

Coronavirus Pandemic Leaves of Absenceⁱ

Type of Leave	Wellness A (Older Adults and Employees With Employer-Known Medical Conditions)	Wellness B (Employee Without an Employer-Known or Obvious Medical Condition)	Wellness C (Employee Placed on CDC or Health Official/Agency-Imposed Quarantine)	Personal (Employee With General Fear of Acquiring Coronavirus and No Medical Condition)	Family Care Leave (Employee is Needed to Care for Asymptomatic Family Member)	FMLA or Non-FMLA Medical Leave (Employee is Ill or Needed to Care for an Ill Family Member)
Recommended Leave Provisions	<p>Circumstances¹</p> <ul style="list-style-type: none"> ▪ Employee is asymptomatic and: <ul style="list-style-type: none"> ○ An older adult. ○ A person with a medical condition that is obvious or known to the employer and that could or does increase risk if the employee contracts the virus. ▪ Based on coronavirus risks associated with age or medical condition, employee requests to self-isolate at home to avoid contracting coronavirus; employee is willing to work remotely. 	<ul style="list-style-type: none"> ▪ Employee who is asymptomatic reports a medical condition that is not known or obvious to the employer (e.g., HIV, cancer, early pregnancy, anxiety, PTSD, etc.). ▪ Based on coronavirus risks associated with age or the employee’s medical condition, employee requests to self-isolate at home to avoid contracting coronavirus and is willing to work remotely OR employee requests an accommodation to continue working, such as working from a private office, not attending group meetings, not traveling, or the ability to wear a mask while working. 	<ul style="list-style-type: none"> ▪ Employee is asymptomatic, but is asked or required to self-isolate at home by the CDC or a state or local health official/agency. 	<ul style="list-style-type: none"> ▪ Employee is asymptomatic and: <ul style="list-style-type: none"> ○ Is not an older adult. ○ Has no diagnosed medical condition. ▪ Based on a general fear of acquiring coronavirus, employee asks to work from home, stay home without working, wear a mask to work, or receive some other accommodation at work. 	<ul style="list-style-type: none"> ▪ Employee is asymptomatic and: <ul style="list-style-type: none"> ○ Is needed at home to care for a child whose school, nursery, or daycare has been closed temporarily. ○ Is needed at home to care for a parent or family member who is asymptomatic, but quarantined or staying in the employee’s home to avoid contracting coronavirus. 	<ul style="list-style-type: none"> ▪ Employee: <ul style="list-style-type: none"> ○ Has a confirmed positive diagnosis for coronavirus or is otherwise ill ○ Is needed to care for a family member with a serious health condition ▪ Employee is in need of extended time off.
	<p>Documentation to Verify Need for the Leave</p> <ul style="list-style-type: none"> ▪ For employees with a known/obvious medical condition, waive the requirement for a doctor’s note to verify the condition and need for a leave of absence. 	<ul style="list-style-type: none"> ▪ Because the medical condition is not obvious or known to the employer, require the employee to submit a note from his or her healthcare provider to confirm the condition and need for accommodation or leave of absence to self-isolate at home. ▪ Permit the employee to take unpaid time off until the note is submitted. 	<ul style="list-style-type: none"> ▪ Consider the request or requirement from the CDC or state or local health official/agency to be the equivalent of a healthcare provider’s note requesting a leave of absence for the employee. 	<ul style="list-style-type: none"> ▪ Document the employee’s request for an accommodation. ▪ Require the employee to submit a written request for a leave for non-medical personal reasons. 	<ul style="list-style-type: none"> ▪ Obtain written request from employee for the leave that states precise circumstances of the need. 	<ul style="list-style-type: none"> ▪ Consider relaxing the requirement for a medical certification under FMLA or the company’s non-FMLA medical leave policy, as applicable.
	<p>Employer Action</p> <ul style="list-style-type: none"> ▪ Grant the employee a wellness leave of absence with or without remote work responsibilities. ▪ Document the leave. 	<ul style="list-style-type: none"> ▪ After receiving a healthcare advisor’s note that verifies the condition, evaluate the ability to accommodate any work restrictions. Grant accommodations that do not create an undue hardship. ▪ If the healthcare provider recommends a leave of absence, grant the employee a wellness leave of absence. Document the leave. ▪ Do not permit or ask the employee to work remotely if the healthcare provider has recommended no work during the leave. 	<ul style="list-style-type: none"> ▪ Grant time off according to the CDC or state or local health official/agency’s guidance for the period of quarantine/self-isolation. ▪ Document the leave. 	<ul style="list-style-type: none"> ▪ If no business need to justify a leave or accommodation: Require the employee to continue working without accommodation or leave of absence. ▪ If business need justifies leave or accommodation, it can be granted, but is not required. ▪ If an accommodation or leave is granted for personal, non-medical reasons, it establishes a precedent that should be considered for future requests from other employees. 	<ul style="list-style-type: none"> ▪ Grant time off for family care reasons. ▪ If employee can perform some work for home, permit this; however, employees who have undertaken the care of a minor child or dependent adult should not be permitted to work while caring for the child or adult. ▪ Document the leave. 	<ul style="list-style-type: none"> ▪ Grant the time off according to company policy and healthcare provider’s certification. ▪ Do not permit employees who are ill and taken out of work by a healthcare provider to work from home while on leave. ▪ Document the leave.

