

## State of New Hampshire Implementation of Families First Coronavirus Response Act

### Frequently Asked Questions

\*\*\*Please be aware that regulations surrounding this leave is still changing and this document is subject to change or updates as new information becomes available\*\*\*

**What is the Families First Coronavirus Response Act-** This Act is a legislative response to the Coronavirus pandemic which provides federal funds to employers to provide certain paid leave to employees impacted by the Coronavirus pandemic.

**Who is eligible-** Basically all states, counties, municipalities, and cities are covered by this Act, as well as private companies with fewer than 500 employees are to be reimbursed with federal government funds when leave is taken by their employees under this act. This includes the State of New Hampshire employees.

#### **What are the leave benefits under this act?**

##### Two weeks of paid leave for COVID 19 diagnosis, self-quarantine, or care.

- Eligible full-time employees are entitled to two weeks (up to 80 hours) of fully paid time off (up to \$511 per day) to self-quarantine, seek a diagnosis or preventive care, or receive treatment for COVID-19.
- Eligible part-time employees are entitled to fully paid time off (up to \$511 per day) for the typical number of hours that they work in a typical two-week period to self-quarantine to seek a diagnosis or preventive care, or receive treatment for COVID-19.

##### Two weeks of paid leave at 2/3 rate for dependent care.

- Eligible full-time employees are entitled to two weeks (80 hours) paid time off at **two-thirds** of their regular pay (up to \$200 per day) to care for a family member or to care for a child whose school has closed, or if their child care provider is unavailable due to COVID-19.
- Eligible part-time employees are also entitled to the typical number of hours that they work in a typical two-week period at **two-thirds** of their typical pay (up to \$200 per day) to care for a child whose school has closed, or if their child care provider is unavailable, due to COVID19.
- This benefit may be used intermittently if applicable.

##### Twelve weeks job protection to care for children impacted by school or child care closure due to COVID 19.

- Eligible full-time employees and part-time employees are entitled to **12 weeks of job-protected leave** to take care of their children in the event of a school closure or their child care provider is unavailable due to COVID-19.

- The **12 weeks of job-protected leave** include two weeks of unpaid leave, followed by **10 weeks of paid leave**. Eligible employees may elect or be required to overlap the initial two weeks of unpaid leave with two weeks of other paid leave they have available. Eligible employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay.
- This benefit may be used continuously or intermittently.

### **How does all of this impact my other leave accruals and balances?**

The leave provided by the Act is in addition to your contractual leave and does not diminish any of your leave benefits. It is strongly encouraged that you use the leave provided for by the Act before using your contractual leave. However, some of the leave under the Act is only paid at 2/3 your normal rate of pay, but if you have other leave, you may use other leave concurrently to make yourself whole to be paid at 100%.

### **Are health care workers and emergency responders exempt from the bill?**

No. Health care workers and emergency responders are eligible for paid sick leave and paid family leave under this bill. Given the capacity challenges facing the health care system, employers have the discretion to exempt health care workers and emergency responders from the paid sick and paid family leave provisions. The Department of Labor also has the authority to issue regulations exempting health care workers and emergency responders from the paid sick and paid family leave provisions.

If you are a health care worker, and are denied leave subject to the exemption above, you may still be able to use contractual sick leave or other leave subject to the contracts rules for authorization.

### **How do I apply for leave under the Act?**

A new category of leave has been created called EPSL in NHFIRST. Within NHFIRST, there are two forms of EPSL leave, one for self-care (488-COVID-19 PAID SICK LEAVE) or care of another (489 COVID-19 PAID SICK OTHER). If you have further questions, speak to your human resources about how to use and document the leave.

### **What if I already went on unpaid leave and applied for unemployment insurance?**

If you have already gone on unpaid leave, but are still employed by the State, then you are eligible to apply for leave under the Act. However, if you have applied for unemployment insurance, be sure to notify employment security that you have been returned to a paid status. If you have already received unemployment benefits, you may be required to repay funds that you received from Employment Security. To receive both benefits simultaneously is unlawful.

### **Negative Leave Balance**

Although not part of the Act, the State is allowing full-time employees, as a last resort, to go into a negative leave balance so that full-time employees may remain in a paid leave status while dealing with COVID 19 related issues.

