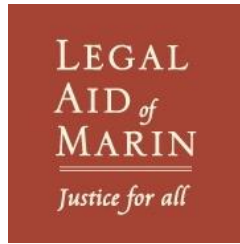


# Covid-19 Guide

(Current as of June 1, 2020)



Legal Aid of Marin

1401 Los Gamos Rd. #101

San Rafael, CA. 94903

415-492-0230

For more questions: [emoscowitz@legalaidmarin.org](mailto:emoscowitz@legalaidmarin.org)

## **Employment Questions**

### **1. Due to coronavirus (also known as COVID-19) my employer cut my hours, forced me to take unpaid leave, or ended my employment. What can I do?**

You may file a claim for Unemployment Insurance (UI) benefits with the California Employment Development Department (EDD). To get benefits you only need to meet certain minimum requirements, including having sufficient past earnings and an immigration status that allows you to work. If EDD approves your claim you can receive between \$40 and \$450 each week, depending on your past earnings. In addition, you may be entitled to an additional \$600 per week through July 2020 under the Coronavirus, Aid, Relief, and Economic Security Act (CARES). Under the CARES Act, you can receive up to 39 weeks of UI benefits. If you are unemployed as a result of coronavirus, the EDD has waived the usual one-week waiting period during which you otherwise would not receive Unemployment Insurance benefits.

For more information about Unemployment Insurance benefits, including eligibility requirements and how to file a claim, please visit:  
<https://www.edd.ca.gov> or call 800-300-5616 (English), 800-326-8937 (Spanish), 800-547-3506 (Cantonese), or 866-303-0706 (Mandarin).

### **2. I have a disability. Is my employer required to provide me with reasonable accommodations related to the Coronavirus?**

Yes. If you have a disability such as a compromised immune system, your employer may be required to provide you with a reasonable accommodation such as telecommuting. If you need to be off work for a long period of time because your disability makes you vulnerable to the virus, you might be able to apply for SDI benefits with the State Disability Insurance agency. You can apply for SDI from the Employment Development Department (EDD) online at [www.EDD.ca.gov](http://www.EDD.ca.gov).

**3. Can my employer ask me to get a coronavirus test before I return to work?**

Yes, but only if the Employer pays for the test and the time it takes you to get tested. Employers may also require temperature checks and masks to be worn at work under the new local and state orders.

**4. I have a family member at home with Covid-19, but I'm fine and want to return to work. Do I have to tell my employer?**

You probably should unless you get tested before returning. You may not have any symptoms but could still have the virus and expose others to it.

**5. If I have coronavirus, what can my employer tell others about my condition?**

Your employer is required to keep all of your medical information private and confidential.

**6. What if I become sick at work with symptoms relating to coronavirus? Can my employer send me home?**

Yes. The CDC recommends that employees who become sick with coronavirus symptoms (such as fever, cough, shortness of breath) should be separated from other employees and sent home immediately.

For information about how the federal government's U.S. Equal Employment Opportunity Commission (EEOC) is interpreting employment laws relating to disability during the pandemic, please consult the Pandemic Preparedness in the Workplace and the Americans With Disabilities Act.

In addition, if you are sure you contracted the virus due to your work then you should tell your employer and file a workers' compensation claim. Claims may be denied without proof, but certain professions are deemed covered such as nurses, police, first responders, and the like. To start the workers' compensation process, you will need to file the claim form (DWC-1) with your employer. The form is available from your employer or at <https://www.dir.ca.gov/dwc/forms.html>.

## **7. I have coronavirus and am not currently able to work because of my illness. What can I do to receive income while I'm not working?**

You are entitled to use Paid Sick Days if you are missing work because of illness. Your employer should provide you with pay for the accrued sick days you have. In addition, under the Families First Coronavirus Response Act, as long as your employer has fewer than 500 employees, you should be able to access 2 weeks of additional Paid Sick Days. Some places like Los Angeles, San Jose, and San Francisco require that employers greater than 500 employees also provide an additional 2 weeks of paid sick leave for COVID-19 related illness or injury.

You may also be eligible for State Disability Insurance (SDI) to replace some of the income you lose while you are not working. You can apply for SDI from the Employment Development Department (EDD) online at [www.EDD.ca.gov](http://www.EDD.ca.gov). A healthcare provider or local health official will need to certify your application. SDI benefits are usually 60% or 70% of your normal pay, depending on your income. If you are disabled as a result of coronavirus, the EDD has waived the usual one-week waiting period during which you otherwise would not receive SDI benefits.

