



NEW JERSEY PAID FAMILY & MEDICAL LEAVE DURING COVID-19:



WHAT EMPLOYERS NEED TO KNOW

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NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The New Jersey Department of Labor & Workforce Development is dedicated to protecting our workforce, strengthening our businesses and promoting the dignity of work.





NOW MORE THAN EVER, EMPLOYEES NEED TIME TO GIVE AND RECEIVE CARE.

The U.S. is the only advanced economy without a national paid family leave policy – NJ is one of the few states that has one!

NJ Paid Family & Medical Leave benefits can cover:

- **Illness (physical or mental) or injury**
- **Pregnancy and childbirth**
- **Bonding with a new child**
- **Caring for a loved one**
- **Coping with domestic or sexual violence**

NJ PAID FAMILY & MEDICAL LEAVE IS MADE UP OF:

- **NJ TEMPORARY DISABILITY INSURANCE (TDI)**
- **NJ FAMILY LEAVE INSURANCE (FLI)**

These programs are different from the federal Family and Medical Leave Act (FMLA), which offers unpaid, job-protected leave for specified family and medical conditions. We'll explain how this law, and other forms of job-protected leave, relate to our benefit programs.

HOW CAN THESE PROGRAMS HELP YOUR BUSINESS?

NJ Paid Family & Medical Leave:

- Supports employee health
- Boosts employee morale and job satisfaction
- Helps with employee retention which reduces turnover costs
- Increases labor force participation, especially for women
- Allows small businesses that cannot afford private plans to compete with larger organizations

WHICH EMPLOYERS ARE COVERED FOR **TEMPORARY DISABILITY** AND **FAMILY LEAVE INSURANCE**?

Employers must participate in the State's public insurance programs and deduct payroll taxes for employees working in NJ or provide employees coverage through a private insurance plan that meets State requirements.

- Only the federal government is exempt
- Temporary Disability is optional for local government and municipalities (i.e. school districts)
- Employees working outside of New Jersey are not covered

For more information on private insurance plans, see:
myleavebenefits.nj.gov/privateplan

WHICH EMPLOYEES ARE ELIGIBLE?

For your employee's claim to be approved they must:

- Work for a covered employer
- Have worked 20 weeks earning at least \$220 weekly or have earned a combined total of \$11,000 in the base year
 - ▶ The standard base year refers to the first four of the last five completed calendar quarters before the worker's claim begins.

WHAT BENEFITS CAN EMPLOYEES RECEIVE?

- Benefits are 85% of an employee's average weekly wage with a maximum of \$903 per week
- **For Temporary Disability Insurance:** up to 26 weeks of benefits, as certified by a medical professional
- **For Family Leave Insurance:** up to 12 weeks of benefits if taken consecutively, 56 days of benefits if taken intermittently

HOW ARE THE PROGRAMS FUNDED?

Both New Jersey workers and employers contribute to the cost of the Temporary Disability Insurance program. Workers contribute through deductions taken out of their paychecks.

- The contribution rate for employers varies from 0.10% to 0.75% on the first \$36,200 earned by each employee.

The Family Leave Insurance program is financed 100% by worker payroll deductions. Employers do not contribute to the program.

THE EMPLOYER ROLE

- The employer's role in the application process has changed: no longer an "employer portion"
- Must display **TDI** and **FLI** posters in a workplace location clearly visible to employees
- Provide written notice of TDI and FLI when an employee is hired, requests information, or notifies an employer of their need for leave
- Report employee's quarterly earnings to the state
- We advise that you keep track of notifications that an employee is receiving benefits, and check for accuracy
 - ▶ If you notice any discrepancies or incorrect payments, please report them to the division in a timely manner - contact our **customer service center** at **(609) 292-7060** or submit corrected statements via fax to **(609) 984-4138**.

HOW EMPLOYERS CAN HELP EMPLOYEES UTILIZE THEIR BENEFITS

- Keep them informed – use our employer toolkit and share our resources:
myleavebenefits.nj.gov/employerkit
- We encourage you to assist employees with their application, but it is their responsibility to submit a complete application
- Direct them to myleavebenefits.nj.gov to file their claim

FORMS REQUESTED

- If we do not get all requested information from the employee, you may be required to supply some information.

These items include:



E10 Request for Information: Last physical date of work, wages, or payments to employee during disability or family leave period



E20 Request for Additional Wage Information: Employee's quarterly wages to establish valid claim

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- Failure to complete these documents may result in denial of benefits for the employee and a monetary penalty for you

PAID-TIME OFF PRIOR TO DISABILITY AND FAMILY LEAVE

- Employers are not prohibited from requiring employees to use accrued paid time off before claiming Temporary Disability Insurance benefits. However, employers may not require employees to use leave mandated under the **NJ Earned Sick Leave** law.
- The State of NJ may only require state employees to use up to two weeks of accrued sick time before receiving Temporary Disability Insurance benefits, although the State of NJ may not require state employees to use their last week of sick time before receiving Temporary Disability Insurance benefits.
- Employees may choose to use accrued paid time off before claiming Family Leave benefits, although employers cannot require it. If an employee chooses to use paid time off before claiming Family Leave Insurance benefits, it will not reduce the maximum duration of benefits to which the employee is entitled.

