

COVID-19 Workers' Protection Intake Guide

The health and safety of Minnesota's workers are central to the health of Minnesota's children, families, and communities. As Minnesotans continue to work and many plan to return to work, it is essential that workers know their rights, have resources to return to, and can access information easily. The following are resources to help workers stay safe during COVID-19.

Working from Home

- **All critical sector and non-critical sector workers who are able to work from home must continue to do so under Executive Orders 20-48 and 20-56.**
- If an employer is requiring an employee to return to the office or is requiring an employee to go into the office but the employee can clearly complete their work from home, then the employee can:
 1. **Inform their employer** that returning to work violates the Governor's Executive Orders and that they will be working from home so they do not violate the Governor's orders.
 2. **Contact the Work from Home Violation Helpline** by phone: 651-539-1132 or toll free at 833-454-0152, or by email: WFHviolations@state.mn.us
 3. **File their own lawsuit** against their employer under the state's whistleblower law, if their employer retaliates against them for working from home or reporting the violations to any government agency or law enforcement official. Minn. Stat. § 181.932, subd. 1. Recommend that the employee contact a private attorney to discuss their options.

Workplace Safety

- Any worker who believes that their workplace is not following their COVID-19 Preparedness Plan or is not following CDC or Minnesota Department of Health guidelines is encouraged to attempt to resolve their concerns directly with their employer.
- **If the employee is still concerned about their workplace safety, they can take these steps:**
 1. **Call Minnesota OSHA:** If the employee is not successful working with their employer, not comfortable raising concerns, or has additional concerns about the safety of their workplace, contact Minnesota OSHA at 651-284-5050 or OSHA.Compliance@state.mn.us.
 2. **Refuse to Work:** An employee has the right to refuse to work under conditions that they reasonably believe present an imminent danger of death or serious physical harm to the employee. Minn. Stat. § 182.654, subd. 11.
 - An employer may not fire an employee or otherwise retaliate against the employee for their refusal to do their job if they have asked the employer to correct the hazardous conditions but the employer does not.
 - If the employee refused to work and the employer does not reassign the employee to other work, the employee may contact Minnesota OSHA to request assistance at 651-284-5050 or OSHA.Compliance@state.mn.us.
 3. **Consider Quitting Their Job:** If an employee raises concerns with their employer and the employer does not address the concern in a reasonable amount of time, the employee can quit and will still be eligible for unemployment insurance benefits as long as it was reasonable to

quit. Minn. Stat. § 268.095, subd. 3(a). Recommend that the employee contact a private attorney to discuss their options before quitting their job.

Retaliation

- **An employer may not retaliate against an employee for reporting health and safety concerns** at work or exercising any of the rights set forth in Minnesota's occupational safety and health laws. Minn. Stat. § 182.669.
- **Employees experiencing retaliation for reporting health and safety concerns, may follow these steps:**
 1. **File a complaint with Minnesota OSHA** (651-284-5050 or OSHA.Compliance@state.mn.us) within 30 days of the retaliatory action.
 2. **File their own lawsuit** against their employer under the state's whistleblower law. Recommend that the employee contact a private attorney to discuss their options.

Violations of the Governor's Executive Orders

- **To report violations of the work from home requirements in the Executive Orders, contact the Work from Home Violation Helpline:**
 - Phone number: 651-539-1132 or toll free at 833-454-0152
 - Email: WFHviolations@state.mn.us
- **To report violations or complaints related to the Governor's Executive Orders (not related to the work from home requirement, discrimination, workplace safety, or leave/wage laws), contact SAH Violations:**
 - Phone number: (651) 793-3746
 - Email: SAHviolations@state.mn.us
- **Businesses that fail to comply with the Orders could also face civil penalties up to \$25,000 per occurrence and injunctive relief.**
 - The Governor's focus is on education and voluntary compliance with the Orders, but the Orders have the force of law and a willful (intentional) violation is a misdemeanor for employees and a gross misdemeanor for business owners, managers, or supervisors.
- **If employers violate the work from home and social distancing requirements of the Orders, employees may be able to file a private lawsuit against their employer under the state's whistleblower law, Minn. Stat. § 181.932.** An employee may want to speak to an attorney to discuss their legal options.

