

**§875. Employment leaves for caregivers and persons affected by extreme public health emergency**

**1. Required leave.** An employer shall grant reasonable and necessary leave from work, with or without pay, for an employee for the following reasons related to an extreme public health emergency:

- A. The employee is unable to work because the employee is under individual public health investigation, supervision or treatment related to an extreme public health emergency; [PL 2005, c. 383, §23 (NEW).]
- B. The employee is unable to work because the employee is acting in accordance with an extreme public health emergency order; [PL 2005, c. 383, §23 (NEW).]
- C. The employee is unable to work because the employee is in quarantine or isolation or is subject to a control measure in accordance with extreme public health emergency information or directions issued to the public, a part of the public or one or more individuals; [PL 2005, c. 383, §23 (NEW).]
- D. The employee is unable to work because of a direction given by the employee's employer in response to a concern of the employer that the employee may expose other individuals in the workplace to the extreme public health emergency threat; or [PL 2005, c. 383, §23 (NEW).]
- E. The employee is unable to work because the employee is needed to provide care or assistance to one or more of the following individuals: the employee's spouse or domestic partner; the employee's parent; or the employee's child or child for whom the employee is the legal guardian. [PL 2021, c. 567, §43 (AMD).]

For purposes of this subsection, "extreme public health emergency" has the same meaning as in Title 22, section 801, subsection 4-A. [PL 2021, c. 567, §43 (AMD).]

**2. Exceptions.** An employer who fails to grant a leave under subsection 1 is not in violation of subsection 1 if:

- A. The employer would sustain undue hardship from the employee's absence, including the need to downsize for legitimate reasons related to the impact of the extreme public health emergency on the operation of the business; [PL 2005, c. 383, §23 (NEW).]
- B. The request for leave is not communicated to the employer within a reasonable time under the circumstances; or [PL 2005, c. 383, §23 (NEW).]
- C. The employee to be granted leave under subsection 1, paragraph E is a state, county or municipal employee whose responsibilities are related to services necessary for protecting the public's health and safety in an extreme public health emergency if the employer requires the employee to work, unless there are no other options or persons able to provide care or assist one or more of the individuals listed under subsection 1, paragraph E. [PL 2005, c. 383, §23 (NEW).]

[PL 2005, c. 383, §23 (NEW).]

**3. Duration of leave.** Leave granted under subsection 1 must be for the duration of an extreme public health emergency and for a reasonable and necessary time period following the termination of the extreme public health emergency for diseases or conditions that are contracted or exposures that occurred during the extreme public health emergency.

[PL 2005, c. 383, §23 (NEW).]

**4. Documentation.** Upon the employee's return to work, the employer has the right to request and receive written documentation from a physician or public health official supporting the employee's leave.

[PL 2005, c. 383, §23 (NEW).]

**5. Benefits retained.** The taking of leave under this subchapter may not result in the loss of any employee benefits accrued before the date on which the leave commenced and does not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees. For any leave that extends beyond the time described in subsection 3, the employer shall allow an employee to continue the employee's benefits at the employee's expense. The employer and employee may negotiate for the employer to maintain benefits at the employer's expense for the duration or any portion of this extended leave.

[PL 2005, c. 383, §23 (NEW).]

**6. Civil penalties.** The Department of Labor may assess civil penalties of up to \$200 for each violation of this section if notice of the violation is given to the employer and the department within 6 months of the occurrence.

[PL 2005, c. 383, §23 (NEW).]

**7. Application.** This subchapter applies to all public and private employers, including the State and its political subdivisions.

[PL 2005, c. 383, §23 (NEW).]

#### SECTION HISTORY

PL 2005, c. 383, §23 (NEW). PL 2017, c. 402, Pt. C, §80 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 567, §43 (AMD).

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