FAMILY LEAVE FOR PART-TIME EMPLOYEES

- **Employees with multiple jobs may collect Family Leave benefits if they only take leave from one employer, provided that they do not exceed their usual work schedule in their other job.**
- **The employee's weekly benefit rate will be based only on wages from the employment from which they are taking leave. (As of July 1, 2020)**

EXPERIENCE RATING: IS OUR COMPANY/ ORGANIZATION CHARGEABLE?

- For Temporary Disability Insurance claims, benefits are charged against the experience rating account of the last employer the applicant worked for prior to the start of their claim. The law provides no alternate criteria for liability such as length of employment, if work was considered full- or part-time employment, amount of earnings, or circumstances surrounding separation with the last employer.
- For Family Leave Insurance claims, there is no charge against the employer's experience rating

HOW DO I FILE AN APPEAL?

- An employee or employer who disagrees with a determination can file an appeal
 - It must be in writing and received within 10 days of the mailing date of the determination
 - See our employer information at myleavebenefits.nj.gov for the online form
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COVID-19 QUALIFYING REASONS FOR NJ PAID FAMILY & MEDICAL LEAVE

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Let's review the COVID-19 scenarios for which an employee may receive Temporary Disability or Family Leave benefits

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QUARANTINE OR RECOVERY FROM COVID-19: TEMPORARY DISABILITY INSURANCE



- If an employee cannot work due to a health condition, including COVID-19, or if a healthcare provider certifies they are unable to work because they are high risk for COVID-19 due to an underlying health condition
 - ▶ TDI also covers other physical and mental illnesses or injuries
- May receive up to 26 weeks of benefits, as certified by a medical professional
- With employer approval, employees who have been unable to work due to a disability can transition back into the workplace on a partial schedule and still receive partial Temporary Disability Insurance benefits (as of June 2020)

CARING FOR A LOVED ONE: FAMILY LEAVE INSURANCE

- If an employee cannot work because they must care for a loved one with COVID-19
 - ▶ Includes other physical and mental illnesses or injuries
- If an employee cannot work because they must provide required care or treatment for a child with an illness, injury, or underlying health condition that prevents them from returning to school in person
- If an employee cannot work because they must provide required care or treatment for a child with a diagnosed mental health condition, including ADHD, who is participating in remote learning
- Also covers care for a loved one coping with domestic or sexual violence
- A medical provider must certify the need for care

CARING FOR A LOVED ONE: FAMILY LEAVE INSURANCE (continued)

Who is considered a “Family Member” in the law?

- Child (biological, adopted, foster, stepchild)
- Spouse (includes domestic partner and civil union partner)
- Parents
- Siblings
- Grandparents
- Grandchildren
- In-laws
- Any blood-relation to the claimant
- Any other individual with a close association equivalent of a family relationship

Claims may be filed for

- 12 consecutive weeks
- Up to 56 intermittent days

BENEFITS FOR NEW PARENTS: TEMPORARY DISABILITY AND FAMILY LEAVE INSURANCE



- For pregnancy and childbirth recovery, a birthing parent can typically receive 4 weeks of benefits prior to the delivery date and 6-8 weeks for recovery (with complications, a doctor may certify more benefits)
- Then, the birthing parent can receive Family Leave benefits to bond with their new child, within a year of the birth; up to 12 consecutive weeks or 56 intermittent days
- Typical benefits for a birthing parent without complications:
 - ▶ 4 weeks for pregnancy + 6 weeks for recovery + 12 weeks for bonding = 22 weeks total

BONDING WITH A NEW CHILD: FAMILY LEAVE INSURANCE



- **Both parents can receive Family Leave benefits to bond with a child within a year of the child's birth, adoption, or foster placement**
 - ▶ **Up to 12 consecutive weeks**
 - ▶ **Up to 56 intermittent days**

COPING WITH DOMESTIC OR SEXUAL VIOLENCE: FAMILY LEAVE OR TEMPORARY DISABILITY INSURANCE

- An employee can apply for Family Leave benefits to cope with domestic or sexual violence
- Coping with domestic or sexual violence includes many things, such as:
 - ▶ Seeking medical attention, therapy, victim advocacy, or legal services
 - ▶ Safety planning or escaping abuse, such as staying in a domestic violence shelter
 - ▶ Attending or preparing for court
 - ▶ Recovering at home

Can receive Family Leave benefits for

- 12 consecutive weeks
- Up to 56 intermittent days
- An employee could receive Temporary Disability benefits for a medical condition resulting from domestic or sexual violence for up to 26 weeks, as certified by a medical provider

JOB PROTECTION

Temporary Disability and Family Leave Insurance are partial wage replacement programs and they do not provide job protection. However, an employee's job may be protected under the following laws:

COVID-19 Related Job Protection

- **COVID-19 Related Job Protection: all employers during the Public Health Emergency**
- **Federal Family & Medical Leave Act (FMLA): 50+ employees**
- **New Jersey Family Leave Act: 30+ employees**
- **NJ SAFE Act: 20+ employees**