## **8. Can I lose my job if I miss work because I'm sick with coronavirus?**

Your employer cannot retaliate against you because you have used Paid Sick Days or filed a workers' compensation claim. Under the Families First Coronavirus Response Act, if your employer has fewer than 500 employees, you can access 2 weeks of Paid Sick Days. Some places like Los Angeles, San Jose, and San Francisco require that employers greater than 500 employees also provide an additional 2 weeks of paid sick leave to for COVID-19 related illness or injury.

In addition, you may be entitled to job-protected time off from work for up to 12 weeks. You likely qualify for this leave if all of the following statements apply to you:

- a. You work for an employer with at least 50 employees within 75 miles of your worksite;
- b. you have worked there for at least a year, and
- c. you worked at least 1250 hours in the year before you take time off.

If you do not meet the eligibility requirements but work for an employer with at least 5 employees, your employer may be required to grant you a leave of absence as a reasonable accommodation for a disability.

**9. Can my employer not pay me if I am sent home early from work, or told not to come in for a scheduled shift?**

It depends. If an employer sends you home because business is slow after you have reported for work, then yes, the employer is required to pay you half of your scheduled hours for that shift. (If you were scheduled less than four hours, you are owed two hours of pay. (“Reporting Time Pay.”) If you were scheduled more than eight hours, you are owed four hours of pay.) You are also entitled to Reporting Time Pay if you are required to call in soon (for example, two hours) before a scheduled shift, and are told not to come in for that shift because business is slow.

If an employer sends you home or instructs you not to come in to work because the employer has been encouraged or ordered to close the business or limit operations by government authorities, or otherwise is reasonably concerned about the safety of employees, then the employer is *not* required to pay you Reporting Time Pay for your scheduled shift.

More information is available at:

[https://www.dir.ca.gov/dlse/FAQ\\_ReportingTimePay.htm](https://www.dir.ca.gov/dlse/FAQ_ReportingTimePay.htm)

**10. My boss has called and asked me to return to work, and I don’t yet feel safe. I also make more on unemployment, so I would rather stay home.**

If you refuse to go back to work, your employer can notify EDD and have your unemployment benefits cut off. Also remember that \$600 per week ends on July 20<sup>th</sup>, which is not far off.

However, if you or a member of your household is over 65, has diabetes, or has any other immune disorder or a high risk of death if they get Coronavirus, you can notify the employer and they cannot terminate you or require that you come back to work. If you are taking care of one of these high risk family members you can also take a leave of absence under the Family Medical Leave Act.

You also may be eligible for Unemployment Insurance if you have exhausted all other care options but have to miss work to stay home with your child because of

a school closure. Apply for Unemployment Insurance at [www.EDD.ca.gov](http://www.EDD.ca.gov). For more information see the EDD's information on coronavirus.

### **11. What if I am undocumented? How can I get income if I cannot work?**

Unfortunately, undocumented workers cannot get Unemployment Insurance. Only individuals with legal authorization to work in the U.S. are eligible for Unemployment Insurance. For example, asylum seekers, refugees, DACA recipients, individuals with temporary protected status, lawful permanent residents (even if their green card has expired), and individuals who have been issued an Employment Authorization Document while their application for legal immigration status is pending may be eligible. However, undocumented workers can get income from other programs, including:

- State Disability Insurance (SDI);
- Paid Family Leave (PFL);
- Workers' Compensation; and
- Paid sick days.

All undocumented workers are protected under the state's labor laws. If any employee has not received wages they are owed then they can still file wage claims with the Labor Commissioner's office. Health and safety laws apply to all workers. If you think you are owed unpaid wages, overtime wages, wages for missed meal and rest periods, contact Legal Aid of Marin at 415-492-0230.

### **12. I feel unsafe at work because my employer is not following the rules on how to protect workers and customers at the restaurant where I work. If I quit, can I get unemployment?**

If you quit, you may still be eligible to receive Unemployment Insurance if you can establish both that you had "good cause" to leave your work, which can include a reasonable, good faith fear for your safety, and that you took reasonable steps to resolve the problem before leaving your work, like requesting leave or paid sick days. You can also quit if a family member becomes sick and you must take care of that person.

If the employer is helping with social distancing and requiring employees who are ill, coughing, or have a fever to go home, offering telework, and/or rotating in-office schedules, then the employer is attempting to provide a reasonably safe workplace.

