



## **Coronavirus: Know Your Rights**

### **Paid Sick Leave for Agricultural Workers**

Last updated July 21, 2020



#### **I am getting tested for COVID-19, have confirmed COVID-19, or have been told to quarantine for 14 days. What are my options?**

Farmworkers have a few options available for both paid and unpaid sick time during COVID-19. Each person's job is different, and we recommend you call us at 800-968-4046 to discuss your situation and options. We provide free legal consultations to low-income eligible farmworkers and immigrant workers. This flyer will provide you with general information on Michigan Paid Medical Leave, Federal Emergency Paid Sick Leave, and Emergency Family and Medical Leave.

#### **What is Michigan Paid Medical Leave?**

The Michigan Paid Medical Leave law requires that employers with 50 or more employees give workers 1 hour of paid sick time for every 35 hours worked, up to 40 hours per year to each eligible employee. This law went into effect on March 29, 2019. Michigan sick leave must be paid in the higher of your normal hourly rate or the applicable minimum wage rate (\$9.65). An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay or gratuities in the calculation. Eligible reasons for taking the leave include: seeking medical diagnosis, care, or treatment for yourself or family member, closure of the employee's primary workplace by order of a public official due to a public health emergency (such as COVID-19), and caring for your child in case the school or place of care closed as a result of a public health emergency (like COVID-19). There are lots of exemptions to this law, including a seasonal worker exemption, which means you have to have worked for the employer for at least 25 weeks in a year to be eligible to get paid sick leave under this law.

#### **What is Emergency Paid Sick Leave?**

Starting on April 2, 2020 and through December 31, 2020, under the Families First Coronavirus Response Act (FFCRA), you may be eligible for up to 80 hours of paid sick leave at 100% your regular rate of pay or the Michigan minimum wage, if you meet the following requirements:

- (1) Your employer has less than 500 workers and does not meet the small business exemption.
- (2) You cannot work because of one of these COVID-19 related reasons:
  - a. Have COVID-19 symptoms and are seeking a medical diagnosis.
  - b. Have been required to quarantine by federal, state, or local order related to COVID-19.
  - c. Have been told by a health care provider to self-quarantine due to COVID-19 related concerns.
  - d. Are experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
- (3) You provide proof of your eligibility, ex. proof of your diagnosis or government quarantine order.

If you cannot work because you are caring for someone in your household who has COVID-19 or is quarantined or because your child's school or day care is closed due to COVID-19 then your employer must pay you 2/3 of your regular rate of pay (up to \$2,000). There is a small business exemption for companies with less than 50 employees who can show that paying a worker because school or day care is closed would "jeopardize the viability of the small business as a going concern."

## What is Emergency Family and Medical Leave?

From April 2, 2020 through December 31, 2020, under the Families First Coronavirus Response Act (FFCRA), you may request up to 10 weeks of paid leave, and 2 weeks of unpaid leave if you meet the following requirements:

- (1) Your employer has less than 500 workers and does not meet the small business exemption.
- (2) You cannot work because your child's school or day care has closed because of COVID-19.
- (3) You have worked for the employer for at least 30 days.

If you meet these requirements, your employer must pay you 2/3 of your regular pay rate up to \$12,000 total in the covered 12-week period. You will need to provide proof to your employer of your child's school or day care closure due to COVID-19.

## If I believe I am eligible for paid sick time, what should I do?

If you believe that you may be eligible for paid medical leave under Michigan Law, Federal Emergency Paid Sick Leave, or Emergency Family and Medical Leave, you should begin by discussing it with your employer. Ask about what paid sick leave your employer has, how you can access the paid sick leave, and what information your employer will need to give you paid sick time.

If you believe you are entitled to Michigan Paid Sick Leave, you may file a complaint with the Michigan Department of Labor and Economic Opportunity (LEO)'s Wage and Hour Division:

1-855-464-9243

Fax: 517-763-0110

Mail: Wage and Hour Division

PO Box 30476

Lansing, MI 48909-7976

Online:

<https://wageandbenefitcomplaint.apps.lara.state.mi.us>

Online in Spanish:

[https://www.michigan.gov/documents/ClaimForm\\_90379\\_7.Spanish\\_04\\_28\\_04.pdf](https://www.michigan.gov/documents/ClaimForm_90379_7.Spanish_04_28_04.pdf)

File as soon possible. You must file your complaint within 6 months after you were owed your sick time and denied it.

If you believe you are entitled to paid sick leave under the federal law, you may file a complaint with the United States Department of Labor:

1-866-487-9243

TTY: 1-877-889-5627

[dol.gov/agencies/whd](http://dol.gov/agencies/whd)

You may also contact us at 800-968-4046 for more information.

This flyer was created by the Michigan Immigrant Rights Center (MIRC) and Farmworker Legal Services. We provide free, confidential legal services to eligible low-wage farmworkers and immigrant workers.



Questions? Call us at (800) 968-4046

