New York COVID-19 Emergency Paid Sick Leave Law: How to Get Paid Leave

A member who must miss work due to COVID-19 needs to do the following to get paid under New York's COVID-19 Emergency Paid Sick Leave Law:

(1)   Obtain an Order of Quarantine from the State or County Department of Health.

   a.   A list of each local health department with contact info can be found here: https://www.health.ny.gov/contact/contact_information/

   b.   Once the member makes the request for an Order of Quarantine, the local department of health is required to provide it within 30 days, but it generally comes faster.

(2)   Submit the Order of Quarantine to the employer for the time period that they were under quarantine and out of work. It is the law that the member is then paid a certain number of days based on the size of the employer.

   a.   For employers with 1-10 employees: no paid time required *unless* the employer's 2019 net income exceeded $1 million - if their net income exceeded $1 million then the employer must pay up to 5 days paid leave;

   b.   For employers with 11-99 employees: up to 5 days of paid leave; and

   c.   For employer with 100+ employees: up to 14 days paid leave.

- If the employer refuses to provide paid leave as required after receiving the Order of Quarantine from the member, the member can file a complaint with New York State by calling the COVID-19 Paid Sick Leave Hotline at **844-337-6303** or by filing a complaint at: https://forms.ny.gov/s3/Department-of-Labor-COVID-19-Complaint

- If the member needs more paid leave than what is mandated (for example, the mid-sized employer is required to pay for 5 days but the member was out of work for 10 days), the member can apply for Paid Family Leave/Disability benefits through the employer's insurance carrier to cover the balance. Forms to apply for that leave are available here: https://paidfamilyleave.ny.gov/COVID19 and these are also submitted to the employer. This is only necessary if the employer's paid requirement does not cover the full period of the quarantine order.

- If the member has received paid COVID leave in the past, they can still get subsequent paid COVID leave as long as: (1) they have tested positive (just being exposed will not suffice if they've gotten paid leave in the past); and (2) the member has not already received paid leave three (3) times. Once they have been paid for 3 quarantine periods, they are capped and cannot receive additional COVID paid leave.

- Also, DOL guidance states that even when the employee is not subject to an Order of Quarantine, if the employer keeps an employee from returning to work due to exposure, the employer "shall continue to pay the employee at the employee's regular rate of pay until such time that the employer permits the employee to return to work..." If the employee later becomes subject to an Order of Quarantine, then the employer must then pay the required COVID-19 sick pay discussed above in addition to the time that the employer kept the employee out of work.[1]

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[1] This guidance can be found here: https://dol.ny.gov/system/files/documents/2021/01/covid-19-sick-leave-guidance_1.pdf