

GUIDANCE ON USE OF COVID-19 SICK LEAVE

On March 18, 2020, New York State enacted legislation authorizing sick leave for employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. The law provides paid and unpaid sick leave with access to expanded paid family leave and temporary disability depending on the size of the employer. All employees, regardless of the size of their employer, are entitled to job protection upon return from leave.

This document supplements prior guidance on the application of COVID-19 sick leave. All prior guidance remains in effect.

1. An employee who returns to work following a period of mandatory quarantine or isolation does not need to be tested before returning to work, except for nursing home staff. However, an employee who subsequently receives a positive diagnostic test result for COVID-19 must not report to work. The employee shall be deemed to be subject to a mandatory order of isolation from the Department of Health and shall be entitled to sick leave as required by New York's COVID-19 sick leave law, whether or not the employee already has received sick leave as required by the law for the first period of quarantine or isolation. However, the employee must submit documentation from a licensed medical provider or testing facility attesting that the employee has tested positive for COVID-19. The employee does not need to submit documentation of a positive result if the employee's employer gave the employee the test for COVID-19 that showed the positive result.
2. An employee who is subject to an order of quarantine or isolation but continues to test positive for COVID-19 after the end of such quarantine or isolation period must not report to work. Please note that an employee is not recommended to be tested to discontinue isolation or quarantine. The employee shall be deemed to be subject to a second mandatory order of isolation from the Department of Health and shall be entitled to sick leave as required by New York's COVID-19 sick leave law for the second period of isolation. However, the employee must submit documentation from a licensed medical provider or testing facility attesting that the employee has received a positive diagnostic test for COVID-19 after completing the initial period of isolation. The employee does not need to submit documentation of a positive result if the employee's employer gave the employee the test for COVID-19 that showed the positive result.

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3. If an employer mandates that an employee who is not otherwise subject to a mandatory or precautionary order of quarantine or isolation to remain out of work due to exposure or potential exposure to COVID-19, regardless of whether such exposure or potential exposure was in the workplace, the employer shall continue to pay the employee at the employee's regular rate of pay until such time as the employer permits the employee to return to work or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation, at which time the employee shall receive sick leave as required by New York's COVID-19 sick leave law, in accordance with this guidance, for the period of time the employee is subject to such mandatory or precautionary order of quarantine or isolation.
4. In no event shall an employee qualify for sick leave under New York's COVID-19 sick leave law for more than three orders of quarantine or isolation. The second and third orders must be based on a positive COVID-19 test in accordance with paragraphs 1 and 2.

For additional information about COVID-19, please visit the New York State Department of Health's coronavirus website at coronavirus.health.ny.gov home. For additional information about New York's COVID-19 sick leave law, please visit ny.gov/COVIDpaysickleave.


Roberta Reardon
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Jan 20, 2021
New York, New York