

COVID-19 RISK MANAGEMENT MANUAL

Revised: April 3, 2020

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AMERICANS WITH DISABILITIES ACT (ADA) & COVID-19 FAQs

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Medical inquiries, taking temperatures, stay at home requirement, requiring a doctor's note, screening for COVID-19, withdrawing job offers and much more.

Source:

https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY ACT (CARES)

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The CARES Act provides up to eighty (80) hours paid sick leave or childcare leave for workers, employers receive 100% reimbursement for paid leave, reimbursement will be quick and easy to obtain, employers with fewer than 50 employees are exempt from the requirements to provide paid leave and requirements subject to 30-day non-enforcement period for good faith compliance efforts.

CHILD CARE TAX CREDIT

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In addition to the sick leave credit, for an employee who is unable to work because of a need to care for a child whose school or childcare facility is closed or whose childcare provider is unavailable due to the Coronavirus, eligible employers may receive a refundable childcare leave credit. This credit is equal to **two-thirds of the employee's regular pay, capped at \$200 per day or \$10,000 in the aggregate**. Up to 10 weeks of qualifying leave can be counted towards the childcare leave credit. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

Source: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

CONTAGIOUS DISEASES/INFECTION POLICY

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The Company reserves the right to make inquiries and prohibit an employee from working if the Company becomes aware an employee may have a contagious disease or illness that could create a direct threat to the safety or health of the employee or others. All inquiries are confidential. The Company may require an employee to present a doctor's note or undergo a medical exam before returning to work.

EMPLOYER PAID SICK LEAVE TAX CREDIT

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For an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days. For an employee who is caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.

Source: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

Private sector employers that provide paid sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits.

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

EMPLOYER TAX CREDITS

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Employers receive 100% reimbursement for paid leave pursuant to the Act: (1) Health insurance costs are also included in the credit; (2) Employers face no payroll tax liability; (3) Self-employed individuals receive an equivalent credit.

Small and midsize employers can begin taking advantage of two new refundable payroll tax credits, designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing Coronavirus-related leave to their employees; Eligible employers will be able to claim these credits based on qualifying leave they provide between the effective date and December 31, 2020.

Source: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

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What You Should Know About the ADA, the Rehabilitation Act, and COVID-19

Source:

https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

Pandemic Preparedness in The Workplace and The Americans With Disabilities Act

Source:

https://www.eeoc.gov/facts/pandemic_flu.html?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=

FAMILY AND MEDICAL LEAVE ACT & COVID-19

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The FMLA typically applies to employers who employ **50 or more employees** for at least 20 workweeks in the current or preceding.

Eligible employees are provided **unpaid** leave for specified family and medical reasons, which may include the flu where complications arise and continued group health insurance coverage under the same terms as existed before they took FMLA leave.

Source & Details: <https://www.dol.gov/agencies/whd/fmla/pandemic>

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

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The FFCRA includes the:

- **Emergency Family & Medical Leave Expansion Act (EFMLEA)** which provides up to 12 weeks of leave (unpaid for the first 10 days and paid for the remaining 10 weeks) to employees who are prevented from working (or teleworking) due to caring for a son or daughter whose school or daycare has been closed or is unavailable because of the coronavirus.
- **Emergency Paid Sick Leave Act (EPSLA)** provides eligible employees two weeks (up to 80 hours) of paid sick leave at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms and seeking a medical diagnosis and provides eligible employees two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine, or to care for a child (under 18 years of age), whose school or child care provider is closed or unavailable for reasons related to COVID-19.
- **Emergency Unemployment Insurance Stabilization & Access Act (EUISA)** which expands unemployment benefits, provides grants to states for processing and paying claims, allows states to temporarily modify their unemployment compensation laws and policies to respond to the spread of COVID-19, waives interest on state loans for unemployment compensation programs through December 31, 2020, requires Labor to provide technical assistance and guidance to state for short-term UC programs and temporarily provides full federal financing of extended unemployment compensation benefits, rather than requiring 50% state financing.
- **Tax Credits for Paid Sick and Paid Family & Medical Leave** provides eligible employers to claim the refundable tax credits to cover certain costs of providing employees with required paid sick leave (including costs of qualified health plans for employees) and expanded family and medical leave for reasons related to COVID-19.



HEALTH INSURANCE

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If your employer provides group health coverage that you've elected, you are entitled to continued group health coverage during your expanded family and medical leave on the same terms as if you continued to work. If you are enrolled in family coverage, your employer must maintain coverage during your expanded family and medical leave. You generally must continue to make any normal contributions to the cost of your health coverage. ([#30](#))

NOTE: Employers with 50 or fewer employees can be eligible for exemptions for paid childcare related sick leave and expanded family & medical leave. ([#30](#))

Pennsylvania Insurance Coverage and COVID-19 – Frequently Asked Questions

Source: <https://www.health.pa.gov/topics/disease/Pages/Coronavirus-Insurance.aspx>

NON-ENFORCEMENT PERIOD

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The Department of Labor will be issuing a temporary non-enforcement policy that provides a period of time for employers to come into compliance with the Act. Under this policy, Labor will not bring an enforcement action against any employer for violations of the Act so long as the employer has acted reasonably and in good faith to comply with the Act. Labor will instead focus on compliance assistance during the 30-day period.

