



NYC Streamlines Process For Obtaining Emergency Sick Leave Pay

Insights

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New York City is making it easier for employees to qualify for COVID-19-related sick leave. The Commissioner of Health and Mental Hygiene issued a blanket order of isolation for all people who work or reside in New York City who meet the qualifications for mandatory isolation orders related to COVID-19. This Order will allow these individuals to qualify immediately under New York's Emergency Paid Sick Leave.

What's Going On?

In March, New York passed an Emergency Paid Sick Leave Law (NY EPSL) requiring employers to provide certain paid and unpaid sick leave to employees subject to a mandatory or precautionary order of quarantine or isolation related to COVID-19. Entities that may issue such an order include the State of New York, New York State Department of Health, local Board of Health or any government entity authorized to issue such an order.

To make it easier for to receive paid sick leave under the NY EPSL, the New York City Commissioner for Health and Mental Hygiene issued an Order requiring mandatory isolation for those who have tested positive for COVID-19 or have symptoms of COVID-19 and were in contact with someone who tested positive for or had symptoms of COVID-19. Such individuals can use a streamlined process set forth in the Order to claim paid sick leave from their employer.

Who Does The Order Apply To?

As set forth in the FAQs released by the NYC Health Department, the Order applies to employees applying for paid sick leave from their employer under the NY EPSL who live or work in New York City, and currently meet or previously met the qualifications for mandatory isolation related to COVID-19. The qualifications for mandatory isolation include those who either (1) tested positive for COVID-19, or (2) have symptoms of COVID-19 **and** were in contact with someone who tested positive for COVID-19 or who had symptoms of COVID-19.

The FAQs identify several different scenarios that qualify as having contact with a known COVID-19 case, including:

1. Sharing the same household with a person who has tested positive for COVID-19 or presumed to have COVID-19;

2. Having direct physical contact with a person who has tested positive for COVID-19 or presumed to have COVID-19;
3. Having direct contact with infectious secretions (for example, being coughed on or touching a used paper tissue with a bare hand) of a person who has tested positive for COVID-19 or is presumed to have COVID-19;
4. Having contact, either by being within six feet for about 10 minutes or being in the same enclosed space for a sustained period, with a person who has tested positive for COVID-19 or is presumed to have COVID-19;
5. Travel from a country the Centers for Disease Control and Prevention (CDC) has recognized as a “hotspot” for COVID-19 and has issued a level 2, 3 or 4 travel advisory, or traveling on a cruise ship.

Notably, the FAQs make clear that the Order does **not** apply to those employees who are not sick but have a “friend/neighbor/colleague or someone in [their] household” that tested positive COVID-19. If an employee lives with or has otherwise been in close contact (i.e. within six feet of that individual for a sustained period of time, such as 10 minutes) with a person who tested positive for COVID-19 or is experiencing or has recently experienced COVID-19 symptoms, and that employee is therefore required to quarantine, the FAQs direct the employee to call the NYC Health Department to request an individual quarantine order. Such an individual may still be eligible for NY EPSL but cannot use this Order to claim paid sick leave from their employer.

What Is The Streamlined Process To Obtain Sick Leave Pay?

Attached to the Commissioner’s Order are three separate appendices (Appendix A, B and C); Appendix A applies to health care workers; Appendix B applies to essential employees that are not health care workers; and Appendix C applies to nonessential workers.

To claim emergency sick leave, the employee must fill out the applicable Appendix, gather the information described in the Appendix, and submit the completed Appendix and accompanying documentation to their respective employer. Additionally, the employee must affirm that the statements made in the Appendix are true and accurate to the best of the employee’s knowledge.

While employees filling out Appendices A and B must submit documentation showing that isolation is or was necessary, those filling out Appendix C must submit such documentation only if it is available.

What Do NYC Employers Need to Do?

If you are an employer in New York City, you must be aware of this Order and understand that eligible employees who submit the applicable Appendix and any required documentation are deemed to have submitted the necessary documentation to qualify for NY EPSL. Additionally, you should be aware that employees may be eligible for NY EPSL even if they are not subject to this Order.

While the Order issued by the New York City Commissioner for Health and Mental Hygiene is currently in effect, it states that the NYC Health Department may change recommendations as the situation evolves. Accordingly, you should continue to monitor the rapidly developing COVID-19 situation.

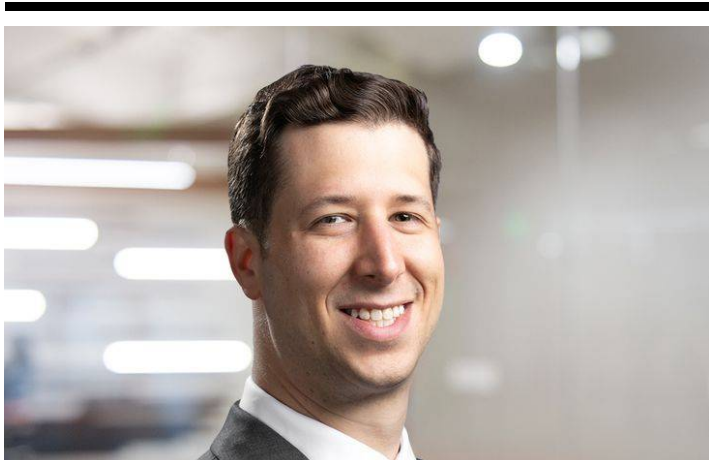
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This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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