

EMERGENCY PAID SICK LEAVE**Effective Date and Expiration:** 4/2/2020 – 12/31/2020

*Once an employee's coronavirus-related need for using the emergency paid sick leave ends, then the employer may terminate the paid sick time.

Requires certain employers to provide employees with **2 weeks of paid sick time** if the employee is unable to work (or telework) for the following coronavirus-related reasons:

- Employee is subject to a Federal, State, or local quarantine or isolation order
- Employee advised by a health care provider to self-quarantine
- Employee is experiencing symptoms of coronavirus & seeking a medical diagnosis
- Employee is caring for an individual who is subject to a quarantine or isolation order or advised to self-quarantine by a health care provider
- Employee caring for child whose school/care provider is closed/unavailable
- Employee experiencing any other condition substantially similar to the coronavirus

Covered Employees and Employers:

- Private sector employers with <500 employees, government employers, and all other non-private employers with >1 employee
- Eligible employees: all employees (**but not necessarily eligible for 80 hrs**)
- Sec of Labor “for good cause” may allow exemptions for small businesses with < 50 employees if requirements would jeopardize the viability of the business.
- Health care providers & emergency responders may elect to exclude their employees from the public health emergency leave

Paid Sick Time:

Full-time employees: entitled to **80 hours of paid sick leave.**

Part-time employees: entitled to the # of hours that the employee works, on average, over a two-week period.

Variable Hour employees, paid leave rate should equal the avg # of hours that the employee was scheduled per day over the six-month period prior to the leave. (If the employee did not work in the preceding six-month period, the paid leave rate should equal the “reasonable expectation” of the employee at the time of hiring with respect to the average number of hours per day that the employee would be scheduled to work.)

Paid Leave Rate:

Scenario 1: Employees who take paid sick leave because they are subject to a quarantine or isolation order, have been advised by a health care provider to self-quarantine, or are experiencing coronavirus symptoms and seeking medical diagnosis are entitled to be **paid at their regular pay rate or minimum wage, whichever is greater.**

In these circumstances, the paid sick leave rate may not exceed **\$511 per day, or \$5,110 in aggregate.**

**PUBLIC HEALTH EMERGENCY LEAVE
(Expanded FMLA-School/Daycare Closure)****Effective Date and Expiration:** 4/2/2020 – 12/31/2020

Expansion of FMLA - 12 weeks of job-protected leave. Expansion: allows for up to **12 weeks of coverage plus the initial 10-day supplement** provided by the Act. Eligible employees may take leave if the employee is unable to work (or telework) because they must care for a child (under 18 years of age) whose **school or care provider is closed or unavailable** due to a coronavirus emergency as declared by a Federal, State, or local authority.

Covered Employees and Employers amended Under H.R. 6201:

- Eligible employees - work for employers with < 500 employees & government employers who have been on the job for **at least 30 days.**
- Small businesses with < 50 employees may be exempted by the Sec of Labor “for good cause” if requirements would jeopardize the viability of the business, and for health care providers & emergency responders may elect to exclude their employees from the public health emergency leave

First 10 Days of Leave: **Unpaid** (other paid time & Emergency Paid Sick Leave may be applied)

Paid Leave Rate for Subsequent Days (After 10 days): Employer provides paid leave at not < **2/3 of an employee's regular rate of pay up to \$200 per day or \$10,000 in the aggregate.**

Variable hour employees: paid leave rate should equal the avg number of hours employee was scheduled per day over the prior 6-month period. If the employee did not work in the preceding six-month period, the paid leave rate should equal the “reasonable expectation” of the employee at the time of hiring with respect to the average number of hours per day that the employee would be scheduled to work.

Job Restoration:

- Generally, employees are entitled to be restored to the position they held or an equivalent position
- Employers with < 25 employees. If employee takes emergency leave, then the employer does not need to return the employee to their position if:
 - The position does not exist due to changes in the employer's economic or operating condition that affect employment & were caused by the coronavirus emergency;
 - The employer makes “reasonable efforts” to restore the employee to an equivalent position; and
 - If these efforts fail, the employer makes an additional reasonable effort to contact the employee if an equivalent position becomes available. The “contact period” is the one-year window beginning on the earlier of (a) the date on which the employee no longer needs to take leave to care for the child or (b) 12 weeks after the employee's paid leave commences.



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Scenario II: Employees who take paid sick leave to care for another individual or child or because they are experiencing another substantially similar illness (as specified by HHS) are entitled to be **paid at 2/3ds their regular rate.**

In these circumstances, the paid sick leave rate may not exceed **\$200 per day**, or **\$2,000 in aggregate.**

Effect on Existing Paid Leave Agreements: An employer may **not** require an employee to use other paid leave provided by the employer before using the Emergency Paid Sick Leave

Note: This leave is to be given in addition to any required paid leave provided by state or local law.

Employee Notice Requirement: After the first workday (or portion of a day) an employee receives paid sick time an employer may require the employee to follow “reasonable notice procedures” in order to continue receiving paid sick time.

Employer Notice Requirement: Employers shall post and keep posted, in conspicuous places, notice of the emergency paid sick leave requirements made available under H.R. 6201. (Model Notice will be published in next 7 days)

Prohibitions and Enforcement: Employers may not discharge, discipline, or discriminate against any employee who (a) takes paid sick leave or (b) has filed a complaint or proceeding or testified in any such proceeding related to the benefits and protections provided by H.R. 6201. Further, employers may not require, as a condition of providing paid sick time, that an employee search for a find a replacement employee to cover the hours during which the employee is using paid sick time.

Employers who violate the paid sick leave requirements or retaliation prohibitions of H.R. 6201 shall be subject to civil penalties under the Fair Labor Standards Act as a minimum wage violation. Remedies for a private cause of action include unpaid wages, liquidated damages (double damages), attorneys’ fees and costs

Refundable Payroll Tax Credits for Paid Leave (Effective 15 days after enactment)
Businesses and nonprofits will be reimbursed for the full amount within three months, in the form of a payroll tax credit. The reimbursement will also cover the employer’s contribution to health insurance premiums during the leave. It’s [fully refundable](#), which means that if the amount that employers pay workers who take leave is larger than what they owe in taxes, the government will send them a check for the remainder.

For additional tax guidance, please consult a CPA.



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