¹ For all examples listed, the employer has no known workplace hazards, including, but not limited to, employees at work with confirmed positive diagnoses for coronavirus.

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Recommended Leave Provisions	Length of Time	<ul style="list-style-type: none"> Up to 2 weeks; will be reevaluated as needed and no later than prior to the conclusion of the 2-week period. Possibility for leave extension. If the employee contracts coronavirus during the period of the leave, transition from a wellness leave to an FMLA or non-FMLA medical leave of absence (depending on employer coverage, the circumstances, and employee eligibility). 	<ul style="list-style-type: none"> Dependent on healthcare provider's recommendation. If the employee requests an extension of the leave, consider granting an extension of limited duration (e.g., fewer than 5-7 days) without a healthcare provider's note. If an extension for a longer period of time is requested (e.g., more than 5-7 days), require the employee to submit an updated note from the healthcare provider. If the employee contracts coronavirus during the period of the leave, transition from a wellness leave to an FMLA or non-FMLA medical leave of absence (depending on employer coverage, the circumstances, and employee eligibility). 	<ul style="list-style-type: none"> Dependent on the CDC or state or local health official/agency's determination. Reevaluate after the initial period of self-isolation/quarantine. If an extension is requested, consider if it can be granted and do so, unless it creates an undue hardship. If the employee contracts coronavirus during the period of the leave, transition from a wellness leave to an FMLA or non-FMLA medical leave of absence (depending on employer coverage, the circumstances, and employee eligibility). 	<ul style="list-style-type: none"> Not applicable if leave is not granted. If leave is granted, clarify and document the exact amount of time off that is being granted. Consider using language, such as "... up to X days," so the employee can be required to return to work prior to the end of the leave, if necessary. A request for an extension of the leave should take into consideration business needs. If the employee contracts coronavirus during the period of the leave, transition from a personal leave to an FMLA or non-FMLA medical leave of absence (depending on employer coverage, the circumstances, and employee eligibility). 	<ul style="list-style-type: none"> Up to 2 weeks; will be reevaluated as needed and no later than prior to the conclusion of the 2-week period. Possibility for leave extension. If the employee contracts coronavirus during the period of the leave, transition from a wellness leave to an FMLA or non-FMLA medical leave of absence (depending on employer coverage, the circumstances, and employee eligibility). 	<ul style="list-style-type: none"> Dependent on healthcare provider's recommendation; up to 12 weeks for FMLA leaves. Consider extending the leave if requested; if FMLA was granted for 12 weeks, leaves beyond this time should transition to non-FMLA medical leave.
	Return to Work	<ul style="list-style-type: none"> If the employee was asymptomatic for the duration of the leave, permit the employee to return to work at the conclusion of the leave if he/she provides a written request for reinstatement. 	<ul style="list-style-type: none"> If the employee was asymptomatic for the duration of the leave, waive the requirement for the employee to provide a healthcare provider's note to return to work. Permit the employee to return to work at the conclusion of the leave if he/she provides a written request for reinstatement. 	<ul style="list-style-type: none"> When the CDC or state or local health official/agency's recommended or required self-isolation or quarantine period ends, permit the employee to return to work and accept the CDC or health official's end of the self-isolation period or quarantine as a substitute for a note from a healthcare provider releasing the employee to work. If possible, obtain documentation from the CDC or state or local health official/agency verifying the end of the quarantine or self-isolation period. 	<ul style="list-style-type: none"> Not applicable if the leave is not granted. If a leave is granted and the employee remained asymptomatic for the duration of the leave, permit the employee to return to work at the conclusion of the leave. 	<ul style="list-style-type: none"> If the employee was asymptomatic for the duration of the leave, permit the employee to return to work at the conclusion of the leave. 	<ul style="list-style-type: none"> In accordance with company policy, at the conclusion of the leave, require verification from the healthcare provider that the employee can return to work (with or without limitations) and is not contagious.