Reasonable Accommodations

- Executive Order 20-54 highlights **existing legal protections under the Minnesota Human Rights Act for all workers, including immigrants, who have a disability, including individuals with conditions such as diabetes or a compromised immune system, that places them at-risk of health complications if they contract COVID-19.**
 - If an employee has a disability that affects their risk for contracting COVID-19 or being harmed if they do contract the virus, they have the right to request a reasonable accommodation from their employer. Examples of reasonable accommodations include:
 - teleworking;
 - paid, sick, unpaid leave;
 - staggered work schedules; and
 - changing workstations to practice social distancing.
 - When requesting a reasonable accommodation, an employee should describe the nature of the accommodation requested and how it will assist them in performing the essential functions of their job.
- If you need assistance or have been denied a reasonable accommodation by your employer, please contact the Minnesota Department of Human Rights Discrimination Helpline at 1-833-454-0148.

Reminders for Employers Regarding Health Status of Employees

- Employers may ask employees if they are experiencing influenza-like symptoms, such as a fever, chills, a cough or a sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with state and federal law.
- During a pandemic, employers may not ask employees who do not have known or apparent influenza symptoms whether they have a medical condition the CDC says could make them vulnerable to influenza complications. Under no circumstances may an employer make decisions based on stereotypes or bias.
- If employees voluntarily disclose to their employer that they have a medical condition or a disability that places them at higher risk of COVID-19 complications, the employer must keep this information confidential.
- Employers may not assume employees with known medical conditions or disabilities are at heightened risk of complications from COVID-19. For more information about pandemic preparedness in the workplace and relevant legal requirement for employers, visit www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitation_act_coronavirus.cfm.
- Contact Minnesota's Discrimination Helpline if an employer denied an employee a reasonable accommodation by calling 833-454-0148 or [submitting this online form](#). Translation/interpretation services are available.

Employment Protections for Workers Who Have Been Exposed to or Contracted COVID-19

- **Under a state health law**, if an employee has contracted or been exposed to COVID-19 and the Minnesota Department of Health (MDH) recommends the individual stay home (isolate or quarantine), an employer may not discharge, discipline, or penalize that employee for missing work. Minn. Stat. § 144.4196.
 - This protection also applies if the employee needs to care for a minor or adult family member for whom MDH recommends isolation or quarantine. (The adult family member must have a disability or be a vulnerable adult.)
 - This employment protection is available for 21 workdays.
 - If an employee believes their rights under this law have been violated, recommend that they promptly contact an attorney who can advise them of their rights. An individual has 180 days from the date of the retaliatory activity to file a lawsuit.
 - If you received a quarantine or isolation recommendation and need it in writing, call the Department of Health: 651-201-5414.
- **Under the Minnesota Human Rights Act (Minn. Stat. § 363A, *et seq.*) and the Americans with Disabilities Act (ADA):**
 - If an employee has contracted COVID-19, they could be considered as having a major health condition and could be entitled to anti-discrimination protections and may be able to request a reasonable accommodation.
 - If an employee has developed an ongoing health condition as a result of contracting COVID-19, they may be eligible to request a reasonable accommodation from their employer.
 - If an employee needs assistance or has been denied a reasonable accommodation by their employer, please contact the Minnesota Department of Human Rights Discrimination Helpline at 1-833-454-0148.

Unemployment Insurance (UI)

- **If an employee loses their job or has their hours greatly reduced, they should apply for UI benefits.** The application process allows the employee to tell the UI program why they are not working. To get more information about UI or to apply for benefits, visit www.uimn.org.
 - Gov. Tim Walz issued a March 16, 2020, executive order to better enable workers affected by the COVID-19 pandemic to access UI benefits. For more information about this executive order and some frequently asked questions and answers, visit www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp.

