

Disclaimer: The following information is general guidance based on hypothetical scenarios. It is not legal advice on any specific situation. Individual cases must be analyzed and decided by the Bureau of Labor Standards (BLS).

Maine's Employment Leave for Caregivers and Persons Affected by Public Health Emergencies covers employees who are either themselves affected or who are caring for an immediate family member who is affected by a public health emergency.

Being affected by a public health emergency means undergoing treatment or being in quarantine or isolation, among other things. The need for leave must be communicated to the employer within a reasonable timeframe.

Leave may be paid or unpaid. Exemptions include government employees who are responsible for ensuring public health and safety and employees whose leave would cause an undue hardship requiring the employer to downsize operations.

Maine's Family Medical Leave laws apply to employees who have worked for the same employer for at least 12 consecutive months. Employees would be entitled to up to 10 workweeks of job-protected unpaid Family Medical Leave in any two years. Employers with fewer than 15 employees employed at a permanent work site are exempt. Employers may provide paid leave at their discretion.

Maine's Family Sick Leave law states that if an employer provides paid leave, then the employer must allow an employee to use the paid leave for the care of an immediate family member who is ill. This law gives the employee the right to choose what type of leave they are going to use if their employer provides multiple benefits such as sick, vacation, or personal with limitations. This law section does not apply to the illness of the employee.

U.S. Department of Labor FAQ's about Federal FMLA: <https://www.dol.gov/agencies/whd/fmla/pandemic>

Larger businesses that have 50 or more employees are also subject to the federal Family and Medical Leave Act (FMLA) laws. This requires that up to 12 weeks of unpaid leave be provided for a qualifying event. Employers may provide paid leave at their discretion.

Maine's Earned Paid Leave law provides employees the ability to accrue up to 40 hours of paid time off, based on the number of hours they work for an employer. The accrued time can be used for any reason.

Work-Related Illness - If the illness is work-related, the employee and employer should consult with the Maine Workers' Compensation Board.

For more information about the Worker's Compensation Board, visit: <https://www.maine.gov/wcb/>

Maine's Charge by Employer Prohibited law prohibits employees and accepted applicants from bearing the expense of medical exams that are required by the employer. An employer must cover these costs and can pay for medical expenses under this section through group health insurance coverage, or another manner, as long as the employee is not required to pay for any portion of the examination, including co-pays or other out-of-pocket expenses. Future federal regulations or emergency standards may impact the application of this law. Please see the FAQ below re: COVID-19 testing for more information.

Frequently Asked Questions

Q. I am paid a salary and am exempt from overtime. Does my employer have to pay my full salary if the business is closed due to COVID-19?

A: If the salary-exempt employee worked any part of the week then the employee must receive their full salary. The employer can require the employee use their paid benefit time such as vacation, sick, personal, etc. If the salary-exempt employee doesn't have time available, the employer is still required to pay the full salary for the remainder of that week. If the business is closed for subsequent week(s) and the salary-exempt employee does not work at all during the week then the employer would not be required to pay any portion of the salary.

Q. I am an hourly employee. Does my employer have to pay me if the business closed due to COVID-19?

A: No. Employers are only required to pay hourly employees for time actually worked. Whether or not the employee can use their paid benefit time such as vacation, sick, personal, etc. is solely at the discretion of the employer.

Q. Can a minor work additional hours if their school is closed due to COVID-19?

A: No. In most cases, schools have closed their buildings, but the students are still required to do daily assignments remotely. Therefore, school is still considered "in session."

Q. Will the Bureau of Labor Standards at the Maine Department of Labor ask for information about my immigration status?

A: As far as the Bureau of Labor Standards is concerned, a worker is a worker. We do not ask for immigration status or a social security number when responding to worker inquiries or complaints. We enforce Maine's labor laws without regard to whether an employee has work authorization or is undocumented.

Q. How long can I take leave under Maine's Employment Leave for Caregivers and Persons Affected by Public Health Emergencies?

A: This leave only applies during the State of Civil Emergency declared by the governor. It continues for a reasonable and necessary time after the emergency has ended for people that have contracted COVID-19 or were exposed to COVID-19 during the State of Civil Emergency.

Q. Can an employer refuse to bring me back to work if I take leave under any of Maine's leave laws?

A: It would not be lawful for an employer to terminate employment because you are taking leave under one of these laws. Maine is an employment-at-will state. At-will employment means that absent a union contract or individual employment contract, an employer is free to terminate an employee at any time and for any reason, as long as the reason is not discriminatory, and it is not specifically prohibited in the statute.

Q. My employer is requiring that I get tested for COVID-19 before entering the workplace even though I am fully vaccinated. Am I required to pay for these tests?

A: No. Maine's Charge by Employer Prohibited law establishes that in the event an employer is requiring that a vaccinated employee get a COVID-19 test, the employer must pay for the test. In addition, the employer must pay the employee for time spent going to the doctor, as it would be considered time worked in this scenario.

Please note If an employer gives an employee the option to get vaccinated at the employer's expense or submit to testing at the employee's expense, and the employee chooses to get tested rather than get vaccinated then the employee would be responsible for the cost of that test.

For more information, please visit <https://www.maine.gov/labor/bls/index.shtml>