

INFORMATION AND FREQUENTLY ASKED QUESTIONS about Unemployment and Lay-Offs During COVID-19

On March 16, 2020, the Governor issued an executive order providing that, until (at least) April 8, 2020, the provision of the Illinois Unemployment Insurance Act requiring a one-week waiting period for unemployment insurance claims, is suspended for claimants who are unemployed and otherwise eligible for unemployment insurance benefits.

TEMPORARY LAY-OFF

Definition of Temporary Lay-Off. A temporary lay-off occurs where an employer identifies a finite period of time that the employee is off-duty with no pay, but both have the expectation that the employee will return to work after the expiration of the temporary lay-off period.

Temporary Lay-Off: Unemployment Benefits. An employee is entitled to unemployment benefits during a temporary lay-off.

Temporary Lay-Off: Notice. There is no *notice period* required prior to a temporary lay-off. However, when placing an employee on a temporary lay-off, the employer should provide the employee with written notice that identifies the date the temporary lay-off expires.

- **Note:** for larger employers (with more than 75 full time employees at a single site), temporary lay-offs should not extend more than 6 months. If it extends beyond 6 months (for these larger employers), the temporary-layoff becomes a permanent lay-off and additional notice provisions apply.

Temporary Lay-Off: Use of Sick and Vacation Time. During a government ordered closure due to a public health emergency, the employer should allow employees to use any accrued sick time pursuant to the City of Chicago and Cook County Sick Leave Ordinances (up to 5 days), before the temporary lay-off becomes effective (regardless of whether the employee is sick).

- Prior to the temporary lay-off becoming effective, an employee's use of any additional sick or vacation time that is part of an employer's individual policy (beyond the 5 days required by the City and County Ordinances) is up to the employer's discretion.

FURLOUGH

Definition of Furlough (or Reduction in Hours). A furlough (as opposed to a temporary lay-off) occurs when an employee is still expected to report to work – but with a reduced schedule.

Furlough: Unemployment Benefits. Generally speaking, an employee is entitled to “partial unemployment” for the reduction in hours during a furlough. They may file a claim for the amount of wages lost, equivalent to the difference in wages when considering the total amount of hours worked in a given workweek prior to the furlough and the total amount of hours worked in a workweek during the furlough.

Furlough: Use of Sick Time and Vacation Time. During a government ordered closure due to a public health emergency, the employer should allow the employee to use any accrued sick time pursuant to the City of Chicago and Cook County Sick Leave Ordinances (up to 5 days), during the furlough period (regardless of whether the employee is sick).

- During the furlough period, the employee’s use of any additional sick or vacation time that is part of an employer’s individual policy (beyond the 5 days required by the City and County Ordinances) is up to the employer’s discretion.

PERMANENT LAY-OFF

Definition of Permanent Lay-Off. A permanent lay-off occurs when an employer terminates the employee’s employment without cause. Prior to putting an employee on permanent lay-off, the employer must pay out the employee any accrued vacation time (but not any sick time, unless the employer’s policy states otherwise) and “paid time off.”

Transferring the Temporary Lay-Off into a Permanent Lay-Off. If the employer changes the temporary lay-off to a permanent lay-off/termination, the employer must inform the employee (during the temporary lay-off period or on the day it expires) of the permanent lay-off and pay out all earned vacation and “paid time off.” (See also Notice of Permanent Lay-Off, below, for specific notice for larger employers)

Notice of Permanent Lay-Off: Generally speaking, there is no *notice period* requirement prior to a permanent lay-off, *unless* an employer has at least 75 full-time employees at a single job site and is **permanently** laying off 25 or more full-time employees at that single location. In such an instance, the employer must issue a specific notice and pay the effected employees during the 60 day notice period. **(Regardless of employer size or the amount of lay-offs, the notice period does not apply to temporary lay-offs lasting 6 months or less).**

- Note: due to the coronavirus, the federal and state government may indicate these notice requirements are waived because they were unforeseeable, but no such guidance has been issued as of now.

THE FOLLOWING INFORMATION SERVES AS A GUIDE FOR EMPLOYEES WHO HAVE NOT BEEN LAID OFF BY THEIR EMPLOYER.

The following information is based on the Emergency Rules introduced by the State of Illinois and is intended to clarify unemployment eligibility during the COVID-19 outbreak (for employees who are not laid-off).

Under the Emergency Rules, Unemployment is Available to:

1. An Employee whose place of business has closed due to the coronavirus.
 - As long as employee is ready and able to work when the employer’s business reopens, the employee is eligible for unemployment in the above circumstance.

Under the Emergency Rules, Unemployment is Available to:

2. An Employee confined to their houses because of:
 - a. A government imposed quarantine;
 - b. The employee has been diagnosed with coronavirus; or
 - c. The employee must stay home to care for a spouse, parent or child who has been diagnosed with coronavirus.

Despite the Emergency Rules, Unemployment is *Likely Not Available* to an employee who leaves work because his/her child's school or day care has temporarily closed and the employee needs to stay home with his/her child.

<https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx>

The information above is provided for general informational purposes only. It does not, and is not intended to, constitute legal advice.