Source: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>

OSHA - 300/300A RECORDKEEPING

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Employers are only responsible for recording cases of COVID-19 if all of the following are met: (1) The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19); (2) The case is work-related, as defined by 29 CFR 1904.5; and (3) the case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g. medical treatment beyond first-aid, days away from work).

Source: <https://www.osha.gov/SLTC/covid-19/standards.html>

https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html?deliveryName=USCDC_2067-DM24835

OVERVIEW – EMPLOYEE & EMPLOYER PAID LEAVE

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Employee Fast Fact FAQs:

- Employees can NOT collect unemployment compensation while receiving pay for paid sick leave or expanded family and medical leave ([#29](#))
- Employees who are **working but with reduced hours**
 - are typically eligible for Unemployment Compensation
 - are NOT eligible for paid sick leave or expanded family and medical leave ([#28](#))
- Employees who are **not working for NON-COVID-19 reasons:**
 - are NOT eligible for paid sick leave or expanded family & medical leave IF the employer: was CLOSED before, on or after April 1 ([#23](#))([#24](#)); was OPEN but furloughs employees on or after April 1 ([#26](#))([#27](#))
- Employees who are **not working for COVID-19 reasons:**
 - are eligible for no more than a total of 80 hours of paid sick leave ([#9](#))
 - are eligible for up to 12 weeks of leave for paid sick leave and expanded family and medical leave ([#10](#))
 - are only eligible for paid FMLA leave when the leave exceeds 10 days ([#12](#))

Employer Fast Fact FAQs:

- Employers with 50 or fewer employee can be eligible for exemptions for paid childcare related sick leave and expanded family & medical leave ([#4](#))([#58](#))([#59](#))
- Employers must keep documentation for paid sick leave and expanded
- Employers may NOT use the paid sick leave mandated under the Emergency Paid Sick Leave Act to satisfy paid leave entitlements that an employee may have under the employer's paid leave policy ([#32](#))
- Employers CAN require employees to take paid leave they may have under the employer's existing paid leave policy CONCURRENTLY with expanded family and medical leave under the EFMLEA ([#33](#))
- Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal, State, or local law ([#46](#))

PAID SICK LEAVE & EXPANDED FAMILY AND MEDICAL LEAVE

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The Families First Coronavirus Response Act (FFCRA) requires employers with fewer than 500 employees to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

Paid sick leave applies to employees who are unable to work COVID-19 related reasons.

Paid expanded family & medical leave applies to employees caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19.

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

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

Paid Sick Leave and Expanded Family & Medical Leave Questions & Answers: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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

PAYROLL TAX RELIEF

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Businesses can retain and access funds that they would otherwise pay to the IRS in payroll taxes. If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS by submitting a streamlined claim form that will be released next week.

Source: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>.

PENNSYLVANIA – BUSINESSES THAT MAY OR MAY NOT CONTINUE PHYSICAL OPERATIONS

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The list of types of companies that can (or cannot) continue operations is based on SIC/NAICs codes. The following URL will help determine your code:

https://www.naics.com/hrf_faq/how-can-i-determine-the-correct-sic-code-for-my-business/

Source: <https://www.pa.gov/guides/responding-to-covid-19/#ForBusinesses>

PENNSYLVANIA - CERTIFIED WORKPLACE SAFETY COMMITTEES

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The Bureau of Workers' Compensation commends all employers for making the safety of their employees a priority – especially when dealing with COVID-19. The Bureau recognizes what an asset a safety committee can be during a crisis. However, we will not view the lack of in-person safety committee meetings as an issue of non-compliance. When evaluating compliance with the regulations, the safety committee process is evaluated for a three-year period. The inability to hold meetings during this defined crisis period will not impact that evaluation. In addition, we do not intend to require employers focused on getting operational again to double-up on safety committee meetings.

PENNSYLVANIA - CHANGING RATES OF PAY

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A Pennsylvania employer can change an employee's rate of pay as long as the employee is given prior notice of the change the payday before the time the change takes effect and the rate of pay does not fall below the minimum wage. For example, if your normal payday (the day you are paid your wages) is on the 15th of the month, your employer could give you written notice of a change in your rate of pay any day before the 15th. All work done by you for this employer after the 15th would then be at the new rate.

Source: <https://www.dli.pa.gov/Individuals/Labor-Management-Relations/llc/Pages/Wage-FAQs.aspx>



PENNSYLVANIA – SCHOOL CLOSINGS (3/30/2020)

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The Pennsylvania Department of Education announced all schools in the commonwealth will stay closed until further notice in an effort to mitigate the spread of COVID-19.

