

UNEMPLOYMENT INSURANCE CLAIMS OFFICE

KNOW YOUR RIGHTS:

Your Employment and COVID-19

(as of March 23, 2020)

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

► **YOUR RIGHT TO** paid leave, unemployment insurance, and safe work

Paid Leave (until Dec. 31, 2020)

Emergency Leave

You are entitled to 10 business days or 80 hours of **paid** leave related to COVID-19, *in addition to any leave provided by your employer*, if you work for a public employer or an employer with fewer than 500 employees (including employers that are franchises). Health care providers and emergency responders may not qualify.

The leave can be used:

- To obtain a medical diagnosis or care if experiencing symptoms or to comply with a medical recommendation to self-quarantine or *to care for an individual advised to self-quarantine
- To comply with a federal, state, or local quarantine or isolation order or *to care for an individual subject to such an order
- *To care for a child if school or place of care is closed or child care provider unavailable due to coronavirus (2/3 rate of

pay only)

- *Because you are experiencing any other substantially similar condition specified by certain federal officials

Payment will be based on your regular rate of pay. The maximum payment is \$511 per day/\$5,110 total for self-care, \$200 per day/\$2,000 total for family care. * Only 2/3 pay is required under these circumstances.

Emergency FMLA (amendment to FMLA through Dec. 31, 2020)

If you are unable to work/telework because your child's school or place of care is closed, or your child's usual care provider is unavailable because of COVID-19, you are entitled to up to 12 weeks of job-protected **paid** leave at 2/3 pay, up to \$200 per day and \$10,000 total (first 10 days may be unpaid) if:

- Your employer has fewer than 500 employees (this includes employees of franchises)
- You have been on the job at least 30 days

Qualifying for Unemployment Insurance during COVID-19

*Did you
know?*

You may qualify for **unemployment insurance related to COVID-19** if, because of the virus, you lost your job, had your hours reduced, can't work because of a medical condition, or are following direct quarantine orders. There are also some situations in which you may qualify if you resigned or you were fired for not following internal rules. If you are not sure, apply.

You must be a **U.S. citizen or legally present with work authorization (including persons with DACA and TPS)** in order to qualify for benefits.

There is no waiting period and no work search requirement to get unemployment benefits under these circumstances.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

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Health care providers, emergency responders, and employees of some employers with fewer than 25 employees may not qualify.

If you take job-protected leave, you have the right to return to the same or equivalent position with the same employment benefits, pay, and other terms and conditions of employment.

*Child is defined as biological, adopted, or foster child; stepchild; legal ward; child of person acting and intending to act as a parent.

Unemployment Insurance

All applications during the COVID-19 crisis must be filed online or by phone: <https://des.nc.gov> or 1-888-737-0259.

If you are getting paid leave through your employer, you must use that leave before applying for unemployment.

How much will I receive in benefits?

The weekly benefit amount is how much money you can receive each week in unemployment benefits. The amount is based on your earnings before you were unemployed. As of the time this factsheet was written, the maximum weekly benefit that anyone can receive is \$350.

What do I have to do when I start receiving benefits?

You do not have to do a work search or be available to work if you are receiving benefits because of COVID-19. You also will not have any in-person meetings at the Division of Employment Security (DES).

What if I don't speak English?

The Division of Employment Security must provide information to significant minority populations in their own languages. If you need help in another language, ask the Division to help you. If you don't get the help you need, contact a lawyer.

How long can I receive benefits?

The maximum number of weeks of benefits you can receive is 20 weeks, and the minimum number of weeks is 5. The exact number of weeks of benefits you can receive will depend on the state unemployment rate. There is also a cap on the total amount of benefits a worker may receive, which is based on the worker's previous wages and the amount of benefits they are receiving.

What if I'm denied unemployment benefits?

If you are denied unemployment benefits, you have 10 days to appeal the agency's decision against you. You need to do so in writing. If you are denied because your employer says you are an independent contractor, and you disagree, be sure to appeal.

