Employment Rights & Resources for Immigrants under COVID-19

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What are immigrants eligible for under the Coronavirus Aid, Relief and Economic Security (CARES) Act?
The **Families First Coronavirus Response Act** (FFCRA or Act) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

The **Coronavirus Aid, Relief, and Economic Security Act** (“CARES Act”) made several amendments to the Families First Coronavirus Response Act (“FFCRA”).
Families First Coronavirus Response Act (FFCRA)

Emergency Paid Sick Leave

- Two work weeks (10 days) of job-protected, immediately-available paid sick days for COVID-19 related medical and caregiving needs.
- Through December 2020
- Employers with fewer than 500 employees are required to provide leave to eligible workers
- Emergency paid sick leave is available to all eligible employees regardless of immigration status.
- Provided at your average hourly rate of pay
Sick and Family Leave

EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT (Families First) (Expands FMLA)

- 12 weeks job-protected leave for those unable to work because caring for a child due to school/childcare closures.
  - 66% of your regular pay (First 10 days can be UNPAID)
- Through December 31, 2020
- Requirements?
  - Must employed at least 30 days
  - Don’t need to meet other FMLA reqs
  - No immigration status-related restriction
- Applies on to certain types of companies
  - Excluded: 500+ companies, federal employees, front-line staff, -50 companies if it would put out of business
Can I get fired if I get sick or get diagnosed with COVID-19?
- Under FMLA, an employer cannot fire you for a serious health condition.
- Available only for certain employees (eg: worked for 1 year+ with that employer, 50+ employees)

Emergency Paid Sick Leave
- Yes, job protection for up to 10 days where leave is related to COVID-19 medical and caregiving needs

Emergency FMLA Expansion
- Up to 12 weeks job protected leave for eligible employees, BUT
- No guaranteed job protection by employers with less than 25 employees
To claim unemployment insurance, immigrant must have a valid employment authorization:
- During the base period for the UI claim
- At the time of the filing UI claim and in the time after filing the claim
- Must be a full time employee

Who cannot get unemployment insurance?
- Undocumented folks
- People who had status but lost their status by the time they file their claim
- USCIS closures are a problem!

*DOL hasn’t set eligibility criteria for new CARES Act program. It’s possible DOL will apply a more restrictive set of eligibility criteria to these programs*
Pandemic Unemployment Insurance (CARES Act): Who qualifies?

Those who stopped working because:

- Employer temporarily or permanently closed business, and you were laid off/furloughed.
- You must care for your child whose school or daycare was closed. (You are not required to be the legal parent/guardian)
- You must care for someone whose care facility closed (possibly even a dependent adult).
- You have COVID-19 symptoms and are seeking a diagnosis.
- You were diagnosed with COVID-19.
- You live with was diagnosed with COVID-19.
- The government ordered your employer to close or for you to quarantine (this likely does not apply if you are an essential worker not covered by a government stay-at-home-order).
- A doctor told you to self-quarantine because of COVID-19 concerns.
Extended Unemployment Benefits in Texas

Chart of Weeks of Benefits in Texas

If you are eligible for a benefit extension after you exhaust your unemployment benefits, TWC will mail, and email if we have the claimant’s email address, information to you about the additional benefits you may receive. Make sure TWC has your current address and email address. Find a summary about the benefit extensions below.

Pandemic Emergency Unemployment Compensation (PEUC), Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC)

100% federally funded

<table>
<thead>
<tr>
<th>REG</th>
<th>PEUC</th>
<th>PUA</th>
<th>FPUC</th>
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<tbody>
<tr>
<td>Up to 26 Weeks</td>
<td>Up to 13 Weeks</td>
<td>Up to 39 Weeks</td>
<td>$600 per Week</td>
</tr>
<tr>
<td>• Eligibility rules (past wages, qualifying separation) still apply</td>
<td>• Applies to claims dated on or after July 8, 2018</td>
<td>• Individuals not monetarily eligible for regular benefits may qualify</td>
<td>• In addition to benefit payment all receiving a payment</td>
</tr>
<tr>
<td>• Waiting Week waived</td>
<td>• Exhausted all entitlement to Regular UI benefits</td>
<td>• Benefits may be reduced by number of weeks on REG or EB</td>
<td>• First payable week, BWE April 4, 2020</td>
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<tr>
<td>• Work search waived</td>
<td>• Not eligible in another state</td>
<td>• Last payable week is December 26, 2020</td>
<td>• Last payable week July 25, 2020</td>
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Apply for Benefits at ui.texasworkforce.org
Stimulus Check

