

# **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.