Safe Workplaces:

You have a legal right to a safe and healthy workplace. The NC Department of Labor (NCDOL) has information about how workers can protect themselves from COVID-19 here:

<https://www.labor.nc.gov/coronavirus#hazard-overview>

If things at my job aren't safe, what can I do?

You have the right to file a complaint with OSHA if you think your workplace is unsafe. You can file a complaint either online on NCDOL's website, in writing, or by telephone (1-800-NC-LABOR). If you want OSHA to inspect your workplace, put your complaint in writing. You can ask OSHA to keep your name confidential, so your employer won't know who made the complaint.

If I raise questions about health and safety can my boss retaliate or discriminate against me?

It is illegal for your boss to retaliate or discriminate against you for asking questions or make a complaint about health and safety. He or she cannot transfer you, deny you a pay raise, cut your hours, or fire you because you took action regarding your health or safety. If you have been retaliated against because of a safety or health complaint, you have 180 days to file a retaliation complaint with NCDOL's Workplace Discrimination Bureau.

You have more protection if you complain with other workers.

If you decide not to go back to work because of unsafe conditions, tell your employer exactly what you think is unsafe, and that you are ready to come back when the conditions are fixed. Apply for unemployment benefits and explain that you are not working because your workplace is unsafe.

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Can my employer send me home if they think I have COVID-19?

Your employer can probably send you home as it sees fit, but you are entitled to paid leave. See the information on paid leave in this flyer.

If you think your employer is discriminating in who it is sending home because of race, color, religion, gender, national origin, or another protected category, you can file a complaint with the Equal Employment Opportunity Commission (EEOC) within 180 days.

Submit your information online to <https://publicportal.eeoc.gov/Portal/Login.aspx> to make an appointment to speak with someone by phone. If you don't have internet access, or you are approaching a deadline to file, call 1-800-669-4000.

RESOURCES

For help finding a lawyer, call:

- North Carolina Advocates for Justice 1-(800) 688-1413
- North Carolina Bar Association Lawyer Referral Service 1-(800) 662-7660
- Legal Aid of North Carolina 1-(866) 219-5262

To file a claim with a government agency or to seek information on the following issues, contact:

DISCRIMINATION	<ul style="list-style-type: none">▪ US Equal Employment Opportunity Commission▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices	1-800-669-4000 - or - www.eeoc.gov 1-800-255-768 - or - www.justice.gov/crt/about/osc/
E-VERIFY	<ul style="list-style-type: none">▪ Department of Homeland Security / E-Verify	1-888-897-7781 - or - www.dhs.gov/e-verify
FAMILY AND MEDICAL LEAVE	<ul style="list-style-type: none">▪ US Department of Labor	1-866-487-9243 - or - www.dol.gov/whd
HEALTH & SAFETY	<ul style="list-style-type: none">▪ NC Department of Labor	1-800-NC-LABOR (625-2267) - or - www.nclabor.com/osa/osh.htm
MISCLASSIFICATION	<ul style="list-style-type: none">▪ Internal Revenue Service	http://www.irs.gov/pub/irs-pdf/fss8.pdf
RETALIATION	<ul style="list-style-type: none">▪ NC Department of Labor, Employment Discrimination Bureau	1-800- 625-2267 - or - www.nclabor.com/edb/edb.htm -
UNEMPLOYMENT INSURANCE	<ul style="list-style-type: none">▪ NC Department of Commerce, Division of Employment Security	1-877-841-9617 - or - https://www.ncesc.com/
UNIONS & COLLECTIVE ACTION	<ul style="list-style-type: none">▪ National Labor Relations Board	1-866-667-6572 - or - www.nlrb.gov
WAGE THEFT	<ul style="list-style-type: none">▪ NC Department of Labor, Wage and Hour Bureau▪ US Department of Labor	1-800-625-2267 - or - www.nclabor.com/wh/wh.htm 1-866-487-9243 or http://www.dol.gov/whd/
WORKERS' COMPENSATION	<ul style="list-style-type: none">▪ NC Industrial Commission	1-800- 688-8349 - or - http://www.ic.nc.gov/