### **13. What benefits can I receive if I lost work as an independent contractor because of the coronavirus?**

Self-employed individuals and independent contractors who do not qualify for Unemployment Insurance are eligible for a new type of benefit called Pandemic Unemployment Assistance (PUA). To access PUA workers should apply for Unemployment Insurance benefits with the EDD, preferably online at <https://portal.edd.ca.gov/WebApp/Home>.

If you are denied regular unemployment benefits or are in a group that is usually not entitled to benefits, you can apply directly to the PUA program. These would include people who work as “independent contractors,” “freelancers,” and “gig workers” or have a small business and have lost income as well.

You may still qualify for benefits through regular Unemployment Insurance (or State Disability Insurance and Paid Family Leave instead) because you have been misclassified as an independent contractor or because you worked as an employee before becoming self-employed. California law presumes workers are employees, and it is up to the hiring entity to disprove that presumption. People receiving unemployment insurance (whether through regular UI or Pandemic Unemployment Assistance) are also eligible for an additional \$600 per week through the end of July.

When applying for benefits online, applicants should provide the following information to the EDD to expedite the processing of their claims: the name, phone number, and address/physical location of the companies they worked for; type of work performed; dates worked; gross earnings and how earnings were paid (hourly, weekly, by contract, etc.). If applicants have access to records that allow them to report their quarterly earnings, they should report that information as well.

### **14. What does the Federal government’s “stimulus package” include for workers struggling due to the coronavirus pandemic?**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) creates three new programs:

**Pandemic Unemployment Assistance (PUA)** provides emergency unemployment assistance to workers who are left out of regular state unemployment insurance (UI) or who have exhausted their state UI benefits (including any Extended Benefits that might become available in the future). Up

to 39 weeks of PUA are available to workers who are eligible to receive PUA. Those eligible for PUA include self-employed workers, including independent contractors, freelancers, workers seeking part-time work, and workers who do not have a long-enough work history to qualify for state UI benefits. The program will expire on December 31, 2020, unless otherwise extended. Because PUA is available to those who do not qualify for UI, if you are not sure whether you qualify for UI or PUA, file a claim for unemployment insurance with the EDD as described above in Question 1.

**Pandemic Unemployment Compensation (PUC)** provides all regular UI and PUA claimants with an additional \$600 per week in compensation on top of their usual calculated benefit through July 2020. PUC is a flat amount provided to those on UI or PUA, including those who are receiving a partial unemployment benefit check.

**Pandemic Emergency Unemployment Compensation (PEUC)** provides an extra 13 weeks of state UI benefits to the end of the existing number of state UI weeks. This benefit will apply until December 31, 2020, unless otherwise extended.

In short, because of the CARES Act, more workers, including independent contractors, will be able to access unemployment insurance benefits for up to 39 weeks, retroactive to as early as January 27, 2020, and with an additional \$600 paid on top of their normal benefit amount, through July 31, 2020.

### **15. Are there other benefits I can access at this time to help pay my bills and feed my family?**

Yes. You may be able to access additional help from the government and private organizations if you have lost work or income because of the pandemic.

- To apply for CalFresh, California's SNAP program, go to <http://mycalfresh.org>
- If you need health coverage right away, you should apply for MediCal, and also see if you are eligible for assistance in getting private insurance at <https://www.coveredca.com/apply/>
- To find a food bank near you, go to [canalalliance.org](http://canalalliance.org)

Many utility companies, including PG&E, have agreed to not shut off customers' utilities for lack of payment right now. If you need to prioritize bills, consider



delaying payment on your utilities bills. Consult your utility company for additional information.

**16. I've been called back to work but I still have no child care for my kids right now. It's too hard to work from home while the kids are home. What can I do?**

Employees can use the 14 days of paid sick leave if they cannot go back to work due to no childcare. The FFCRA expands the Family Medical Leave Act to include 10 extra weeks of leave to care for sick family members or kids. Employers who violate these provisions can be sued under the FMLA for failure to provide leave, failure to reinstate, discrimination or retaliation.

**Discrimination Questions**

**1. My boss laid off all the Latino workers on my construction crew, but not the white workers. How can I complain?**

This does sound like discrimination. If you believe your lay-off was based on a discriminatory basis (including age), you can file a Complaint with the Department of Fair Employment and Housing at [dfeh.ca.gov](http://dfeh.ca.gov). It's best to consult a lawyer to represent you. You can contact Legal Aid of Marin at 415-492-0230 to discuss your situation with an attorney.

**2. My boss is giving me fewer shifts than other people at work because I had the Covid virus but I am healthy now.**

Tell your boss you would like more shifts now that you are healthy. Provide a doctor's note that says you can return to work full-time. If your employer still treats you differently, you may have a claim for disability discrimination.