UI Eligible Quits

- **If an employee's business is unable to provide a reasonable accommodation upon the employee's request**, the employee may be eligible for unemployment. Minnesota unemployment insurance law, Minn. Stat. § 268.095, subd. 1(7), provides that an applicant is eligible for unemployment insurance benefits if:
 - the applicant quits employment because the applicant's serious illness or injury made it medically necessary that the applicant quit, and
 - the worker first notified the employer of the condition, requested an accommodation, and no reasonable accommodation was available.
- **If an employee's employer is unable to provide a reasonable accommodation based upon the employee living with at-risk family members**, the employee may be eligible for unemployment insurance benefits.
 - Workers who live with family members who are at greater risk if they contract COVID-19 are encouraged to ask for reasonable accommodations from their business that will allow them to continue working while maintaining the safety and health of their family member.
 - Minnesota unemployment insurance law, Minn. Stat. § 268.095, subd. 1(7), provides that an applicant is eligible for unemployment insurance benefits if:
 - the applicant quits employment in order to provide necessary care because of the illness, injury, or disability of an immediate family member of the applicant, and
 - the worker first requested an accommodation, and no accommodation was available.
- **An employee may be eligible for unemployment if they quit employment because of a safety and health concern that has not been corrected by an employer.** An unemployment insurance applicant may be deemed eligible if the applicant "quit the employment because of a good reason caused by the employer." Minn. Stat. § 268.095, subd. 1(1).
 - A good reason caused by the employer is a reason "(1) that is directly related to the employment and for which the employer is responsible; (2) that is adverse to the worker; and (3) that would compel an average, reasonable worker to quit and become unemployed rather than remaining in the employment." Minn. Stat. § 268.095, subd. 3(a) (2020).
 - If the applicant was subjected to adverse working conditions, they must complain to the employer and give the employer a reasonable opportunity to correct the conditions before the conditions constitute a good reason to quit. Minn. Stat. § 268.095, subd. 3(c) (2018).

Workers cannot be fired or denied the opportunity to be rehired for applying for UI

- **Employers also may not discriminate against employees because they have applied for or received unemployment insurance (UI) benefits.** Under the Minnesota Human Rights Act, it is unlawful for an

employer to terminate or otherwise change the terms and conditions of an employee's work because that employee applied for or received UI or any other type of public assistance.

- Contact Minnesota's Discrimination Helpline if an employer fired or refused to rehire an employee because they filed for unemployment insurance during COVID-19 by calling 833-454-0148 or [submitting this online form](#). Translation/interpretation services are available.

Leave Laws and Wage Hours Laws

- Contact the Minnesota Department of Labor and Industry Labor Standards Unit at 651-284-5075, 800-342-5354 or dli.laborstandards@state.mn.us with questions about worker rights.

Use of Sick Leave

- If an employer allows an employee to take time off for their own illness, the employer must also allow the employee to take time off to care for an ill minor child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent. The employer must allow employees to use sick time in the same manner as the employer would allow employees to use the leave for themselves. Under current law, this provision may not apply to all employees and all employers.
- Contact the Minnesota Department of Labor and Industry (DLI) at 651-284-5075, 800-342-5354 or dli.laborstandards@state.mn.us with questions.
- The cities of Duluth, Minneapolis and St. Paul have sick and safe time ordinances that require employers to offer paid time off when employees are sick:
 - [Duluth sick and safe time leave](#);
 - [Minneapolis sick and safe time leave](#); and
 - [St. Paul sick and safe time leave](#).

Family Medical Leave Act (FMLA)

- Under the federal FMLA, covered employers must provide employees job-protected, unpaid leave for specified family and medical reasons, which may include COVID-19 where complications arise. Employees on FMLA leave are entitled to the continuation of group health insurance coverage under the same terms as existed before they took FMLA leave.
- Call the U.S. Department of Labor (DOL), Wage and Hour Division, at 866-487-9243 with questions or see U.S. DOL [COVID-19 FMLA guidance](#).

Federal Families First Coronavirus Response Act (FFCRA)

- The FFCRA requires certain employers to provide employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. The paid sick leave and the expanded family and medical leave provisions of FFCRA apply to certain public employers and to private employers with fewer than 500 employees. Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern. Also, health care providers and emergency responders can be excluded.
- Generally, FFCRA provides that employees of covered employers are eligible for:
 - two weeks (up to 80 hours) of paid leave at the employee's regular rate of pay (up to \$511 a day and \$5,110 in the aggregate), where the employee is unable to work because the employee is quarantined (pursuant to federal, state or local government order or advice of a health care provider) and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
 - two weeks (up to 80 hours) of paid leave at two-thirds the employee's regular rate of pay (up to \$200 a day and \$2,000 in the aggregate), where the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to federal, state or local government order or advice of a health care provider) or to care for a child (under 18 years of

- age) whose school or child care provider is closed or unavailable for reasons related to COVID-19; and
 - up to an additional 10 weeks of expanded family and medical leave at two-thirds the employee's regular rate of pay (up to \$200 a day and \$10,000 in the aggregate), where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.
- Call the U.S. Department of Labor, Wage and Hour Division, at 866-487-9243 with questions or visit www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave#_ftn3.