- Immigrants must have valid SSN & valid employment status
  - ITIN is NOT enough
  - Mixed-status households who jointly filed ineligible
  - Children must also have valid SSN

- If not a US Citizen or LPR, must meet “substantial presence test” to show you primarily reside in US.
Stimulus Check

• Are eligible if not required to file tax forms. Must enter info: www.irs.gov/coronavirus/non-filers-enter-payment-info-here

• You should receive your payment automatically if you meet any of the following qualifications:
  • Filed a federal income tax for 2018 or 2019
  • Social Security retirement, disability (SSDI), survivor benefits, Supplemental Security Income (SSI)
  • Recipients of Veterans Affairs benefits and Railroad Retirement benefits

• Check the status of Economic Impact Payment: www.irs.gov/coronavirus/get-my-payment
Question 1

What can people do if their employer is cutting hours, reducing pay, or letting go under COVID?
• Under the “at-will” policy in Texas, an employer can alter the terms of an employment agreement (unless there is a written contract) without notice. Your employer has the right to reduce hours and cut wages.

• You must receive at least $7.25 (or $2.13 for tipped employees) for every hour worked. The employer must also continue to pay overtime for all hours worked over 40 hours.
  • Fair Labor Standards Act (FLSA), the Texas Minimum Wage Act (TMWA) and the Texas Payday law,

• If you are let go, you must be paid within 6 calendar days or by the next paycheck period.
Question 2

Can an employee be forced to use sick leave during COVID?
Worker Rights

• EMERGENCY PAID SICK LEAVE ACT (EPSLA):
  • An employer is required to provide 10 days of job protected leave, and cannot ask you to use other types of leave before using these 10 days.

• EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT (EFMLEA):
  • The first 10 days of the 12 weeks of leave CAN be unpaid. You and your employer can agree to use another form of leave for those 10 days, or your employer may require you to do so.
Question 3

Unjust termination during COVID: right to get re-hired after shutdown?
Worker Rights

• Texas is an AT-WILL state. Generally, if a person has been terminated, there is no “right to re-hire.”

• Always: If termination was as a result of discrimination or retaliation, an employee may seek to be re-hired as part of an agreement after filing a charge or complaint.

• During COVID: If the leave or termination was COVID-19 related, job protection will depend on the type of leave taken and/or the size of the company.
Does an employer have the right to ask you to get COVID tested before returning to work?
Worker Rights

• COVID-19 has been designated a Pandemic

• This allows employers to:
  • Take employees’ temperatures
  • Ask employees about their symptoms
  • Require employees to seek medical attention if there is potential exposure

• However, personal medical information is confidential and cannot and should not be shared with non-medical personnel
What are a person’s rights if they fear retaliation?
Worker Rights: Retaliation

What was the basis for retaliation?

• RETALIATION for complaining about lack of safe working conditions

• RETALIATION for refusing to return to work

• RETALIATION for complaining about unpaid wages
What happens if a worker is using another social security number? Can they apply for benefits?
No!!

Only valid, authorized social security numbers can be used to apply for unemployment insurance (UI) benefits.

Non-citizens WILL be asked for their “A number” as additional proof during the application process.

If the worker is using a false SSN, they cannot and should not attempt to apply for UI.
Can my employer force me to return to work? What if they’re not providing sufficient protection?
Remember “AT WILL” policy!

- Employers CAN fire you if you refuse to return to work because you don’t feel safe unless you have asked for a reasonable accommodation of a disability or have requested leave under the EPSLA or EFMLEA.

- You may be eligible for benefits if you quit your job for certain COVID-19-related reasons.
  - For example, if you have a compromised immune system and your doctor advises you to self-quarantine because you are at high risk for infection, or if someone in your household is at high risk for infection, you may be eligible for benefits if you quit your job or refuse to return to work.
Under federal law, you are entitled to a **safe workplace**. Your employer must provide a workplace free of known health and safety hazards. You have the right to speak up about concerns **without fear of retaliation**. You also have the right to:

- Be trained in a language you understand
- Work on machines that are safe
- Be provided required safety gear (gloves, harness and lifeline)
- Be protected from toxic chemicals
- Request an OSHA inspection, and speak to the inspector
- Report an injury or illness, and get copies of your medical records
- See copies of the workplace injury and illness log
- Review records of work-related injuries and illnesses
- Get copies of test results done to find hazards in the workplace
Question 8

Does accepting benefits during COVID affect my ability to become an LPR or will I be deemed a “public charge”?
Public Charge: Local Funds

