



ADP® Comprehensive Services Hurricane readiness guide



As one of our clients with employees living and working in an area that could be impacted by a hurricane, we've created this *Hurricane Readiness Guide* to help you prepare for HR responsibilities that you may encounter should a hurricane strike, so you can focus on what's most important: you and your team's safety.

Keeping your employees paid

If you believe your payroll input or delivery may be affected by the potential path of a hurricane, if possible, please consider processing your payroll early enough to allow your payroll input and delivery to be completed prior to the hurricane's anticipated landfall.

Physical paychecks

If a storm hits your areas, we will work with local couriers and continue deliveries of physical paychecks as conditions allow. Your Payroll Advisor can help evaluate payroll options for your company and provide you with support, such as:

- reviewing your scheduled payroll changes
- redirecting your payroll delivery in advance to avoid a delay
- helping to identify members of your team who do not have direct deposit
- facilitating the set-up of direct deposit, Wisely Direct, the Wisely Pay Card and iReports, as/if needed
- help reschedule your payroll, if needed

Payroll

If your employees do not have a full electronic payment, we offer ways to ensure they are paid regardless of any kind of delivery delay. To ensure funds are accessible during this time when having financial resources available is imperative, we can expedite set up for direct deposit, Wisely Direct or the Wisely Pay Card.

Payroll reports

Presented as PDFs, iReports allows you to quickly and easily analyze your data without the need for a printer.

Compensation

Non-exempt employees

There is generally no obligation under federal or state law to pay non-exempt employees for time not worked. However, employers in certain states may have an obligation to compensate non-exempt employees under call-in/reporting pay laws, especially if the employees weren't told that they shouldn't report to work or weren't allowed to work once they arrived at the workplace. Please be sure to let your non-exempt employees know what is expected from them in the event of a storm.

Exempt salaried employees

For exempt employees who are paid on a "salary basis," employers may not make salary deductions for absences resulting from business closings, including closings due to weather-related emergencies. This means that — excluding any other permissible deduction — exempt employees must be paid their full salary if they work any part of the workweek and only miss work time due to the employer's decision to close operations. However, employers are not required to pay for a full workweek if no work is performed. Additionally, if a business remains open and an employee doesn't report to work, then full-day salary deductions are permitted.

Note: employers should always consider how compensation-related decisions may impact employee relations, especially during times of crisis.

Use of paid time off and vacation

Please refer to your state's labor laws for information on whether employers can require employees to use vacation/paid time off (PTO) without providing them a specific notice 90-days in advance (or one full quarter — whichever is greater). Employees may voluntarily elect to use their vacation/PTO on these days.

Future planning for natural and other disasters

The Federal Emergency Management Agency provides businesses with the resources to create a plan that addresses the impact of hazards and prepares them for a variety of roadblocks. For more information [click here](#).

Frequently asked questions

The following questions are commonly asked about the impact of worksite closures, pay and work hours, leave-related issues and employee benefits. Please let us know if you need more information on any of these topics.

Wage and hour issues

Q. How will worksite closure impact my non-exempt employees?

A. With respect to non-exempt employees, there is generally no obligation under federal or state law to pay for time not worked. However, under some state laws, employers may have an obligation to compensate non-exempt employees under call-in/reporting pay laws, especially if the employees were not advised that they should not report to work and were denied work upon arrival at the workplace. However, if during a worksite closure a non-exempt employee performs any work, the employee must be paid for all hours worked. Depending on the facts, this might include time spent on-call or waiting time.

Q. What is the impact of a worksite closure on my exempt salaried employees?

A. As to salaried exempt employees who federal and/or state law mandates must be paid on a "salary basis," you may not make salary deductions for absences that result from your partial-week closing of operations, including closings due to natural disasters (protests, riots and state declared emergencies would be viewed similarly).

Based on this, exempt employees must be paid their full salary (excluding permissible deductions) if they perform any work in a workweek even if they miss work time due to your closure of operations. Employees need not be paid if no work is performed due to closures of the worksite for a full workweek. If the worksite is closed for a full workweek, you should advise exempt employees that they are prohibited from working if you do not want to pay their full salary wages for the workweek.

In addition, if you remain open and an exempt employee does not report to work for the full workday (and is not otherwise sick or disabled) then full day deductions from salary are permitted. That said, as a practical matter, please consider the employee relations impact of such a decision. If an exempt employee leaves work early to avoid potential harm, then you are required to pay for the full day and no deductions are permissible.

Q. How should PTO and vacation be managed during a worksite closure?

A. The Fair Labor Standards Act (FLSA) does not require you to provide PTO or accrued vacation time and therefore does not regulate their use. Be familiar with state laws, which may prevent you from forcing employees to use PTO or accrued vacation time during a worksite closure. However, if your policy specifically provides for forced use of PTO then it will likely be permitted if the policy is followed appropriately. Again, the employee relations impact of such a decision should be considered.

We recommend that you examine your vacation policy language to ensure you are not opening yourselves up to a claim that an express or implied contract limits their right to require a worker to use accrued vacation pay.

Leave issues

Q. What forms of job protected leave might be available to employees?

A. The federal Family and Medical Leave Act and similar state laws require covered employers to provide leave to an eligible employee who needs to care for his or her own serious health condition or to care for a child, spouse, or parent with a serious health condition. One example of a natural disaster related issue could involve a situation where an employee is needed to care for a family member with a serious health condition who is unable to operate medical equipment at home due to a power outage.

In addition, employees who are part of an emergency services organization (such as the National Guard or a Reserve unit), would likely have a right to job protected leave and benefits continuation under the Uniformed Services Employment and Reemployment Rights Act (USERRA). While employees are required to provide advance notice of leave, the time frame is dependent on the circumstances. In the case of a natural disaster, the notice would be very short.

Unemployment and benefits issues

Q. Can employees who are unable to work due to a natural disaster apply for unemployment and what happens to their health benefits?

A. Employees who have lost their job because of a natural disaster can apply for unemployment benefits. In addition, if a disaster declaration is issued, unemployment benefits could be offered to employees who lose their jobs due to the storm, but do not qualify for state benefits, such as self-employed individuals. Employees who file for state unemployment compensation, but are deemed ineligible for state assistance, may be eligible for Disaster Unemployment Assistance (DUA). Employees must file for regular unemployment compensation benefits before filing for DUA. If the employee is deemed ineligible for standard state unemployment compensation, the employee then may receive DUA. A fact sheet containing additional information on DUA is available on the FEMA website for more information.

For employees who are separated from their job, and whose benefits are terminated, please note that they may be still be eligible for COBRA continuation coverage.