Learn more at myleavebenefits.nj.gov/jobprotection

PAID AND JOB-PROTECTED LEAVE DURING PREGNANCY AND RECOVERY



During Pregnancy & Recovery

How to Receive Benefits

Temporary Disability Insurance

Apply at:
[myleavebenefits.nj.gov/
maternity](https://myleavebenefits.nj.gov/maternity)



While Bonding With Baby

How to Receive Benefits

Family Leave Insurance

Apply at:
[myleavebenefits.nj.gov/
maternity](https://myleavebenefits.nj.gov/maternity)

New parents can transition directly to bonding benefits

PAID AND JOB-PROTECTED LEAVE DURING PREGNANCY AND RECOVERY



During Pregnancy & Recovery

Job Protection

Federal Family and Medical Leave Act (FMLA)

Enforced by US Department of Labor

[Dol.gov/agencies/whd/fmla](https://www.dol.gov/agencies/whd/fmla)



While Bonding With Baby

Job Protection

NJ Family Leave Act (NJFLA)

Enforced by NJ Division on Civil Rights

www.njcivilrights.gov

Employees can take up to 12 weeks of FMLA for pregnancy/recovery and/or a serious health condition related to pregnancy + up to 12 weeks of NJFLA for bonding = up to 24 weeks of job protection

RETALIATION

- It is unlawful for an employer to retaliate against an employee for taking or seeking to take their Temporary Disability or Family Leave benefits. If retaliation occurs, an employee has the right to take private legal action.

Retaliation includes, but is not limited to:

- Firing an employee
- Reducing their salary
- Increasing oversight on their job duties
- Changing their workplace responsibilities
- Excluding them from meetings

Learn more at myleavebenefits.nj.gov/jobprotection

CONTACT US

Need Help With Your Claim?

Customer Service: 609-292-7060

Website: myLeaveBenefits.nj.gov

Mailing Address:

**New Jersey Department of Labor &
Workforce Development**

**Division of Temporary Disability Insurance
P.O. Box 387 | Trenton, NJ 08625-0387**

Fax Number: 609-984-4138

Debit Card Help: 1-866-213-4074

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**THANK
YOU**
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Please see our employer toolkit for resources, including printable handouts, our podcast, and more:

myleavebenefits.nj.gov/employerkit

EARNED SICK LEAVE IS THE LAW IN NEW JERSEY

For short term leave, employees may be eligible for NJ Earned Sick Leave.

Employers of all sizes must provide full-time, part-time, and temporary employees with up to 40 hours of earned sick leave per year so they can care for themselves or a loved one, and many COVID-19 situations are covered.

NJ EARNED SICK LEAVE (continued)

Permitted uses include to:

- **Get tested for COVID-19 or quarantine based on the advice of a health care provider or public health authority**
- **Get the COVID-19 vaccine and recover from side effects**
- **Care for children when school or child care is closed due to an epidemic or public health emergency (including mandatory remote learning)**
- **Care for one's own, or a loved one's, physical or mental health or injury, including COVID-19**
- **Address domestic or sexual violence against oneself or a loved one**
- **Attend a child's school-related meeting, conference, or event**

NJ EARNED SICK LEAVE (continued)

- Employees accrue 1 hour of earned sick leave for every 30 hours worked, up to a maximum of 40 hours of leave per benefit year.
- Employers may choose to advance employees with earned sick leave on the first day of the benefit year, for use throughout the benefit year.
- An employee may carry over up to 40 hours of unused earned sick leave, or an employer may choose to pay an employee for unused earned sick leave at the end of the benefit year.
- Can only require documentation if leave is taken 3+ days in a row.
- If the need for leave is foreseeable, can require advance notice. But if the need is unforeseeable, can only require your employee to provide notice as soon as is practical.

Learn more at mysickdays.nj.gov

NJ EARNED SICK LEAVE (continued)

Some permitted uses of NJ Earned Sick Leave overlap with Temporary Disability and Family Leave Insurance.

- **Can use either earned sick leave or Temporary Disability Insurance for your own medical condition**
- **Can use either earned sick leave or Family Leave Insurance to care for a loved one**

KEY DIFFERENCES BETWEEN NJ EARNED SICK LEAVE AND NJ PAID FAMILY AND MEDICAL LEAVE:

- How benefits are paid
 - ▶ **Earned sick leave:** Employer pays
 - ▶ **TDI/FLI:** State pays
- Benefit amount
 - ▶ **Earned sick leave:** Normal rate of pay
 - ▶ **TDI/FLI:** 85% of average weekly wage, up to \$903 per week
- Documentation requirements
 - ▶ **Earned sick leave:** Employer can require documentation if leave is taken 3+ days in a row
 - ▶ **TDI/FLI:** State will request documentation

CONTACT US

Phone: 609-292-2305

Website: wagehour.dol.state.nj.us

Mailing Address:

**New Jersey Division of Wage
& Hour Compliance**

P.O. Box 389 | Trenton, NJ 08625-0389

Fax Number: 609-695-1174



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**THANK
YOU**
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Please see our webpage for more information, including
printable handouts:

mysickdays.nj.gov



QUESTIONS?

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