• Considers “cash assistance for income maintenance”

• Does NOT consider disaster relief under the Stafford Act, such as FEMA or any “comparable disaster assistance provided by State, local, or tribal governments”
  • On March 13, Trump declared a disaster under the Stafford Act due to the pandemic
Public Charge: COVID-19

• Testing + treatment + preventive services will not impact USCIS public charge analysis
  • “Even if such treatment is provided or paid for by one or more public benefits” (e.g. Medicaid)

• Include evidence of loss of job/inability to attend school because of social distancing

• USCIS will not consider use of public benefits by a child in a parent’s PC determination

www.uscis.gov/greencard/public-charge
This applies to USCIS, not State Dept
Public Charge: Unemployment

• Unemployment is NOT considered in a public charge determination when applying for LPR status through USCIS!
Question 9

Are there local resources if you don’t qualify for federal aid?
• HILSC’s COVID-19 Resource Guide: A Living Document of Resources for Immigrant Advocates in Houston
  • tinyurl.com/HouResourceCOVID19

• AccessHOU: www.accesshou.org

• Immigrant Rights Hotline: 1-833-468-4664

• CARES, Family First and Impact on Immigrants (NILC)
What kind of help do you need?

Search through hundreds of agencies and programs that are ready to help you.

- Agency
- Program

Find Help

Want to request adding a new agency or program? Request here
A database of resources for agencies working with immigrants in Greater Houston

Family food housing employment money education at Family Promise of Montgomery County
Family Promise of Montgomery County, through a unique network of local partner congregations, provides food and shelter to families in the program. Job Search assistance, transportation, clothing, furniture and household items for successful graduates, and referrals to other local programs are all provided to displaced families on their path to independence. Additional Life Skills classes are provided to all families by local area professionals, volunteering their time to help others. These classes cover a wide range of topics and include parenting, budgeting, financial planning, nutrition, household management, emergency preparedness and poison control.

(936) 446-8715

72 results

Fe y Justicia Worker Center Houston
1922 Common Street, Houston, Texas 77009
https://www.houstonworkers.org/
(713) 862-8222

Labor and Domestic Emergency Support Fund
COVID-19/Caregiving relief. Cash support for basic needs such as food and clothing, personal protective equipment, transportation, and hygiene items in an emergency support "scoopnet." Goal is to reach a minimum of 900 families.

Fort Bend County Social Services - Missouri City Annex
307 Texas Parkway, Suite 220, Missouri City, Missouri city, Texas 77489
(281) 402-8080

Money family at Fort Bend County Social Services - Missouri City Annex
Public program (Fort Bend County) providing financial assistance - utilities, rent, food vouchers, medication, vouchers, emergency shelter.

Fort Bend County Social Services - Rosenberg Annex
4202 Reading Rd., Suite A-900, Rosenberg, Texas 77471
(281) 338-3820

Money family at Fort Bend County Social Services - Rosenberg Annex
Public program (Fort Bend County) providing financial assistance - utilities, rent, food vouchers, medication, vouchers, emergency shelter.
Fe y Justicia Worker Center Houston

General Info

Website: https://www.houstonworkers.org/
Phone: (713) 862-8222

Address:
1922 Common Street, Houston, Texas 77009

Directions

Schedules

Monday - 9:00 AM - 6:00 PM
Tuesday - 9:00 AM - 6:00 PM
Wednesday - 9:00 AM - 6:00 PM
Thursday - 9:00 AM - 6:00 PM
Friday - 9:00 AM - 6:00 PM

Agency programs

Labor and Domestic Emergency Support Fund
COVID-19/Coronavirus relief. Cash support for basic needs such as food and clothing, personal protective equipment, transportation vouchers and hygiene items in an emergency support “dispense”. Goal is to reach a minimum of 300 families.

Phone: (713) 862-8222
• Department of Labor (DOL)
  • 713-339-5500
  • 1-866-4-USWAGE
  • (1-866-487-9243)
  • [www.dol.gov/agencies/whd/contact/complaints](http://www.dol.gov/agencies/whd/contact/complaints)

• Texas Workforce Commission (TWC)
  • 800-939-6631

• Occupational Safety and Health Admin. (OSHA)
  • 936) 760-3800
  • [www.osha.gov/workers/file_complaint.html](http://www.osha.gov/workers/file_complaint.html)
• Fe y Justicia Workers Center
  Houston: 713-862-8222
  www.houstonworkers.org

• Equal Justice Center
  Houston: 832-322-7889
  General Intake: 800-853-4028
  www.equaljusticecenter.org