



THE FISH LAW FIRM P.C.
Employment Lawyers

COVID-19 FACT SHEET FOR WORKERS

As a result of the forced closure of restaurants and bars, thousands of Illinois employees are out of work. A local law firm is setting up an emergency free legal clinic to help advise Illinois workers about their rights. Volunteer attorneys from The Fish Law Firm PC—Employment Lawyers are available for a free telephone or video conference (sorry no in person meetings in light of allowing our lawyers to work from home).

Many people have been negatively impacted by the State of Illinois' policies related to the containment of the COVID-19 virus. This includes, but is not limited to, short-term or long-term loss of your job. While many of us do not know how long these unprecedented measures will last, what we do know is that a very vulnerable portion of the population – those who live paycheck-to-paycheck – could face devastating financial consequences from the inability to go to work. These include restaurant workers and bartenders, school teachers, security guards, cleaning staff, or anyone else impacted by the shut-down of schools, large gathering places and restaurants and bars.

Common Questions:

1. **Should I file for unemployment?** If your job has been negatively impacted by the State's social isolation policies, you should immediately file for unemployment benefits. Under ordinary circumstances, individuals seeking unemployment benefits must be actively looking for work. Under the new rules, the employee only need be prepared to return to work as soon as his/her employer reopened:
2. **I cannot work because I have COVID-19 or my spouse/child testified positive and I need to care for them:** File for unemployment. You are considered to be unemployed through no fault of your own. But, you need to be willing and able to work. For example, if you can work from home, you need to do that. You may also qualify for Family Medical Leave Act leave if certain criteria are met. FMLA is an unpaid leave, but it does protect you from being fired from your job.
3. **How long do I get unemployment?** Currently you can only receive benefits for 26 weeks. That may increase if legislation is passed.
4. **How much money do I get on unemployment?** Not as much as you are used to getting. But the actual amount depends on a number of factors such as how much money you made. A chart is available here:
<https://www2.illinois.gov/ides/IDES%20Forms%20and%20Publications/CLI110L.pdf>
5. **Do I have to go wait in line at the unemployment office to get my benefits?** No, you can apply on-line. To file for unemployment benefits in Illinois, click here:

- <https://www2.illinois.gov/ides/aboutides/Pages/10%20Things%20You%20Should%20Know.aspx> If your benefits are contested, the unemployment hearings typically are over telephone.
6. **Have special rules been adopted in Illinois relating to COVID-19 and unemployment benefits?** Yes, the Illinois has adopted emergency rules. They are being developed but the updated rules are available here: <https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx>
 7. **Are there special rules in Chicago and Cook County for COVID-19?** Workers in Chicago and Cook County have extra protections because of the recent passage of ordinances requiring paid sick leave. Chicago and Cook County employers (at least those Cook County employers whose municipality did not opt out of the ordinance) are required to provide up to 40 hours of paid sick leave per year. This leave may be used if an employee is ill or injured, if an employee's family member is ill or injured, or if the employee's place of business or child's school is closed due to public health emergency.
 8. **Wasn't there federal legislation passed?** No. There was a bill introduced to provide 14 days' paid sick leave as a result of a public health emergency. But, the bill was blocked in the Senate last week because of the cost to employers.
 9. **What if my employer is forcing me to work with people exposed to COVID-19?** Consider making a complaint to OSHA as a workplace hazard. Or, alternatively, considering joining together with other workers to protest the activity. If you are terminated or retaliated against for such activities, you may be protected under OSHA or the National Labor Relations Act. OSHA has published guidance on Preparing Workplaces for COVID-19.
 10. **Can I refuse to go to work?** Yes, but only if there is a risk you could be fired or disciplined. Under OSHA rules, Employees are only entitled to refuse to work if they believe they are in imminent danger. Under OSHA this means "a danger exists which can reasonably be expected to cause death or serious physical harm". That's a high standard so don't count on this saving your job. Furthermore, under the Family Medical Leave Act, the Department of Labor has found that leave taken by an employee for the purpose of avoiding exposure to the flu would not be protected under the FMLA. <https://www.dol.gov/agencies/whd/fmla/pandemic> There is also protection in Illinois for a retaliatory discharge claim if a termination is based upon a clearly mandated public policy. But, whether it would apply to the current pandemic is not clear.

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