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Overview: The Colorado Healthy Families and Workplaces Act

On June 15, 2020, the Colorado General Assembly passed the Colorado Healthy Families and Workplaces Act, which took effect upon Governor Polis' signature on July 14, 2020. Colorado joins 12 states, Washington D.C., and dozens of cities in ensuring that workers have a basic right to paid sick time. The law also provides additional paid sick leave during a public health emergency, including the current COVID-19 pandemic. A Better Balance, which has a staff member in Colorado, helped to draft the law and played a key role in its passage on the ground. We are proud that Colorado has set a new standard on comprehensive, universal paid sick leave for other cities and states.

I. General Accrued Paid Sick Time

- **Beginning January 1, 2021:** employers with 16 or more employees must provide accrued paid sick time to its employees as described below; **note, however, that employers regardless of size must provide paid sick time specific to COVID-19, as described in the next section.**
- **Beginning January 1, 2022:** *all employers*, regardless of size, must provide accrued paid sick time.
- **Workers are covered whether they are full-time, part-time, temporary, or seasonal.**
- **Workers earn paid sick time at a rate of 1 hour for every 30 hours worked, and are entitled to earn and use up to 48 hours of paid sick time a year under the law.** *As described on the next page, workers are entitled to additional paid sick time during a declared public health emergency, which as of January 2021 includes the COVID-19 emergency.*
- **Workers are entitled to earn and use paid sick time when they begin employment or on the effective dates described above.** There is no waiting period for using accrued paid sick time.
- **Workers are entitled to use their accrued paid sick time for the following absences from work:**
 - 1) When the worker: has a mental or physical illness, injury, or health condition that prevents the worker from working; needs to obtain medical diagnosis, care, or treatment for an illness, injury, or health condition; or needs to obtain preventive medical care;
 - 2) When the worker needs to care for a family member for the purposes in #1 above;
 - 3) When the worker or worker's family member has been the victim of domestic abuse, sexual assault, or harassment and the leave is to: seek medical attention or recover from a mental or physical illness, injury, or health condition due to the violence/assault/harassment; obtain services from a victim services organization; obtain mental health or other counseling; seek relocation due to the violence/assault/harassment; or seek legal services, including preparing or participating in a civil or criminal proceeding; or
 - 4) When, due to a declared public health emergency, a public official has ordered the closure of the employee's place of business, or ordered the closure of the school or place of care of the employee's child and the employee needs to be absent from work to care for the employee's child.
- **Workers may care for the following family members:** a person related by blood, marriage, civil union, or adoption; a child to whom the worker stands *in loco parentis* (or "acting as a parent" and raising a child); or a person for whom the employee is responsible for providing or arranging health-or-safety-related care.
- **Workers may use their paid sick leave in hourly increments.**
- **Documentation:** For paid sick leave of four or more consecutive work days, an employer may require reasonable documentation that the paid sick leave is for a covered purpose under the law. *However,*



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documentation is not required for leave under the law's public health emergency provisions as described in the next section.

- If the worker received in-person or remote services from a provider, a document from the provider indicating the sick leave was for a qualifying purpose is acceptable; if the worker didn't receive provider services, or couldn't obtain a provider document in time or without added costs, the worker can provide their own writing that paid sick leave was for a qualifying need under Colorado's paid sick leave law. The document does not have to be signed, notarized, or in a particular format.
- **Paid Time Off (PTO):** An employer with a PTO policy that provides an amount of leave that meets the paid sick leave law's requirements, including accrual requirements, and that can be used for the same purposes and under the same conditions as this law does not have to provide additional paid sick leave.
- **Collective Bargaining Agreements:** Workers covered by a collective bargaining agreement (CBA) in effect on the law's effective date aren't covered if the CBA provides for equivalent or more generous paid sick leave; employees covered by a CBA negotiated after the law's effective date aren't covered if the CBA both expressly waives the law's requirements *and* provides for equivalent or more generous paid sick leave. An employer signatory to a multi-employer CBA may fulfill the law's obligations by making contributions to a multi-employer fund/plan/program based on the hours of paid sick time each of its workers accrue under the law, as long as the fund/plan/program allows workers to collect paid sick time from it based on hours worked under the CBA and for the purposes specified in the law.
- **Retaliation against workers for exercising their paid sick leave rights is prohibited.** An aggrieved worker may file a complaint with the Colorado Department of Labor and Employment (CDLE) or file a civil action in court. Before filing in court, a worker must submit a claim to CDLE or make a written demand for relief to the employer, and the employer has 14 days to respond.

