

Puerto Rico's Flu Epidemic Prompts Special Paid Leave: Key Compliance Steps for Employers

Insights

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Employers in Puerto Rico need to comply with special emergency paid leave requirements that are now in effect due to the influenza epidemic. The Governor issued an executive order on January 27 giving non-exempt employees up to five business days of paid leave if they have contracted or are suspected of contracting the epidemic illness. But they are only entitled to such leave after exhausting all their accrued sick and other leave. Here's what employers in Puerto Rico should know and what you should consider doing now.

4 Key Components

- **Purpose:** The executive order is meant to ensure employees are not forced to choose between their health and their jobs during a public health crisis.
- **Eligibility:** The special leave applies only to non-exempt employees who have used all their regular accrued sick and vacation leave and are still unable to work due to the illness or suspected illness that prompted the emergency (in this case, the flu).
- **Duration:** Up to five paid working days are available per eligible employee during the declared emergency.
- **Anti-Retaliation:** Employers are strictly prohibited from disciplining, suspending, or dismissing employees for properly using this special leave or for absences properly charged to sick leave.

Practical Implications

- **Policy Updates:** Employers should review and update leave policies to ensure compliance with the law and executive order.
- **Documentation:** The law does not require a confirmed diagnosis, but employers may request reasonable medical documentation relating to an employee's illness or suspected illness, provided such requests are consistent with applicable privacy laws, anti-discrimination laws, and company policy.
- **No Substitution:** The special emergency leave is supplemental and should not be used until all other accrued leave is exhausted.

- **Compliance:** Employers must be diligent in providing the required leave and avoiding any adverse action against employees who exercise their rights under the law. Non-compliance could expose employers to legal claims for wrongful discipline or termination.

Conclusion

If you have any questions about this or other labor and employment laws in Puerto Rico, please contact your Fisher Phillips attorney or the author of this insight. Make sure you are subscribed to the [Fisher Phillips Insight System](#) to get the most up-to-date information.

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