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## FACT SHEET:

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### **Domestic Workers' Right to Paid Sick Leave in Westchester County**

If you are a domestic worker—like a nanny, housekeeper, or home companion—the Westchester County Earned Sick Leave Law for Domestic Workers gives you the right to take paid sick leave. That means you can take time off work and still be paid if you or your family member is sick or needs go to the doctor. **If you are a domestic worker and have questions about the law, or problems at work related to sick leave, call our FREE and confidential legal work-family legal helpline at 1-833-NEED-ABB. Se habla Español.**

#### **Am I covered?**

The Westchester County sick leave law only applies to domestic workers. You are a domestic worker under this law if you work in a home or residence and provide:

- Care for a child;
- Companionship for a sick, convalescing, or elderly person;
- Housekeeping; or
- Any other domestic service.

**Please note:** If you work for an agency, the Westchester County sick leave law does not apply to you. However, you may be eligible for sick leave under the New York State sick leave law. For more information, visit <https://www.abetterbalance.org/resources/know-your-rights-new-york-state-paid-sick-time/>.

#### **Does immigration status matter under the Westchester County sick leave law?**

No. You are covered by the Westchester County sick leave law regardless of your immigration status. Even undocumented domestic workers are covered by the law and entitled to paid sick leave.

#### **How much paid sick leave do I get under the Westchester County sick leave law, and when do I get to use it?**

The law entitles you to earn **1 hour** of paid sick leave for every **7 days** worked. You can use up to **40 hours** of sick leave per year and your sick leave must be paid. You start earning paid sick leave immediately when you start working for your employer, but you can't use it until 90 days after your first day of work. If you do not use your paid sick leave, it will "carry over" into the next year.

#### **What can I use my paid sick leave for?**

You can use your paid sick leave if you or your family member is sick, or if you or your family member need to go to the doctor or dentist for any type of medical care—such as an annual check-up, vaccination, medical test, or treatment. The law covers both mental and physical health conditions, as well as preventive care.

- **EXAMPLE:** Grace is pregnant and wakes up feeling very tired and sick to her stomach. She can take paid sick leave under the Westchester County sick leave law, even if she does not go to the doctor.

### **Which family members are covered by the Westchester County sick leave law?**

The family members that are covered by the Westchester County sick leave law are: your child (including an adult child); spouse; domestic partner; parent; parent or child of a spouse or domestic partner; grandchild; grandparent; sibling; certain relatives by blood or marriage; a former spouse or domestic partner; co-parent; and certain current or former significant others.

- **EXAMPLE:** John's mother has a doctor's appointment on Monday, and his aunt has an appointment on Tuesday. John would like to go to both appointments with his family members. John can take paid sick leave under the Westchester County sick leave law for Monday's appointment, since his mother is a covered family member *and* for Tuesday's appointment, since his aunt is also a covered family member.

### **What should I be paid when using sick leave under the Westchester County sick leave law?**

For each paid sick day, you must be paid at your regular rate of pay at the time you use your sick leave. Please note: domestic workers must be paid at least the New York State minimum wage when taking paid sick leave under the Westchester County sick leave law.

### **Can my employer make me come into work or punish me for taking paid sick leave under the Westchester County sick leave law?**

No. If your boss tells you to come into work when you try to take paid sick leave, or if you are punished for taking paid sick leave (for example, you are fired, threatened, or your hours are cut), call A Better Balance for help at **1-833-NEED-ABB**.

- You also cannot be required to find a replacement worker when you use paid sick leave under the Westchester County sick leave law.

### **When do I have to tell my employer that I need paid sick leave?**

Under the Westchester County sick leave law, if you know ahead of time that you need to use paid sick leave, you must try to provide advance notice to your employer. If you did not know that you would need paid sick leave, you just have to let your employer know as soon as you can unless your employer has a separate notice policy. If your employer has a separate notice policy, they must give you a written copy of the policy that explains the process for providing notice.

- **EXAMPLE:** Priya has a planned surgery next month. Priya must notify her employer that she needs paid sick leave before the surgery.

### **Do I have to provide my employer with a doctor's note when I take paid sick leave?**

Under the Westchester County sick leave law, an employer cannot require a doctor's note when you take 1, 2, or even 3 paid sick days in a row. An employer **can** require a doctor's note if you use your paid



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sick days for **more than 3 workdays** in a row. The note does not need to describe your health issue—a note that only indicates your need for sick leave is sufficient.

### **How is the Westchester County sick leave law different than the paid days of rest under the Domestic Workers’ Bill of Rights?**

Under the Domestic Workers’ Bill of Rights, you have the right to 3 paid days of rest per year, which you receive on the anniversary of your first day of work. If you can use your paid days of rest for all the same reasons and under all the same conditions as you can use your earned sick leave under the Westchester County sick leave law, your days of rest may count against your earned sick leave. However, if your paid days of rest do not meet all the requirements of the law (such as if your employer gives you a paid day off for a holiday that you must use on that day), they do not count against your earned sick leave—meaning that your paid days of rest are in addition to your earned sick leave rights. If you have questions, please call us at 1-833-NEED-ABB.

### **What other rights do I have under the Domestic Workers’ Bill of Rights?**

You can read more about the New York State Domestic Workers’ Bill of Rights at <https://dol.ny.gov/domestic-workers-bill-rights>. The Domestic Workers’ Bill of Rights provides many important labor protections, including:

- The right to 1 *unpaid* day of rest a week (don’t confuse this with the 3 *paid* days of rest that we mentioned above) and overtime if you agree to work on that day.
- The right to overtime pay after working 40 hours a week, or 44 hours a week if you live in your employer’s home.
- The right to be free from discrimination and harassment based on your sex, race, national origin, and other factors.
- If you think your employer is not obeying the Domestic Workers’ Bill of Rights, you can email the New York State Department of Labor’s Division of Labor Standards at [DomesticWorker@labor.ny.gov](mailto:DomesticWorker@labor.ny.gov) with your question or your complaint. You can also call the Department of Labor at 1-888-469-7365.

**Please note that the information in this fact sheet is not exhaustive or intended to constitute legal advice. It is possible that additional Westchester County Earned Sick Leave Law for Domestic Workers or New York State Domestic Workers’ Bill of Rights provisions or rules not described here may apply to your specific circumstances.**

**If you need help using your rights or would like more information, call our free and confidential legal helpline at 1-833-NEED-ABB. Se habla Español.**