



## RETURNING TO WORK AND UNEMPLOYMENT INSURANCE

As regions across New York State begin their phased reopening, many New Yorkers who are unemployed will be able to return to their jobs. This guide provides answers to common questions about how returning to work impacts your unemployment benefits.

### **MY FORMER EMPLOYER HAS OFFERED ME MY OLD JOB BACK. DO I HAVE TO ACCEPT IT?**

Typically, yes. In most cases, the law requires unemployed New Yorkers who are offered their previous job back to accept the employment offer, regardless of if they are receiving traditional unemployment insurance (UI) or the COVID-19 Pandemic Unemployment Assistance (PUA). If an unemployed individual turns down a job offer, they may no longer be eligible for unemployment benefits, unless they had good cause to turn down the job.

### **CAN I TURN DOWN A JOB OFFER AND CONTINUE RECEIVING BENEFITS (REGULAR UNEMPLOYMENT BENEFITS OR PUA) BECAUSE I'M AFRAID OF CATCHING COVID-19?**

New York State is taking a data-driven, phased approach to reopening with strong public health requirements, including requiring masks for public-facing workers. If your employer is not following these guidelines, you should let the State know by filing a complaint at <https://labor.ny.gov/covidcomplaint>. That being said, the law doesn't allow someone who is unemployed to turn down a job offer because of a general fear of COVID-19 and still receive benefits.

There are, however, specific COVID-19 related scenarios that allow you to turn down a job offer and continue receiving benefits. You may be able to turn down a job offer and continue receiving unemployment benefits if one of the following PUA-scenarios apply to you:

- Diagnosed with COVID-19 or have COVID-19 symptoms and are seeking a diagnosis;
- Living with a household member who has been diagnosed with COVID-19;
- Providing care for a family or household member diagnosed with COVID-19;
- Primary caregiver for a child unable to attend school or another facility due to COVID-19;
- Unable to reach place of employment due to an imposed quarantine or were advised by a medical provider to self-quarantine due to COVID-19;
- Scheduled to commence new employment but cannot reach the workplace as a direct result of COVID-19;
- Became a major breadwinner because the head of the household died from COVID-19;
- Quit a job as a direct result of COVID-19;
- Place of employment closed as a direct result of COVID-19;
- Have insufficient work history and affected by COVID-19;
- Otherwise not qualified for regular or extended UI benefits and affected by COVID-19

For more information on PUA, visit <https://dol.ny.gov/pandemic-unemployment-assistance>.

**WE ARE YOUR DOL**



## **WHAT SHOULD I DO IF ONE OR MORE OF THE ABOVE PUA SCENARIOS APPLIES TO ME? SHOULD I JUST TURN DOWN THE JOB? DO I HAVE TO LET THE DOL KNOW?**

If you are not currently receiving unemployment benefits, you should apply for PUA at <https://unemployment.labor.ny.gov/login>. If you are already receiving benefits and are unable to return to work due to one of the COVID-19 related reasons above, you must tell the Department of Labor. When you certify for benefits in the week you were supposed to return to work, you must report that you refused an offer of employment. We will review your claim to see if you are eligible for PUA. You will continue to be paid benefits until we can make a determination.

Remember, every time you certify for weekly benefits, you must provide accurate information about any:

- work you perform,
- work you refused, and
- change in your availability for work.

## **WHAT HAPPENS IF I RETURN TO WORK AND THEN I AM DIAGNOSED WITH COVID-19?**

In response to the COVID-19 pandemic, New York State has guaranteed workers job protections and financial compensation, if they are subject to either a mandatory or precautionary quarantine or isolation order. You can learn more about this benefit at: <https://paidfamilyleave.ny.gov/COVID19>

## **I WENT TO MY JOB AND WAS TOLD I HAD TO PROVIDE MY OWN MASK. DO I?**

According to Executive Order 202.16, employers in New York State must provide face coverings to employees, at no cost to the employee, who interact with the public. So, if you interact with members of the public as part of your job, your employer has to provide a mask, but if you don't interact with the public, they don't need to. You must still wear a mask if you cannot maintain six feet of social distance from other individuals. If your employer is violating this order, you should file a complaint with the Department of Labor at <https://labor.ny.gov/covidcomplaint>.

