

Insights, News & Events

# 3 IMPORTANT REMINDERS AS CALIFORNIA'S COVID-19 SUPPLEMENTAL PAID SICK LEAVE IS SET TO EXPIRE ON DECEMBER 31

Insights  
Dec 20, 2022

California's COVID-19 Supplemental Paid Sick Leave (SPSL) law, previously set to expire in September, was extended to December 31. While you may be preparing to move past the set of obligations that came along with this law, there are some critical compliance points to keep in mind as you finish the year. Although the law is set to expire in a matter of days, you should keep these three things in mind as you wrap up 2022.

## Employees Must Be Permitted to Finish SPSL That Begins Before Expiration of the Law

Employers who have kept up with [our prior insights on this law](#) know that the extension of the law did not provide employees with any additional SPSL time. Any leave that is not requested by December 31 does not roll over.

Employees who have remaining SPSL (in either bucket) must be permitted to request it until the end of the year. If an employee [begins](#) SPSL leave before the end of the year, they must be permitted to complete the leave for that qualifying event – even if it extends into the new year. For example, if an employee requests SPSL on December 31 for having contracted COVID-19, and has 80 hours of SPSL left, they can use that time while they are excluded from work even though their time off extends past the expiration of the law.

Though the law expired on December 31, 2022, the Labor Commissioner recently issued a statement on its [SPSL FAQ page](#) stating "after December 31, 2022, workers who were not paid the SPSL they were entitled to when they were

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unable to work in 2022 due to COVID-19 can still request pay from their employer or file a claim with the Labor Commissioner.” This language is somewhat unclear and inconsistent with other guidance put out by the Labor Commissioner. Given this ambiguity, employers may want to err on the side of paying for any requests made by employees for retroactive pay for time taken in 2022.

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## **Local SPSL Ordinances**

Second, employers should keep in mind that there are a few local jurisdictions in California with their own SPSL ordinances that are tied to their respective COVID-19 emergency declaration period. If you operate in or your employees work in any of these jurisdictions, your employees may still be entitled to SPSL under a local ordinance. Check with your Fisher Phillips attorney if you are unclear about this potential additional obligation.

## **Exclusion Pay**

Finally, we will say goodbye to exclusion pay soon. The exclusion pay obligations will end when the new “permanent” Cal/OSHA regulation replaces the current version of the Emergency Temporary Standard, which is expected to happen in January 2023. You can read more about this [here](#) and by attending our webinar by registering [here](#).

## **Conclusion**

We will continue to monitor these developments, so make sure you are subscribed to [Fisher Phillips’ Insight system](#) to keep up with the most up-to-date information. Please contact your Fisher Phillips attorney, the authors of this Insight, or [any attorney in our California offices](#) should you have any questions.