COVID sick leave - FAQ

I have been isolating for 5 days since my positive COVID test and my Employer is requiring me to return to work. Do I have to report to work?
If you are too sick to perform your duties as a nurse, you have a right to call out sick. If your employer is pressuring you to return to work before you are able to, contact your NYSNA representative.

I am still experiencing symptoms after 5 days, but my Employer says that I am cleared to return to work under the New York State return to work guidance. Is that true?
The most recent New York State Department of Health guidance allows for fully-vaccinated healthcare workers to return to work after 5 days of isolation under “limited circumstances.” After 5 days of isolation, if you still have a fever (or had a fever within 72 hours), a runny nose, or a cough that could be disruptive to work, your symptoms are not improving, OR you are not able to wear an N95 respirator during your shift, the NYS guidance does not allow for your return to work. The full guidance is available here: https://coronavirus.health.ny.gov/system/files/documents/2021/12/return-to-work-isolation-guidance_12-24-21.pdf.

I have COVID and I cannot work. Can my Employer require me to use personal sick days while I am out?
The NYS COVID sick leave law requires your employer to give additional sick time above and beyond your sick bank if you must isolate or quarantine because of COVID, up to 14 calendar days per occurrence. You can use this leave up to three times, with the second and third occurrences requiring a positive test.
If your Employer refuses to comply with the law, notify your NYSNA representative as soon as possible.
If your employer does not provide you with the required number of sick days, or incorrectly pays you during COVID quarantine leave, you may file a complaint with the Department of Labor at www.labor.ny.gov/COVIDcomplaint.

I had a negative PCR test result, but experienced COVID symptoms, and then received a positive test result. Am I eligible for COVID sick leave for the days before my positive result?
If you are put out of work because of symptoms prior to the positive test result and then subsequently test positive, NYSNA would advocate for you to get COVID sick time back to when you were put out of work due to symptoms. If you have already used one round of COVID sick leave, the employer may take the position that you cannot obtain COVID sick leave until you test positive.

I work for a public hospital, and they have told me to apply for FMLA instead of COVID sick leave. Are public employers exempt from paid COVID sick leave?
No, they are not. Public employers are required to provide up to 14 paid sick days for each occurrence of COVID sick leave. Details of COVID paid sick leave, including which employers are required to provide it, are here: [https://paidfamilyleave.ny.gov/if-you-are-quarantined-yourself](https://paidfamilyleave.ny.gov/if-you-are-quarantined-yourself).

I have taken COVID sick leave three separate times, but each occurrence was less than 14 days. Can I take COVID sick leave a fourth time?
Currently the NYS guidance allows for up to three occurrences of COVID sick leave, up to a maximum of 14 days each (42 calendar days total). The second and third occurrences of COVID sick leave require a positive COVID test. However, there is currently no allowance for taking COVID sick leave a fourth time, even if you were out for less than 42 days total.

I have a positive PCR test result, but I can’t get through to my Employer’s Occupational Health department. Should I report to work?
Many nurses are reporting that they cannot reach Occupational Health to report their COVID tests or symptoms. Make sure that you see a medical provider and obtain as much documentation as you can of your COVID symptoms, test, or diagnosis. Document your attempts to reach Occupational Health and email the department if possible. In addition, contact your manager directly and inform them of your situation. You should not report to work if you have just received a positive COVID result.

What do I do if my child is in quarantine for COVID?
For private sector employees only: If your child is under an order of precautionary or mandatory quarantine or isolation, you may be eligible for NYS Paid Family Leave (PFL). Documentation of your child’s positive test, symptoms, and/or exposure is necessary to qualify. Ask your HR department for an application for PFL. PFL replaces 67% of your average weekly wage (up to a cap of $1,068.36 per week). As there is an application and approval process, there will be a delay of a few weeks before you are paid. Your health insurance benefits must continue while you take PFL and your job is protected while you are on leave. For more detailed information and application forms, see [https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined](https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined).

My spouse or child is hospitalized with COVID-19. Am I eligible for any paid leave?
For private sector employees only: If a close family member has a serious health condition – including COVID-19 – that requires inpatient care or continuing treatment, you may be eligible for NYS Paid Family Leave (PFL) for Family Care. See the answer to the question above regarding how to apply.

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1 Public sector employers have to opt into NYS PFL and the vast majority of public employers have not done so. Please contact your rep if you have a question as to whether your employer has opted into NYS PFL.