## **I AM NOT MAKING AS MUCH MONEY AT MY JOB AS I DO FROM UNEMPLOYMENT BENEFITS. CAN I GO BACK ON UI OR PUA?**

You cannot turn down a job simply because you would make more from unemployment benefits. If, after you return to your job, you work fewer than 4 days per week and earn less than \$504 per week, you may be eligible to continue receiving some unemployment benefits. For every day that you work in a given week, your unemployment benefit for that week is reduced by 25%. If you make more than \$504 in a given week, you will not receive any of your unemployment benefit for that week, regardless of how many days you worked.

If your hours have been reduced, you and your company should also explore New York's Shared Work program, which allows employers to avoid layoffs by allowing staff members to receive partial Unemployment Insurance benefits while working reduced hours. For more information, visit: <https://dol.ny.gov/shared-work-program-0>.

## **MY BOSS IS TELLING ME TO RETURN TO WORK, BUT THE REGION I'M IN HASN'T REOPENED YET. WHAT SHOULD I DO?**

Regions across the state are reopening in phases, as they meet certain metrics. You can use New York State's online Business Reopening Lookup tool (<https://www.businessexpress.ny.gov/app/nyforward>) to see if your industry is allowed to reopen in your region. Additionally, the Empire State Development website (<https://esd.ny.gov/guidance-executive-order-2026>) includes a list of essential businesses that have been permitted to remain open during the duration of the public health emergency. If a business is trying to reopen before it is allowed, you should file a complaint with the Department of Labor at <https://labor.ny.gov/covidcomplaint>.

## **I TOLD MY EMPLOYER THAT OUR COMPANY WAS VIOLATING THE LAW BY EITHER REOPENING BEFORE WE WERE ALLOWED TO OR BY NOT PROVIDING ME WITH A FACE MASK, EVEN THOUGH I HAVE TO INTERACT WITH THE PUBLIC, AND I WAS FIRED. WHAT SHOULD I DO?**

New York's whistleblower law may protect you if you have been fired after reporting that your employer violated the law, such as the Governor's Executive Order. You need to show that the violation created a danger to public health and to the public at large. If you're not wearing a mask, you may be putting others, like your co-workers and the public if you interact with them, in danger. That would be the public at large. You should talk to a lawyer for more information. You can also contact the federal Occupational Safety and Health Administration (OSHA) to report that you have been fired for raising safety and health concerns.

**IF I GET TO MY JOB AND I DON'T BELIEVE MY EMPLOYER IS FOLLOWING THE PROPER PROTOCOLS, CAN I JUST GO HOME AND CONTINUE TO COLLECT UI UNTIL I AM SATISFIED THE ISSUE IS RESOLVED?**

If your employer isn't following the proper protocols, you should immediately file a complaint with the Department of Labor at <https://labor.ny.gov/covidcomplaint>.

**I WAS WORKING AT HOME AND GETTING MY WORK DONE, DO I HAVE TO GO BACK TO THE OFFICE OR CAN I CONTINUE TO WORK AT HOME?**

Employers are permitted to determine the appropriate staffing levels and locations needed for their businesses, consistent with applicable guidelines, including whether or not employees will be permitted to work remotely. Employers are encouraged to work with employees on ways to decrease occupancy in worksites, but no employer is required to allow employees to continue to work remotely for essential businesses or industries that are allowed to reopen.

**I HAVE GONE BACK TO WORK BUT AM STILL OWED SOME OF MY UNEMPLOYMENT BENEFITS. WILL I STILL GET WHAT I AM OWED?**

Yes — every New Yorker will receive all of the unemployment benefits they are entitled to. Even if you begin working, all of your outstanding benefits will be paid.

**DO I HAVE TO GET MY TEMPERATURE TAKEN BEFORE I GO TO WORK?**

Employees who are sick should stay home or return home, if they become ill at work. Specific guidelines on health screenings for different industries can be found at the NY Forward website <https://forward.ny.gov/>. Employers are encouraged, but not required, to screen employees, contractors, customers, and visitors before entering a worksite. Governor Cuomo announced an Executive Order that will allow commercial buildings to conduct temperature checks for anyone entering the building as office workers begin to return to the workplace.