

LABOR AND EMPLOYMENT LAW

INFORMATION MEMO

MARCH 6, 2024

CDC Updated Guidance Regarding COVID-19 and Its Potential Impact on New York State COVID-19 Paid Leave

On March 1, 2024, the Centers for Disease Control and Prevention (CDC) issued updated guidance related to COVID-19 prevention and treatment. Prior to March 1, 2024, the CDC recommended that individuals who test positive for COVID-19 should isolate for a minimum of five days following a positive test and also follow a period of post-isolation precautions.

The CDC's new Respiratory Virus Guidance

The CDC's new [Respiratory Virus Guidance](#) includes several changes to its prior COVID-19 specific guidance. Initially, the new guidance applies to individuals who contract respiratory illnesses including COVID-19, flu and RSV, and no longer focuses on COVID-19 alone. The guidance explains that this change was made to address the most common respiratory viruses that cause significant amounts of disease, especially in the fall and winter seasons.

Next, the new guidance eliminates the five day isolation requirement, and instead recommends that individuals with these respiratory illnesses stay home and away from others until at least 24 hours after both their symptoms are getting better overall and they have not had a fever without the use of fever-reducing medication. According to FAQs provided by the CDC, "improving symptoms" means that a person is starting to feel better, and the body is returning to normal after an infection. The guidance also encourages added precautions over the next five days after time at home is over.

Finally, the guidance states that it is intended to apply in general community settings but not in healthcare settings. The CDC offers separate and specific guidance for COVID-19 in healthcare settings, which can be found [here](#). The CDC also states that it has been working with education partners to develop infection prevention and control guidance for schools, and that this guidance should be released prior to the 2024-2025 school year.

NYS COVID-19 Leave Statute

Employers across New York state are likely wondering what impact, if any, the change in CDC guidance has on New York's COVID-19 Paid Leave statute.

By way of review, New York's COVID-19 Paid Leave law states that employers are required to provide employees paid leave if they are subject to a mandatory or precautionary order of isolation or quarantine issued by the New York State Department of Health (NYSDOH) (or any governmental entity similarly authorized). The length of leave depends on the employer's size and income.

As reported on our blog [here](#), as of Sept. 14, 2022, the NYSDOH issued updated COVID-19 quarantine and isolation guidance stating that it would follow the CDC guidelines on quarantine and isolation. With respect to obtaining an order of isolation or quarantine, [NYSDOH guidance](#) currently states, "The New York State Department of Health is following the Centers for Disease Control and Prevention's (CDC) isolation and precautions for people with COVID-19 guidance, which provides information to those who tested positive. Currently, only orders of isolation are required."

Effect of the CDC Guidance on Employers' Obligation to Provide NYS COVID-19 Leave

With the CDC's elimination of the five day isolation requirement, New York employers are faced with the question of whether they must continue offering COVID-19 Paid Leave. Arguably, without a specific CDC isolation requirement, COVID-19 paid leave will no longer be required. However, the new CDC guidance still recommends that individuals who have respiratory illness, including COVID-19, stay home and away from others until at least 24 hours after both their symptoms are getting better overall and they have not had a fever. It is not clear if New York state will continue to interpret this as an isolation requirement that would entitle employees to COVID-19 Paid Leave. As such, whether New York employers must continue to provide COVID-19 Paid Leave is unclear.

It is also worth noting that Gov. Hochul's 2025 Executive Budget Proposal includes proposed legislation that would end the State's COVID-19 Paid Sick Leave Law as of July 31, 2024. To date, that legislation has not been voted on or passed, but it may be adopted in the near future.

Bond will continue to monitor developments related to COVID-19 Paid Leave and will publish updated guidance and information as it becomes available. Employers with questions about COVID-19 Paid Leave, or any of the information contained in this memo, can contact [Adam Mastroleo](#), any attorney in Bond's [labor and employment practice](#) or the Bond attorney with whom you are regularly in contact.

