

Labor Department clarifies when parents qualify for paid leave, unemployment for school closures

Sept. 3rd, 2020 | Jennifer Liu | CNBC



The Department of Labor issued new guidance last week that aims to clarify when parents may qualify for paid leave or unemployment benefits if they must care for children at home during the new school year.

About 22% of parents are considering reducing their hours if their children need to stay home at least part of the time while schools are closed, according to a recent Debt.com poll. Another 9% say they will be forced to quit their jobs.

Two emergency relief policies passed in March are intended to provide some working parents with options to take partially paid leave or collect unemployment benefits if they must stop working in order to care for children, though some experts say these measures are limited in scope.

With schools starting the new academic year under several methods of operation including full-time, part-time or voluntary online learning, which are subject to change from week to week, here's when parents may qualify for federally paid leave or jobless benefits — and when they don't.

Scenario 1: Your school system is fully closed and classes are conducted online only

Under the Families First Coronavirus Response Act (FFCRA), eligible employees may qualify for up to 12 weeks of partially paid leave. Through the CARES Act's Pandemic Unemployment

Assistance (PUA), parents may become eligible for jobless aid if they must reduce their hours or quit their job in order to supervise children at home.

If your child's school facilities are completely closed and all instruction is happening online only, and you're the primary caregiver for your child, you may qualify for FFCRA leave for up to 12 weeks at two-thirds your normal rate of pay.

This type of leave is available only to certain public employers and private employers with fewer than 500 workers. Small businesses with fewer than 50 employees may be exempt from providing child-care leave if they can prove doing so could jeopardize their business. Some health-care providers and emergency response workers are also not eligible.

If you don't qualify for FFCRA but must leave work in order to care for your child doing at-home learning, you may qualify for PUA benefits. If you're able to do your job from home, you may still be eligible for benefits if you can prove that, as your child's primary caregiver, you "must provide such ongoing and constant attention to the student" that working remotely isn't possible.

Scenario 2: Your school system is open on some days for in-person learning, but closed the rest of the time for online learning

If your school district is conducting a hybrid model of spending some days on campus and the rest of the time online, the facility is considered "closed" on days of virtual classes, and you may qualify for FFCRA paid leave or PUA benefits to care for kids at home.

The same applies if schools are technically open at all times but operating at reduced capacity, and only select groups of students are permitted on location on certain days. On the days your child is required to conduct learning online rather than in-person, the school is considered "closed" to your child for the purposes of qualifying for paid leave or jobless aid.

FFCRA paid leave can be taken intermittently, so you can take a few days at a time so long as your child's school location is closed to your student and you must care for them. If you've already taken time off under the Family and Medical Leave Act (FMLA) in the past 12 months, the amount of time you can take off during the pandemic will be reduced by that amount out of the 12 total weeks.

If you don't have access to federally paid leave, you may be able to work with your employer to reduce your working hours when you need to be home with your child. Depending on how much your schedule is reduced, you may qualify for partial unemployment benefits through PUA. Many states will allow you to work up to a certain dollar figure, number of hours or number of days during the week and still earn partial benefits to replace your lost wages.

Scenario 3: Your school system is fully reopened for in-person learning, but students have the option to stay home for online instruction

If your school is reopened to all students but with the option to conduct virtual learning, and you choose to have your child attend classes remotely, you will not be eligible for paid leave or PUA benefits if you leave work to care for a child at home.

An individual who continues to file for PUA despite schools reopening could be required to pay back their benefits, and could face penalties for fraud and criminal prosecution.

Family advocates, including Erika Moritsugu of the National Partnership for Women and Families, say the recent memo makes the balancing act harder for working parents.

"The guidance delivered by DOL encourages parents to risk their children's lives by forcing in-person learning instruction," Moritsugu, the advocacy group's vice president, said in a statement provided to CNBC Make It. "The number of coronavirus cases continue to rise, and children are susceptible to the virus. No parent should be penalized for making the choice to protect their child's life and provide them with a safe, stable learning environment."

She adds women, and more specifically women of color, will be disproportionately impacted by the current guidance if they must choose whether to care for kids at home during the school year or continue to work and provide for the family financially. An analysis by the Center for American Progress found that, in recent months, millennial moms were nearly three times more likely than dads to forgo work because lack of child care or school.

"DOL must overturn this decision and we must continue to work towards a national paid leave program that assists all workers," Moritsugu continues. "Too many families are still waiting for unemployment benefits, facing eviction and cannot afford to lose an opportunity to take time off to care for themselves or a loved one."

Paid leave options provided by FFCRA and enhanced unemployment under PUA are effective through December 31, 2020, without any additional provisions passed by Congress and the White House. Weeks of heated stimulus talks have resulted in a stalemate.