

This is a summary of enacted legislation implementing changes to New Jersey's Temporary Disability Insurance (TDI), Family Leave Insurance (FLI), Family Leave Act (FLA) and Paid Sick Leave Act (PSL) provisions as a result of COVID-19.

Update as of June 15, 2021

On June 3, 2021 Governor Murphy signed Executive Order No. 244, ending the COVID-19 Public Health Emergency. However, the broader declaration of a state of emergency is still in place. Lincoln's interpretation is that the COVID-19 provisions in NJ Senate 2304 and NJ Senate 2374 outlined below remain in effect.

This summary includes overviews of two bills – *click to jump ahead in document.*

- [NJ Senate 2304](#): Enacted March 25, 2020
- [NJ Senate 2374](#): Enacted April 14, 2020

NJ Senate 2304: Enacted March 25, 2020

On March 25, 2020, New Jersey Governor Phil Murphy signed legislation to ensure that workers impacted by COVID-19 have access to leave to care for themselves or for impacted family members. This law was effective immediately upon signing.

Overview of Impacts to New Jersey Temporary Disability Insurance (TDI)

The new bill eliminates the seven-day waiting period for TDI claims related to COVID-19.

The definition of "Sickness" has been expanded for COVID-19 related claims to include:

- an illness caused by an epidemic of a communicable disease (illness),
- a known or suspected exposure to a communicable disease (exposure), or
- efforts to prevent spread of a communicable disease which requires in home care or treatment of the employee or family member of the employee (isolation).

This definition will be in effect during a state of emergency declared by the Governor or as found to be needed by the Commissioner of Health or other public health authority.

Documentation required for TDI benefits for COVID-19 related claims includes:

- a notice of determination from a: 1) health care provider or 2) a public health authority that the employee's or family member's presence in the community will put others at risk; and
- a recommendation, direction or order from the health care provider or public health authority that the employee or family member be isolated or quarantined as the result of exposure.

Overview of Impacts to New Jersey Family Leave Act (FLA)

The bill expands the definition of a "Serious Health Condition" to include:

- an illness caused by an epidemic of a communicable disease (illness),

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- a known or suspected exposure to a communicable disease (exposure), or
- efforts to prevent spread of a communicable disease which requires in home care or treatment of a family member of the employee (isolation).

Documentation required for FLA leave for COVID-19 related claims includes:

- a notice of determination from a: 1) health care provider or 2) a public health authority that the family member's presence in the community will put others at risk; and
- a recommendation, direction or order from the health care provider or public health authority that the family member be isolated or quarantined as the result of exposure.

A request for family leave may not be denied due to the key employee exception when the leave request is: 1) based on a recommendation, direction or order from a health care provider or public health authority that a family member of the employee in need of care be isolated or quarantined, or 2) is due to a place of care of a member of the employee's family being closed because of a declaration of a state of emergency during an epidemic of a communicable disease, or a known or suspected exposure to a communicable disease.

Overview of Impacts to New Jersey Family Leave Insurance (FLI)

The bill expands the definition of a "Serious Health Condition" to include:

- an illness caused by an epidemic of a communicable disease (illness),
- a known or suspected exposure to a communicable disease (exposure), or
- efforts to prevent spread of a communicable disease which requires in home care or treatment of a family member of the employee (isolation).

This definition will be in effect during a state of emergency declared by the Governor or as found to be needed by the Commissioner of Health or other public health authority.

Documentation required for FLI benefits for COVID-19 related claims includes:

- a notice of determination from a: 1) health care provider or 2) a public health authority that the family member's presence in the community will put others at risk; and
- a recommendation, direction or order from the health care provider or public health authority that the family member be isolated or quarantined as the result of exposure

Overview of Impacts to New Jersey Paid Sick Leave (PSL)

The bill modifies NJ's PSL law to allow employees to use paid sick time to care for a child whose school has been closed for public health reasons or an emergency declaration. Employees may also take paid sick leave to self-

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quarantine or isolate themselves, or care for a family member that is in quarantine on the recommendation, direction or order of a health care provider or public health official.

Effective Date: Immediate.

NJ Senate 2374: Enacted April 14, 2020

On April 14, 2020, New Jersey Governor Phil Murphy signed additional legislation to ensure workers impacted by COVID-19 have access to leave to care for themselves or for impacted family members under New Jersey's Family Leave Act (FLA). The bill also makes technical corrections to provisions of Temporary Disability Insurance (TDI). This law was effective immediately and is retroactive to March 25, 2020.

Overview of Impacts to New Jersey Temporary Disability Insurance (TDI)

The bill also makes technical corrections by amending the term "sickness" to "disability", as initially amended on March 25, 2020.

Definition of disability: The definition of "disability" has been expanded for COVID-19 related claims to include:

- an illness caused by an epidemic of a communicable disease (illness),
- a known or suspected exposure to a communicable disease (exposure), or
- efforts to prevent spread of a communicable disease which requires in home care or treatment of the employee or family member of the employee (isolation).

This definition will be in effect during a state of emergency declared by the Governor or as found to be needed by the Commissioner of Health or other public health authority.

Documentation requirements: Documentation required for TDI benefits for COVID-19 related claims includes:

- a notice of determination from a: 1) health care provider or 2) a public health authority that the employee's or family member's presence in the community will put others at risk; and
- a recommendation, direction or order from the health care provider or public health authority that the employee be isolated or quarantined as the result of exposure.

Duration: The amendments authorized in this bill do not sunset and were enacted as permanent changes to these programs.

Overview of Impacts to New Jersey Family Leave Act (FLA)

This is a summary of enacted legislation implementing changes to New Jersey's Temporary Disability Insurance (TDI), Family Leave Insurance (FLI), Family Leave Act (FLA) and Paid Sick Leave Act (PSL) provisions as a result of COVID-19.

Expands definition of family leave: The bill expands the definition of "family leave" to include leave taken during a state of emergency declared by the Governor or as found to be needed by the Commissioner of Health or other public health authority, which:

- Requires in-home care or treatment of a child due to the closure of the school or place of care of the child of the employee, by order of a public official;
- Prompts the issuance by a public health authority of a determination, including by mandatory quarantine, that the presence in the community of a family member in need of care by the employee, would jeopardize the health of others; or
- Results in the recommendation of a health care provider or public health authority, that a family member in need of care by the employee voluntarily undergo self-quarantine because the presence in the community of that family member in need of care by the employee, would jeopardize the health of others.

Documentation requirements: An employer may require this family leave be supported by certification issued by a school, place of care for children, public health authority, public official or health care provider. This certification should include:

- *For leave taken to provide in-home care or treatment of a child due to the closure of the school or place of care:* the date on which the closure of the school or place of care of the child of the employee commenced and the reason for such closure;
- *For leave taken due to a public health authority's issuance of a determination:* the date of issuance of the determination and the probable duration of the determination; or
- *For leave taken because of the recommendation that a family member voluntarily undergo self-quarantine:* the date of the recommendation, the probable duration of the condition, and the medical or other facts within the health care provider or public health authority's knowledge regarding the condition.

Key employee exception: The new law also limits an employer's capacity to deny leave to a highly-compensated employee when leave is requested during a state of emergency declared by the Governor or a public health authority and the leave request is based on the expanded definition above.

Intermittent leave permissible: An employee may take leave under the expanded definition on an intermittent basis if the employee provides notice to the employer as soon as practicable and makes an effort to schedule the leave in a manner which will not unduly burden the employer's operations and if possible, the employee should provide the employer with a schedule of when the intermittent leave will be taken.

Effective Date: Immediate and retroactive to March 25, 2020.