II. Additional Paid Sick Time During a Public Health Emergency (Such as COVID-19) After January 1, 2021

- **On the date a public health emergency is declared (related to infectious pandemics, epidemics, or bioterrorism), employers regardless of business size must supplement workers' existing earned paid sick time with additional time off.** Workers who normally work at least 40 hours a week must be able to take at least 80 hours of paid sick time, including any existing accrued paid sick time; workers employed for fewer hours a week must be able to take an amount equal to how much they are scheduled to work or work on average in a 14-day period.
- **The law's requirement for additional paid sick leave was triggered by the COVID-19 public health emergency.** In December 2020, the Colorado Department of Labor and Employment (CDLE) clarified through rulemaking that a declaration of a "public health emergency" related to COVID-19 had triggered the requirement to provide 80 hours of paid sick leave for COVID-19 needs (or proportionately fewer hours for part-time employees) for use as of January 1, 2021. CDLE has also stated that the emergency period will continue "should (A) further renewed, extended, and/or amended emergency declarations continue to be issued (as they have been at least monthly since March 2020), or (B) a different COVID-related "emergency" declaration be issued in 2021."¹

¹ See "Interpretive Notice & Formal Opinion ("INFO") # 6C: How Healthy Families and Workplaces Act ("HFWA") Paid Leave Differs in 2020 & 2021, and How It Differs from Federal Law, Prior Colorado Law, and Paid Family/Medical Leave," Colorado Department of Labor and Employment, Division of Labor Standards and Statistics, Last Updated December 23, 2020, available at: <https://cdle.colorado.gov/interpretive-notice-formal-opinions-infos-other-published-guidance>.



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- **As of January 1, 2021, supplemental paid sick leave for a public health emergency can be used (including COVID-19 currently)—up until four weeks after the termination or suspension of the emergency—for the following absences from work:**
 - 1) A worker’s need to: self-isolate and care for oneself because of a diagnosis or experiencing the symptoms of a communicable illness connected to the cause of the public health emergency, or to care for a family member who has to self-isolate for those reasons;
 - 2) Seek preventive care for—or medical diagnosis, care, or treatment for symptoms of—a communicable illness that is the cause of the public health emergency, or to care for a family member for those reasons;
 - 3) When a public official, health authority, or employer (of the worker or worker’s family member) determines the worker’s or worker’s family member’s presence on the job or in the community would jeopardize the health of others because of the individual’s exposure to—or exhibiting symptoms of—the communicable illness that is the cause of the public health emergency (whether diagnosed or not);
 - 4) Care of a child or other family member when the individual’s child care provider is unavailable due to a public health emergency, or if the child’s or family member’s school or place of care is closed by a public official, school, or place of care due to a public health emergency (including if it is physically closed but providing remote instruction);
 - 5) An employee’s inability to work because the employee has a health condition that may increase susceptibility to or risk of a communicable illness that is the cause of the public health emergency.
- **Documentation.** Documentation is not required for leave under the law’s public health emergency provisions that are described in this section.
- **COVID-19 Leave Prior to January 1, 2021.** Note that until December 31, 2020, Colorado’s paid sick time law filled the coverage gaps in the federal [Families First Coronavirus Response Act](#)’s (FFCRA) emergency paid sick leave provisions. Through December 31, 2020, the federal FFCRA provided up to 80 hours of emergency paid sick leave for COVID-19 purposes; however, the law had several significant exemptions: for example, the bill excluded employers with 500 or more employees and allowed employers to exempt health care providers and certain emergency responders. Prior to January 1, 2021, Colorado’s Healthy Families and Workplaces Act required employers in the state—regardless of size—to either comply with the FFCRA if they are covered *or* provide leave—in the amount and for the purposes stated in the federal law—to workers in Colorado excluded from the federal law.

Please note that this fact sheet, last updated on January 29, 2021, does not represent an exhaustive overview of the paid sick time law described, and it does not constitute legal advice. Additional provisions not described in this fact sheet may apply to a worker’s specific circumstances. For more information on Colorado’s paid sick time law, please see the [Interpretive Notice & Formal Opinions \(INFOs\)](#) and other published guidance from the Colorado Department of Labor and Employment, including [INFO Notice 6-B and 6-C](#), available [here](#).