

“I am now collecting Unemployment Insurance for a reason related to COVID-19. Businesses in Massachusetts are starting to reopen. Can my employer force me to return to work?”

Massachusetts employers whose businesses were closed because of COVID-19 are now being allowed to reopen under an order by Governor Baker. This reopening process started on May 18 and will occur in four phases, each phase lasting at least three weeks -- or longer if there is another spike in COVID-19 cases. The schedule for allowing businesses to reopen is [here](#). **Until your employer is allowed to reopen, you may continue to stay safely at home and collect Unemployment Insurance (UI).**

If you left work for a reason related to COVID-19 and your employer has been allowed to reopen, **you may choose not to return to work and continue to collect UI if you:**

- Are over the age of 65 or if you have an underlying health conditions that makes you at high risk for COVID-19.
- Have been diagnosed with or are recovering from COVID-19
- Have been exposed to COVID-19 and quarantined
- Are caring for a child or other person whose care facility is closed
- Are caring for an individual ill with COVID-19
- Are a member of a family or household where a member is quarantined as a consequence of COVID-19 even no actual diagnosis of COVID-19 has been made
- Have symptoms of COVID-19.

If your employer is allowed to reopen under the Governor’s order, your workplace must **comply with the mandatory safety practices** listed [here](#). These practices include:

- Practicing social distancing
- Supplying personal protective equipment
- Providing for cleaning and disinfection of the workplace
- Displaying a poster for employees showing that the employer is observing these mandatory safety practices

In addition to these general safety practices, there are specific ones for the kinds of businesses that are being allowed to reopen. They are listed [here](#).

If your employer is not following these safety practices or retaliates against you because you have said something about your employer not following them, you can notify the Fair Labor Division of the Attorney General’s office for help, using [this form](#). Or you can call the Attorney General’s Labor Hotline at 617-727-3465.

You MAY choose not to return to work and continue to collect UI if your employer wants you to return to a job that is unsuitable. Work is “unsuitable” if it involves different duties or different conditions of employment, like a lower salary or different hours, or does not meet the mandatory safety practices.

You MAY choose not to return to work and continue to collect UI if you can show that you have a “reasonable belief” that returning to work will be harmful to your health. The decision whether a belief is “reasonable” is up to the Department of Unemployment Assistance (DUA). DUA has said that a general fear of being exposed to COVID-19, without more, is not a reasonable basis for refusing work, but factors including but not limited to such as work conditions, exposure to the public and the effect of returning to work on the employee and possibly the employee’s household could be considered.

You must demonstrate that you made reasonable efforts to preserve your job. You must show that you took steps to try to keep your job unless your efforts would be futile. For example, if your employer insists that you to travel to work rather than to continue to telework and you have any of the COVID-19 reasons for your inability to do so, you would be entitled to UI. If your employer says you should take your children to emergency child care until your regular child care reopens and you do not have transportation to drive them there, you would be entitled to UI. Reasonable efforts also include accepting a leave if offered by the employer. An employer may offer COVID-19 emergency paid sick leave or the Family Emergency FMLA Expansion. You must accept this offer unless the employer is not offering you work at the end of the leave or unless taking the leave will not resolve the underlying problem. You cannot collect UI at the same time you are receiving paid leave (unless the paid leave is less than your regular pay). A fact sheet on federal leave is [here](#).

You MAY NOT choose to continue to collect UI and not return to work because your UI benefit is higher than the wage you would receive if you returned to work. But the increased UI benefit and increased length of time that you are eligible to collect UI were designed to allow you to stay safely at home to protect not only your health but also the public health, and, if any of the reasons above for not returning to work describes your situation, your employer may not require you to return to work. You may continue to stay safe at home and collect UI until it is safe for you to return to work.

How to Communicate with DUA: If your employer asks you to return to work after your workplace has been allowed to reopen, it is important to let DUA know that your employer has asked you to return to work. If you believe you should continue to stay safely at home for any of the reasons listed above, you should recertify for regular UI for that week by answering “yes” to the question “Were you offered employment?” You will then receive a questionnaire on the suitability of the work you were offered, which will allow you explain your reasons for refusing the work. If you are certifying for PUA, for the same reasons, you should answer “yes” to the question that asks “Other than Covid-19 related reasons, were you able and available to work between [certification date] and [certification date]?”

Also, be sure to inform DUA if your reason for not returning to work is that your employer did not offer the mandatory safety practices or follow the guidelines for specific jobs described above.

Eligibility issues will be resolved more quickly if you provide a letter from your medical provider or other proof of your reason not to return to work.

