

# MNA Members' Rights to COVID-19-Related Temporary Unemployment Insurance and Workers' Compensation

It is the MNA's strong recommendation that you apply for workers' compensation or temporary unemployment under these circumstances:

- **Workers' Compensation:** If you are out *sick* with COVID-19.
- **Mass. Temporary Unemployment Insurance:** You should be eligible if you are out of work for one of these reasons:
  - a) on quarantine (without evidence that you are sick).
  - b) because you have been furloughed or laid off, or had hours significantly cut.
  - c) you took a leave because you or someone you live with is immunocompromised or has other conditions that make you/them particularly vulnerable.

Note: The normal one-week delay before Unemployment benefits start *is waived* during the COVID-19 emergency: Benefits start the first day one goes on leave. Use that date on your application (even if you are applying after your leave started).

## Workers' Compensation:

To apply visit <https://www.mass.gov/workers-compensation-for-injured-workers>

The MNA is making an information request at each of the represented facilities for the forms and process for filing claims. In the interim while we await facility specific information, the MNA recommends that you notify your occupational health department to file your Workers' Comp. claim. If you are not allowed to complete your claim within 24 hours you should *file your claim on-line with the State* without waiting for a response from your employer. Waiting for your employer to process your claim before also making the claim to the State creates an unnecessary delay and may result in you receiving incorrect information as well as unnecessarily using your benefit time.

We understand some employers may be indicating you are not entitled to Workers' Comp. due to the inability to prove where you contracted COVID-19. The link below is from the Division of Insurance. It is a draft memo from April 17, 2020 which was sent to stakeholders prior to final adoption and provides insight regarding eligibility issues.

[https://www.massnurses.org/files/file/From%205\\_4\\_20%20workers%20comp%20COVID%2019%20presumption%20language%20\(002\).pdf](https://www.massnurses.org/files/file/From%205_4_20%20workers%20comp%20COVID%2019%20presumption%20language%20(002).pdf)

The reason to file for Workers' Comp. versus Unemployment if you are *sick* with COVID-19: Workers' Comp. covers you potentially for a longer period of illness and recovery, and more broadly if there are long term health effects.

Do you need a lawyer for a Workers' Comp. claim? You do not. However, the MNA recommends that if your employer *contests* your claim in any way, you will do better with a lawyer. Massachusetts Workers' Comp. attorneys do not charge up front; an attorney fee is ordered at conference by the judge. MNA can provide names of several attorneys who have worked with MNA members previously.

## Temporary Unemployment Benefits:

To apply visit <https://www.mass.gov/lists/unemployment-and-covid-19>

Filing for unemployment does *not* mean you are quitting your job. You are eligible on a temporary basis until you return to your job and your regular hours.

Under the Massachusetts COVID-19 emergency regulations, normal unemployment benefits have been increased by \$600/week from what you would otherwise receive.

*continued* →

## Other Questions and Answers:

**Q:** I was placed on quarantine, and it looks like I am eligible for both Workers' Comp. and unemployment. Can I apply for both?

**A:** No. In most cases, a claimant is not eligible for both.

**Q:** I have short term disability insurance. Can I file for Workers' Comp. to cover the gap?

**A:** Yes. Accurately report the short-term disability income on your Workers' Comp. claim, or update your claim once short-term disability insurance kicks in.

**Q:** My employer will pay for some, but not the entire period a staff member is sick or in quarantine with COVID-19. Can I still apply for either benefit?

**A:** Yes. Accurately report the income on your claim.

**Q:** Can I file an unemployment claim when I was the one who asked for the leave to avoid COVID-19 exposure?

**A:** Yes. Here is what the State says on its website: "Employees that demonstrate that they left work due to 'urgent, compelling, and necessitous circumstances' are eligible for benefits. Such determinations are driven by the facts of the individual case. An employee who leaves work because of a fear of being exposed to COVID-19 will need to demonstrate, among other things, that such fear was reasonable in the circumstances."

**Q:** I can file for unemployment if I take a leave, but will my *employer* give me a leave if I need to avoid exposure for my own health or the health of a vulnerable person I live with?

**A:** For several reasons, your employer may be required to do so:

- 1) Collective bargaining rights you may have: Check your MNA contract for Leave of Absence rights.
- 2) If you have worked at least 1250 hours in the past 12 months you have a right to protected leave under the Family Medical Leave Act (FMLA).
- 3) When you confidentially disclose your health situation to HR, tell them you are looking for "reasonable accommodations under the Americans with Disabilities Act (ADA)".
- 4) If you find yourself in this situation, ask your employer to work it out with you, and do not hesitate to ask your Union reps for help.

**Q:** Where can I find more Q & As on unemployment benefits?

**A:** <https://www.mass.gov/info-details/employee-unemployment-faq-covid-19#eligibility->

**Q:** Where can I find more Q & As on Workers' Compensation?

**A:** <https://www.mass.gov/manual/frequently-asked-questions-by-injured-workers>

**Stay safe, be well, get well, and take care of yourself.  
We are all in this together.  
Solidarity.**