Workers' Compensation

- **If an employee contracts a disease that arises out of and in the course of their employment, they may be entitled to workers' compensation benefits, including payment for wage loss and medical benefits.**
 - However, the employee must show they contracted the disease due to their employment.
- If an emergency responder contracts an infectious or communicable disease, they are exposed to in the course of employment outside of a hospital, the disease is presumed to be an occupational disease due to the nature of their employment.
- If an employee is not ill, but must stay home from work because they were exposed to the virus, they are not entitled to workers' compensation benefits under current law.
- Every case is fact specific. Call the Department of Labor and Industry (DLI) at 800-342-5354 (press 3) if you have a question about whether you are entitled to workers' compensation benefits.

Final Wages

- **If an employee's employment ends and their former employer has not paid them their final wages, there are several steps the employee can take to ensure they are paid all the wages they are due.** To learn what steps an employee can take to receive final wages, visit DLI's [Making a demand for final wages webpage](#).

Changes to Working Conditions

Overtime mandates

- If employers schedule and require employees to work overtime hours, they must pay any overtime that is earned under either state or federal law. State law provides one exception to required overtime for nurses.
- Other employees may be covered by collective bargaining agreements that contain provisions allowing employees to opt out of overtime hours.

Work location changes

- Employers are required to track, record and pay for all hours of work performed by employees and may, in certain circumstances, be required to reimburse employees for work-related expenses. These expenses may not be required to be reimbursed until the end of employment.

Hours worked; hours paid

Salaried exempt workers

- Under limited situations when a business decides to cut business hours, the employer can reduce the salary of an exempt worker. If a salaried exempt worker misses a full day of work for reasons other than the employer stating that no work is available, the employer may deduct a proportional amount of their salary. This deduction can only be made if the employee does not complete any work activities during that day. The employer cannot deduct from a salaried exempt employee's weekly salary if the reason for an absence is that there was no work available, unless there is no work available for the entire workweek.

Volunteering

- Unpaid volunteer work may be performed for nonprofit organizations or government agencies. For-profit employers are required to pay the minimum wage and overtime, among other labor standards requirements, for those completing work activities.

Contact Information

Work from Home Violation Helpline

- **Report a Concern About Work from Home Requirement**
 - Phone Numbers: 651-539-1132 or 833-454-0152
 - Email: WFHviolations@state.mn.us

Minnesota Department of Labor (DLI)

- **Minnesota OSHA**
 - Phone Number: 651-284-5050
 - Email: OSHA.Compliance@state.mn.us
- **Labor Standards Unit**
 - Phone numbers: 651-284-5075 or 1-800-342-5354
 - Email: dli.laborstandards@state.mn.us
- **Workers Compensation Unit**
 - Phone Number: 1-800-342-5354 (press 3)

Minnesota Department of Human Rights (MDHR)

- **Minnesota's Discrimination Helpline**
 - Phone number: 833-454-0148
 - [Online form to submit](#)

Minnesota Department of Employment and Economic Development (DEED)

- **Unemployment Insurance**
 - Website: www.uimn.org
 - Phone Number, Time to Call Based on Topic and/or SSN:
<https://www.uimn.org/applicants/contact-us/index.jsp>

Minnesota Department of Health (MDH)

- **General COVID-19 Hotline**
 - Phone Numbers: 651-201-3920 or 1-800-657-3903

SAH Violations Line

- **Questions or Complaints Related to the Governor's Executive Orders (not related to the work from home requirement, discrimination, workplace safety, or leave/wage laws)**
 - Phone number: (651) 793-3746
 - Email: SAHviolations@state.mn.us

Minnesota Attorney General's Office

- Phone Number: (651) 296-3353 (Twin Cities Calling Area) or (800) 657-3787 (Outside the Twin Cities) or (800) 627-3529 (Minnesota Relay)
- COVID-19 Complaint Form: <https://www.ag.state.mn.us/Office/Forms/COVID19Complaint.asp>

U.S. Department of Labor

- **Wage and Hour Division:**
 - Phone number: 866-487-9243
 - Website: www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave#_ftn3