**Guidance from Department of Administrative Services (Updated March 26, 2020)**

**Protocols on Returning to Work if Sick or Exposed to the COVID-19 Virus**  
**Prepared in cooperation with the Department of Health and Human Services,**  
**Division of Public Health Services March 26, 2020**

The following Q&A provides updated information on questions being asked by employees. It may replace information provided in previous Q&As, so please read the information carefully. Due to the continuously evolving nature of information related to the COVID-19 State of Emergency, the information provided in this guideline is subject to change as circumstances change.

**DISCLAIMER: This guidance does not pertain to employees working in 24/7 healthcare facilities.**

The following protocols pertain to employees under the following circumstances:

**Category 1**

Who: Employees who are sick with fever, respiratory illness, or mild flu-like symptoms; or employees who have a Confirmed Positive COVID-19 Test

a. What should I do if I'm sick and when can I return to work?

You should:

- Stay home and limit contact with other people (self-isolate)
- Inform your supervisor by phone
- Call ahead before visiting your healthcare provider if medical evaluation is needed
- Review the following CDC guidance:
  - o Caring for yourself at home
  - o Preventing the spread of COVID-19 in homes
  - o Cleaning and disinfection guidance
- Self-isolate at home (no going out of house or to work) until:
  - o At least 7 days have passed since symptoms first appeared,  
**AND**
  - o At least 72 hours (3 days) have passed since recovery – which is defined as resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms.

b. If you work in a healthcare setting and are returning to work after confirmed or suspected COVID-19 infection:

You should:

· Follow CDC's criteria for return to work for healthcare personnel, which include the above "7/72" criteria PLUS:

- o Wear a facemask at all times while in the healthcare facility until all symptoms are completely resolved or until 14 days after illness onset, whichever is longer.
- o Be restricted from contact with severely immunocompromised patients (e.g., transplant, hematology-oncology) until 14 days after illness onset.
- o Adhere to hand hygiene, respiratory hygiene, and cough etiquette in CDC's interim infection control guidance (e.g., cover nose and mouth when coughing or sneezing, dispose of tissues in waste receptacles).
- o Self-monitor for symptoms, and seek re-evaluation from occupational health if respiratory symptoms recur or worsen

## Category 2

Who: Asymptomatic individuals (people without symptoms) with direct contact with a Category 1 person (Direct contact means within six feet)

a. What should I do, and when can I return to work, if I am:

- Sharing a home with or caring for a Category 1 person?
- In direct contact (within 6 feet) with a Category 1 person, including a coworker?

You should:

- Stay home (self-quarantine)
- Inform your supervisor by phone
- Work from home if the option is available
- Review the following guidance from NH DHHS o COVID-19 Self-Quarantine Guide: <https://www.nh.gov/covid19/residents/documents/self-quarantinecovid.pdf>
- Monitor for symptoms of fever, respiratory symptoms (e.g., cough, sore throat, shortness of breath, runny nose), and any flu-like symptoms (e.g., fatigue, chills, muscle aches)
- If you develop any symptoms while on self-quarantine, you must follow the instructions above (Category 1 instructions)

- You may return to work after 14 days from last day of exposure to the individual, if no symptoms have developed

### **Category 3**

Who: Asymptomatic individuals (people without symptoms) with high risk of exposure from travel

- a. What should I do, and when can I return to work, if I have engaged in any out of state travel by plane, train, or bus; am returning from New York City by any means of transportation; or if I have attended any large group/business gatherings in other states?

You should:

- Stay home (self-quarantine)
- Inform your supervisor by phone
- Work from home if the option is available
- Review the following guidance from NH DHHS

COVID-19 Self-Quarantine Guide:

<https://www.nh.gov/covid19/residents/documents/self-quarantinecovid.pdf>

- Monitor for symptoms of fever, respiratory symptoms (e.g., cough, sore throat, shortness of breath, runny nose), and any flu-like symptoms (e.g., fatigue, chills, muscle aches)
- If you develop any symptoms while on self-quarantine, you must follow the instructions above (Category 1 instructions)
- You may return to work after 14 days from last day of exposure, if no symptoms have developed

### **Category 4**

Who: Asymptomatic individuals (people without symptoms) with other low-risk contacts

- a. What should I do, and when can I return to work, if I live, work, or closely associate with:
- An asymptomatic individual who has had direct contact with a Category 1 person?
  - An asymptomatic individual who has engaged in any out of state travel by plane, train, or bus?