Source: <https://www.governor.pa.gov/newsroom/gov-wolf-and-sec-of-health-expand-stay-at-home-order-to-carbon-cumberland-dauphin-and-schuylkill-counties-extend-school-closures-indefinitely/>

PENNSYLVANIA – STAY AT HOME ORDER (4/1/2020)

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All 67 Pennsylvania counties are now under a Stay at Home order **through April 30**. All individuals in counties subject to this policy must STAY AT HOME except for certain essential activities and work to provide life-sustaining business and government services. **Life-sustaining business activities are exempt from this policy.**

PENNSYLVANIA - UNEMPLOYMENT COMPENSATION & COVID-19

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Unemployment Compensation (UC) is a form of income support against job loss. It provides an income to individuals who become unemployed through no fault of their own. Where a claimant works less than his full-time hours through no fault of his own, the claimant may be potentially eligible to receive full or partial benefits, depending on his gross earnings and Partial Benefit Credit (PBC). UC benefits are not taxable by the Commonwealth of Pennsylvania and local governments. Employees affected by a business closure, reduction in hours, or a medically or government directed quarantine or isolation should be encouraged to file for unemployment compensation (UC) benefits if no other compensation, such as paid leave, is available to them.

The **Waiting Week is suspended**. Previously, claimants were not eligible for benefits during their first week of unemployment (the "waiting week.") This has been suspended; eligible claimants may receive benefits for the first week that they are unemployed. **Work Search and Work Registration requirements are temporarily waived** for all UC claimants. Claimants are not required to prove they have applied or searched for a new job to maintain their UC benefits. Claimants are also not required to register with www.PACareerLink.pa.gov. At this time, **benefits are not being extended beyond 26 weeks.**

You **may** be eligible if: (1) Your employer temporarily closes or goes out of business because of COVID-19; (2) Your employer reduces your hours because of COVID-19; (3) You have been told not to work because your employer feels you might get or spread COVID-19; (4) You have been told to quarantine or self-isolate, or live/work in a county under government-recommended mitigation efforts

Employees cannot receive both UC benefits and paid leave as it may result in an "overpayment" that requires them to return benefits. Payment for UC benefits **may take two to four weeks to receive and may replace only 50 to 70% of typical pay.**

Businesses who are temporarily closed due to COVID-19 will be granted Relief From Charges, and your [tax rate will not be increased because of COVID-19 related claims.](#)

Businesses telling employees to stay home because they are at risk of spreading or at risk of contracting COVID-19 [should \[not required\] first use paid sick leave or paid time off](#) and they [may be eligible for new paid sick leave and expanded Family and Medical Leave \(FMLA\)](#) as provided by the federal Families First Coronavirus Response Act which is administered by the US Department of Labor.

PENNSYLVANIA – WAIVER REQUESTS TO KEEP PHYSICAL LOCATIONS OPEN

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To request a waiver to keep your location open, please submit this form. All decisions will be communicated by email and will balance public health, safety, and the security of our industry supply chains supporting life-sustaining businesses. **This process will close on Friday, April 3, 2020 at 5:00 PM.**

Before requesting a waiver, please read the [Frequently Asked Questions](#) document available here.

Waiver requests are submitted at the [Department of Community and Economic Development](#) website.

Sources: <https://expressforms.pa.gov/apps/pa/DCED/Waiver-process-keeping-physical-locations-open>; <https://www.scribd.com/document/452553495/UPDATED-7-30pm-March-31-2020-Life-Sustaining-Business-FAQs>

PENNSYLVANIA – WORKERS' COMPENSATION FOR EMPLOYEES IMPACTED BY COVID-19

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Employees who believe you may have been exposed to COVID-19 in the workplace may be eligible for Workers' Compensation (WC) by either: (1) Notifying the employer to file a typical "disease-as-injury" WC claim, which requires the employee to provide medical evidence that you were exposed to COVID-19 in the workplace; (2) Notifying the employer to file an "occupational disease" WC claim, which requires the employee to show that COVID-19 is occurring more in the employer's occupation/industry than in the general population.

Source: <https://www.uc.pa.gov/Pages/covid19.aspx>

SMALL BUSINESS ADMINISTRATION LOAN FORGIVENESS

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The CARES Act includes forgiveness of loan payments for most existing SBA loans. Once implemented, you will not have to make your next six months of loan payments.

Source: <https://www.coronavirus.gov/smallbusiness>

TRAVEL

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Global Level 4 Health advisory – Do Not travel

Source: <https://travel.state.gov/content/travel/en/traveladvisories/ea/travel-advisory-alert-global-level-4-health-advisory-issue.html>

UNEMPLOYMENT COMPENSATION - FEDERAL

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The CARES Act will provide unemployment benefits to the self-employed and gig workers; provide additional weeks of benefits for those exhausting unemployment compensation; and will increase the total weekly amount paid for claimants.

VOLUNTEERING

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In general, covered, nonexempt workers working for private, for-profit employers have to be paid at least the minimum wage and **cannot volunteer** their service.

Source: <https://www.dol.gov/agencies/whd/flsa/pandemic>

Providing Clients with Health, Safety and Human Resource Risk Management Services.

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