

CORONAVIRUS

WEEKLY WEBINAR SERIES



January 26, 2021



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Introduction



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NYS COVID Paid Leave – DOL Guidance Questions and Answers



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NY COVID-19 Leave Law

- Enacted March 18, 2020.
- Applies to all employers (private and public).
- Did not expire at the end of 2020.
- Provides leave in addition to NY Paid Sick Leave.



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NY COVID-19 Leave Law

Number of Employees (As of Jan. 1, 2020)	Amount of Sick Leave	Supplemental Benefits
0-10 employees; net income of \$1 million or less in the prior tax year	Unpaid leave for duration of the order	Combined COVID-19 Paid Family Leave (PFL) and Disability Leave Benefits (DBL) for the duration of the order
0-10 employees; net income of more than \$1 million in the prior tax year	5 days of paid sick leave	Combined PFL and DBL for the duration of the order
11-99 employees	5 days of paid sick leave	Combined PFL and DBL for the duration of the order
100+ employees and public employers	14 days of paid sick leave	



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NY COVID-19 Law

- On January 20, 2021, the NY DOL published guidance regarding this NY COVID-19 law:
https://dol.ny.gov/system/files/documents/2021/01/covid-19-sick-leave-guidance_1.pdf
- The guidance expands the obligations of employers with regarding to NY COVID-19 leave.
 - Statutory authority?



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NY COVID-19 Leave

- If an employee tests positive for COVID-19 following a period of mandatory quarantine or isolation, the employee:
 - Cannot report to work
 - Is automatically deemed subject to a subsequent mandatory order of isolation from the Department of Health, and
 - Is entitled to paid sick leave under the NY COVID-19 sick leave law (even if the employee already received NY COVID-19 sick leave for the first period of mandatory quarantine or isolation).
 - In order to receive leave for the second time, the employee is required to submit verification of the positive COVID-19 test.



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NY COVID-19 Leave

- If an employee is subject to an order of quarantine or isolation and continues to test positive for COVID-19 at the end of the quarantine or isolation period
 - Cannot return to work
 - Is automatically deemed subject to a subsequent mandatory order of isolation from the Department of Health, and
 - Is entitled to paid sick leave under the NY COVID-19 sick leave law (even if the employee already received NY COVID-19 sick leave for the first period of mandatory quarantine or isolation).
 - In order to receive leave for the second time, the employee is required to submit verification of the positive COVID-19 test.



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NY COVID-19 Leave

- An employee cannot use NY COVID-19 leave more than 3 times.
- The second and third uses of the leave must be based on a verified, positive test.
- Note: It is not recommended that an employee who has been quarantined pursuant to a governmental order receive another NY COVID-19 test before returning to work.
 - Exception for nursing home staff.



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NY COVID-19 Leave

- The guidance also appears to require employers to provide employees with paid leave (not necessarily NY COVID-19 leave), even if:
 - The employee is not subject to an order of quarantine or isolation, and
 - The employer mandates that the employee not report to work due to the employee's exposure or potential exposure to COVID-19
 - Regardless of whether such exposure occurred in the workplace.
- The employer must pay the employee at the employee's regular rate of pay until the employer allows the employee to return to the workplace, or the employee becomes subject to a mandatory or precautionary order of quarantine or isolation (at which point the employee would receive NY COVID-19 sick leave for the duration of the order).



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Paid Leave – Major Changes Since April 2020

- FFCRA
 - Employer size
 - Expiration 12/31/20
 - Option to continue
 - Possible extension/reenactment
- NYS COVID Emergency Sick Leave
 - Order of quarantine
 - Periods of usage; leave without an order?
- NYS Paid Sick Leave
- CBA and Bargaining Issues



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HIPAA and Medical Information – Recurring COVID Related Questions



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Update from Albany



Caitlin A. Anderson

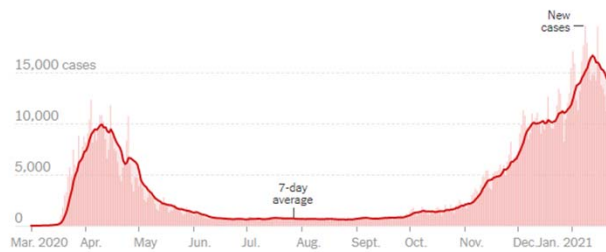
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New York Coronavirus Map and Case Count

Updated January 25, 2021, 1:55 P.M. E.T.



The New York Times

	TOTAL REPORTED	ON JAN. 24	14-DAY CHANGE
Cases	1.3 million+	12,383	-17% →
Deaths	41,979	195	+9% →
Hospitalized		8,613	+5% →

Hospitalization data from the Covid Tracking Project; 14-day change trends use 7-day averages.



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Vaccine Update

- Good news! Vaccines working well against new variants.

moderna

Moderna COVID-19 Vaccine Retains Neutralizing Activity Against Emerging Variants First Identified in the U.K. and the Republic of South Africa

January 25, 2021



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Vaccine Update

- What impact does the vaccine have on the travel advisory or quarantining because of an exposure?
 - **NONE.** New York has not updated its guidance.
 - Why? People who have received the vaccine may still spread the disease.
 - 95% effective against the virus still means there is a 5% chance a person may come down with COVID-19. On a large scale, that can be dangerous.
 - 1,000,000 people receive the vaccine; 50,000 may still get COVID-19.



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Budget

- Paid Leave for COVID-19 Vaccine
 - Upon oral or written request of employee, employer must provide up to 4 hours of leave to be used for up to two COVID-19 vaccinations per employee.
 - Employers that arrange/provide for the vaccine at the workplace need only to provide sufficient time for the employee to receive the vaccine.
 - Employers cannot take retaliatory actions against employees who would use this leave.
 - Employers may ask for documentation from the employee “confirming the employee’s eligibility to take leave under this act before authorizing such leave.”



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Executive Order 202.91

- Local health departments/county governments: prioritize essential workers in category 1b.
- Hospitals: prioritize healthcare workers.
- Pharmacies: prioritize individuals 65+.
- Providers should **not** schedule appointments until they receive an allocation; should not schedule more appointments than the actual allocation allows.



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NYS DHR Update – What is New and How Does it Affect Employers?



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Update from Albany

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