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Recommended Leave Provisions	Compensation	<ul style="list-style-type: none"> Unpaid. Permit employee to use any available vacation, sick, or PTO, but do not require this. Consider advancing unearned vacation or PTO (could result in a monetary loss to the company if the employee separates before earning back the time). 	<ul style="list-style-type: none"> Unpaid. Permit employee to use any available vacation, sick, or PTO, but do not require this. Consider advancing unearned vacation or PTO (could result in a monetary loss to the company if the employee separates before earning back the time). 	<ul style="list-style-type: none"> Unpaid. Employee may be eligible for wage replacement benefits through government-initiated programs. Permit employee to use any available vacation, sick, or PTO for periods of nonpayment, but do not require this. If the company offers short-term disability benefits, determine if the employee is eligible and the circumstances qualify. 	<ul style="list-style-type: none"> Not applicable if leave is not granted. Unpaid if leave is granted. Can require employee to use any available vacation or PTO. May be able to require employee to use any available sick leave, subject to any applicable state paid sick leave laws. 	<ul style="list-style-type: none"> Unpaid. Employee may be eligible for wage replacement benefits through government-initiated programs. Permit employee to use any available vacation, sick, or PTO for periods of nonpayment, but do not require this. 	<ul style="list-style-type: none"> Unpaid, unless company policy provides for paid leave. Employee may be eligible for wage replacement benefits through government-initiated programs. Permit employee to use any available vacation, sick, or PTO for periods of nonpayment, but do not require this. If the company offers short-term disability benefits, determine if the employee is eligible and the circumstances qualify.
	Benefits	<ul style="list-style-type: none"> Employee pays his or her portion of any group health or other insurance premium and employer continues to pay its portion. If employee is unable to pay the premium(s) while on leave because he/she is not receiving wages, consider paying the employee's portion of the premium in order to maintain the benefits and then obtain reimbursement when the employee returns to work. 	<ul style="list-style-type: none"> Employee pays his or her portion of any group health or other insurance premium and employer continues to pay its portion. If employee is unable to pay the premium(s) while on leave because he/she is not receiving wages, consider paying the employee's portion of the premium in order to maintain the benefits and then obtain reimbursement when the employee returns to work. 	<ul style="list-style-type: none"> Employee pays his or her portion of any group health or other insurance premium and employer continues to pay its portion. If employee is unable to pay the premium(s) while on leave because he/she is not receiving wages, consider paying the employee's portion of the premium in order to maintain the benefits and then obtain reimbursement when the employee returns to work. 	<ul style="list-style-type: none"> Not applicable if leave is not granted. If leave is granted, require employee to pay his or her portion of any group health or other insurance premiums. Employee can be required to pay the full amount of any insurance premiums while on this type of personal leave. 	<ul style="list-style-type: none"> Employee pays his or her portion of any group health or other insurance premium and employer continues to pay its portion. If employee is unable to pay the premium(s) while on leave because he/she is not receiving wages, consider paying the employee's portion of the premium in order to maintain the benefits and then obtain reimbursement when the employee returns to work. 	<ul style="list-style-type: none"> Employee pays his or her portion of any group health or other insurance premium and employer continues to pay its portion. If employee is unable to pay the premium(s) while on leave because he/she is not receiving wages, consider paying the employee's portion of the premium in order to maintain the benefits and then obtain reimbursement when the employee returns to work.

ⁱ Recommended leave provisions for the coronavirus pandemic are current as of March 13, 2020 and subject to change at any time based on updated guidance from public health authorities and government agencies. Recommended leave provisions assume employer coverage under the Americans With Disabilities Act (ADA) and/or a corresponding state anti-discrimination employment law. **This chart is intended for use only by clients of Seawright & Associates (employers using the HR consulting service).**