expansion Act commenced. <p>The act contains provisions denying "double benefits" for either employers or employees when this paid leave is taken.</p>	N/A