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Client Alert

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LA COUNTY EXTENDS SUPPLEMENTAL PAID SICK LEAVE ORDINANCE

In April 2020 Los Angeles County issued an interim urgency ordinance to establish supplemental paid sick leave for COVID-19-related reasons for employees of businesses with 500 or more employees nationally. That ordinance expired on December 31, 2020. However, last week the County Board of Supervisors passed an ordinance to extend the sick leave benefits under the original ordinance, with the modifications described below. The new ordinance took effect January 26, 2021, with retroactive application as of January 1, 2021. The ordinance is now set to expire two weeks after the end of the County's COVID-19 local emergency.

Covered Employers

Whereas the original ordinance only covered employers with 500 or more employees nationwide, the new ordinance carries no threshold based on the number of employees. Instead, the ordinance now covers all employees performing work within the unincorporated areas of Los Angeles County.

Rates of Pay

Employees who work at least 40 hours per week or are classified as full-time by their employer are entitled to receive up to 80 hours of supplemental paid sick leave (either under the County's ordinance or the federal FFCRA), calculated based on the employee's highest average two week pay over the period January 1, 2020 through the effective date of the ordinance, April 28, 2020. If an employee has already exhausted his or her paid sick leave under the federal FFCRA, then the employee is not entitled to additional County leave.

Employees who work less than 40 hours per week and are not classified as full-time are entitled to sick leave in an amount no greater than their average two-week pay over the period January 1, 2020 through April 28, 2020.

The maximum amount of leave remains at \$511 per day and \$5,110 in the aggregate. Employees of joint employers are only entitled to the total aggregate amount of leave specified for employees of one employer.

Employers may not require employees to use any other paid or unpaid leave, paid-time-off or vacation time before using this leave or in lieu of this leave.

Reasons for Leave

Employees may submit a request for leave under the ordinance in writing (which includes text or e-mail) for the following reasons:

1. Public health official or healthcare provider requires or recommends the employee isolate or self-quarantine to prevent the spread of COVID-19;
2. Employee is subject to a federal, State or local quarantine or isolation order related to COVID-19 (e.g., is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system);

3. Employee needs to care for a family member who is subject to a federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19; or
4. Employee takes time off work because the employee needs to provide care for a family member whose senior care provider or whose school or childcare provider ceases operations in response to a public health or other public official's recommendation.

Employers may require doctor's note or other documentation to support the use of leave.

As reflected in the original ordinance, employers may still exclude emergency responders and health care providers.

Penalties for Violation

Employers found to be in violation of the ordinance can face penalties including reinstatement, back pay, attorney's fees and costs.

CITY OF LOS ANGELES SUPPLEMENTAL PAID SICK LEAVE

The City of Los Angeles has similar legislation in place that applies to employers with over 500 employees within the City or 2,000 employees nationally. This legislation is also set to expire 2 weeks after the end of the local state of emergency is lifted. The City ordinance generally provides as follows:

Rates of Pay

Employees who were employed with the same employer from February 3, 2020 through March 4, 2020 are entitled to supplemental paid sick leave as follows:

1. Employee who works at least 40 hours per week or is classified as full-time shall receive 80 hours of supplemental paid sick leave. The rate of pay is calculated based on the employee's average two-week pay over the period Feb 3, 2020 through March 4, 2020.
2. Employee who works less than 40 hours per week and is not classified as full-time shall receive leave in an amount no greater than the employee's average two-week pay over the period February 3, 2020 through March 4, 2020.

The amount paid is limited to \$511 per day and \$5,110 in the aggregate. Unlike the County's ordinance, an Employer may not require "a doctor's note" or other documentation for the use of leave under the City's ordinance.

Reasons for Leave (Can be Submitted Orally or in Writing)

1. The employee takes time off due to COVID-19 infection or because a public health official or healthcare provider requires or recommends the employee isolate or self quarantine to prevent the spread of COVID-19;
2. The Employee takes time off work because the employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;
3. The employee takes time off work because the employee needs to care for a family member who is not sick but who public health officials or healthcare providers have required or recommended isolation or self-quarantine; or
4. The employee takes time off work because the employee needs to provide care for a family member whose senior care provider or whose school or childcare provider caring for a child under the age of 18 temporarily ceases operations in response to a public health or

other public officials recommendation. This provision is only applicable to an Employee who is unable to secure a reasonable alternative caregiver.

Exempt Businesses

1. Emergency and health services personnel.
2. Critical parcel delivery employees.
3. Employers who have a paid leave or paid time off policy that provides a minimum of 160 hours of paid leave annually.
4. New businesses that started in the City or relocated to the City on or after September 4, 2019 through March 4, 2020.
5. Government employees.
6. Closed businesses and organizations – Any business or organization that was closed or not operating for a period of 14 or more days due to a city official's emergency order because of the COVID-19 pandemic or provided at least 14 days of leave shall be exempt from the Order.

Penalties for Violation

Employers found to be in violation of the ordinance can face penalties including reinstatement, back pay, attorney's fees and costs.

Employers should ensure that employees who qualify for supplemental paid sick leave under the applicable ordinances are afforded the benefits consistent with the provisions outlined above. Note that the benefits discussed herein cannot be offered in lieu of any regular paid sick leave that the employer provides as required by law.