**Housing Questions**

**1. I cannot pay my rent or mortgage. What should I do?**

If you are a renter in California, you should tell your landlord in writing that you cannot pay your rent because of the societal response to the COVID-19 pandemic. You should tell your landlord before rent is due, or at most within 7 days of your rent being due. A short form is attached to the back of this guide to fill out and to give to your landlord when you can't pay the rent. Governor Newsom has issued an executive order providing renters temporary relief from eviction if they give their landlords notice within 7 days of rent being due that they

cannot pay because of the COVID-19 pandemic. Many counties and cities have put in place stronger protections for renters.

On May 26, the Marin County Board of Supervisors amended its March 24 Eviction Ban Resolution. The amended resolution extends the county's residential eviction moratorium through June 30 and lengthens the grace period to repay outstanding rent up to September 28 for residential tenants who demonstrated to their landlords that they suffered adverse financial impacts of COVID-19 between March 24 and June 30.

Many mortgage lenders in California, including Citigroup, JPMorgan Chase, U.S. Bank, Wells Fargo and nearly 200 state-chartered banks, credit unions, and servicers have agreed to give borrowers 90-day grace periods for mortgage payments. If you are having trouble paying your mortgage, you should reach out to your mortgage servicer or bank.

The CARES Act prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020, and provides borrowers who have experienced financial hardship related to COVID-19 a 180-day moratorium on making loan payments on federally-backed mortgages. Examples of federally-backed mortgages include those purchased by Fannie Mae and Freddie Mac, insured by HUD, VA, or USDA, or directly made by USDA.

## **2. How long can I stop making my rent to the landlord before I can be evicted?**

Unpaid rent must be repaid within 90 days it became due. In other words, if a tenant properly notifies her landlord she has suffered a COVID-19 financial loss, unpaid April rent is due in July, May rent is due in August, and June rent is due in September.

## **3. If I have not been paying my rent, when can the landlord legally take steps to have me evicted?**

The county eviction moratorium ends on June 30. However, until 90 days after the governor lifts the state of emergency, the Superior Court will not issue a landlord a summons for an unlawful detainer action unless the landlord can demonstrate it is necessary to protect public health and safety.

## **4. Do I have to pay the rent back and how long do I have to repay it?**

The Board of Supervisors' resolution extends the period for tenants to repay rent, but it does not provide rent forgiveness. Unpaid April, May, and June rent must be repaid within 90 days it became due.

### **5. What can I do if my landlord has given me an eviction notice anyway?**

Through the end of June, a landlord may not seek to evict a residential tenant unless it also serves the following notice:

NOTICE: THE COUNTY OF MARIN HAS ADOPTED A TEMPORARY MORATORIUM ON EVICTIONS FOR RESIDENTIAL TENANTS FOR NONPAYMENT OF RENT DUE TO COVID-19. A COPY OF THE COUNTY RESOLUTION IS ATTACHED. UPDATED INFORMATION MAY BE AVAILABLE FROM THE COUNTY'S AFFORDABLE HOUSING DEPARTMENT BY CONTACTING LTHOMAS@MARINCOUNTY.ORG or (415) 473-6697, OR BY VISITING WWW.MARINCOUNTY.ORG/DEPTS/CD/DIVISIONS/HOUSING/RENTER-AND-LANDLORD-RESOURCES

In addition, the landlord will not likely be able act on an eviction notice by pursuing an unlawful detainer action because the Superior Court will not issue a landlord a summons unless the landlord can demonstrate the action is necessary to protect public health and safety.

### **6. How can I get on the waitlist to get help paying my rent?**

You can call Marin County at 415-473-7191 to be put on the waitlist for rental assistance.

### **7. Can my landlord charge a late fee for unpaid rent?**

If you are not able to pay your rent because of a COVID-19 reason, your landlord may not charge late fees for April, May, and June.

### **8. Do I have to enter into a payment plan with my landlord?**

No, your landlord cannot force you to enter into a payment plan for unpaid rent. However, if you choose to enter into a payment plan, seek legal help to review the agreement before signing.

**9. What if I was already in eviction proceedings when the COVID-19 emergency happened?**

The court will set your trial date beyond 60 days from the date of filing of the unlawful detainer complaint, so your new trial date will be 60 days beyond the date already set.

**10. Can my landlord raise my rent during the COVID-19 emergency?**

Your landlord can raise your rent but is limited by state and local regulations. If you get a rent increase of more than 8% of your current rent, seek legal help in determining if the rent increase is legal.