**OR**

- b. What should I do, and when can I return to work, if I have shared a large space with a Category 1 person (e.g. same work building but not same room, same large hall or meeting space), but was not in close direct contact with the person?
- a. You should:
- As long as you do not have symptoms, there are no restrictions on your ability to work
  - Review the following NH DHHS guidance:
    - o COVID-19 Self-Observation Guide:  
<https://www.nh.gov/covid19/residents/documents/self-observation-covid.pdf>
  - Monitor for symptoms of fever, respiratory symptoms (e.g., cough, sore throat, shortness of breath, runny nose), and any flu-like symptoms (e.g., fatigue, chills, muscle aches)
  - If you develop any symptoms, you must follow the instructions above (Category 1 instructions)
  - Continue to always perform frequent hand hygiene and social distancing – always maintain at least 6 feet of distance between yourself and other people.

### **Guidance from Department of Administrative Services (April 3, 2020)**

#### **1. I have an employee who was diagnosed with COVID-19. What are my obligations to provide notice to employee's co-workers?**

According to the Centers for Disease Control and Prevention (CDC), employers should inform fellow employees who had prolonged close contact (within 6 feet for >10 minutes) of their potential workplace exposure, while maintaining confidentiality under the Americans with Disabilities Act (ADA) by not revealing the infected individual's name or other identifying information.

It may be possible, based on who is notified, that employees will have a reasonable idea as to the identity of the affected employee. This may be the case in small agencies or in any agency in which the affected employee has only limited routine contacts with others. Even in those situations, a supervisor must still protect the affected individual's identity. If employees come to you for verification, even if their suspicions are obvious and correct, do not verify and do not disclose any further information.

In consultation with your agency Commissioner and Human Resources administrator, supervisors should:

- Inform co-workers and non-employees who may have been in prolonged close contact (within 6 feet for >10 minutes) with the affected employee that there has been a potential COVID-19 exposure in the workplace.
- Do not include the employee's name or other information that might identify them.
- Non-essential employees should stay home until 14 days after last exposure, if no symptoms develop, and maintain social distance (at least 6 feet) from others at all times. They should follow instructions for self-quarantine available here: <https://www.nh.gov/covid19/resources-guidance/documents/self-quarantine-covid.pdf>
- Essential employees, such as healthcare workers, public safety personnel, COVID-19 response personnel, and others required to run essential state business, and who have been exposed in the workplace, may be permitted to continue to work at the discretion of their agency. Ideally, exposed employees should be

asked to stay at home with telework options made available, however, agencies may permit in-person work, if necessary, to maintain essential operations. These employees working in-person should:

- Report their temperature and absence of symptoms each day prior to starting work;
  - Maintain social distancing (>6 feet from others) while in the office, avoid attending in person meetings, etc.;
  - If available, wear a facemask while working around others, especially in healthcare settings, to prevent pre-symptomatic transmission if symptoms do develop (cloth facemasks are an acceptable alternative to medical/surgical facemasks in non-healthcare settings, i.e. office settings); and
  - Safely notify their supervisor and leave work immediately if they develop even mild symptoms consistent with COVID-19.
- Remind all co-workers not to come to work and to stay home and seek medical attention if they develop any symptoms of illness.
  - Immediately notify the appropriate individuals of the need to clean and disinfect the affected employee's work area. Follow these instructions from CDC:  
<https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html>

**2. What if one of my employees notifies me that they are experiencing signs of COVID-19 illness (sick with fever, respiratory illness, or mild flu-like symptoms) but has not received a formal COVID-19 diagnosis?**

Notification protocols in situations involving an employee who is symptomatic but untested should be handled in the same manner as a positive test, as indicated above.

**3. May an employer share with other employees the name of an employee who has tested positive for COVID-19?**

No. The ADA requires employers that collect medical information from employees to keep such information confidential.