

# Pittsburgh COVID-19 Paid Sick Leave Ordinance Enacted

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In response to the COVID-19 pandemic, on December 9, 2020, the City of Pittsburgh adopted a Temporary COVID-19 Emergency Paid Sick Leave Ordinance (the “Ordinance”) which gives certain workers up to 80 hours of paid sick leave due to COVID-19. The Ordinance was effective immediately and amends the Pittsburgh Paid Sick Days Act. It will remain effective until one week after the expiration of the public health emergency.

## Background

Effective on March 15, 2020, the Pittsburgh Paid Sick Days Act (“PSDA”) requires all employers of employees located within the City of Pittsburgh to provide their full-time and part-time employees paid sick leave. Employers with 15 or more employees are required to provide up to 40 hours of paid sick leave per year (24 hours if less than 15 employees), at a rate of one hour of leave for every 35 hours worked in Pittsburgh. Covered employees must have been employed for a minimum of 90 days in order to use this sick time. While the Families First Coronavirus Response Act (“FFCRA”) provides mandatory family and medical leave and paid sick leave for employees for COVID-19 reasons (where the employer has less than 500 employees), the FFCRA expired at the end of 2020 and employees are not permitted to use FFCRA leave after December 31, 2020. The Ordinance was introduced to amend the PSDA so that employees can continue to have COVID-19-related paid sick leave.

## PSDA

Employers with 50 or more employees within the City of Pittsburgh must immediately provide COVID-19 sick time to covered employees without any waiting period or accrual requirements. Employees are covered if they have been employed by the employer for a minimum of 90 days and they (i) work in Pittsburgh, (ii) normally work in Pittsburgh, but are currently teleworking from any other location as a result of COVID-19, or (iii) work for the employer from multiple locations or from mobile locations so long as 50% or more of the employee’s time is spent within the City of Pittsburgh. COVID-19 sick time must be in addition to any paid or sick leave provided by the employer. Employers are prohibited from changing any paid leave policies on or after the effective date of the Ordinance to avoid compliance.

Employees who work 40 hours or more per week must be provided up to 80 hours of COVID-19 sick time. If an employee works less than 40 hours per week, the amount of COVID-19 sick time shall be equal to the amount of time the employee is otherwise scheduled to work or works on average in a 14-day period, whichever is greater. For employees working variable hours, the amount can be equal to the average number of hours the employee was scheduled to work over the past 90 days of work, including any hours taken for any type of leave. Of course, employers may designate a higher amount of sick time if they choose.

Covered employees are eligible for COVID-19 sick time for the following reasons:

- Determination by a public official or public health authority, health care provider or the employee's employer that the employee's or employee's family member's presence on the job or in the community would jeopardize the health of others because of the employee's or employee's family member's exposure to COVID-19 or because the individual is exhibiting symptoms that might jeopardize the health of others, regardless of whether the individual has been diagnosed with COVID-19;
- The employee's need to (a) self-isolate and care for oneself because the employee is diagnosed with COVID-19; (b) self-isolate and care for oneself because the employee is experiencing symptoms of COVID-19; (c) seek or obtain medical diagnosis, care or treatment if experiencing symptoms of an illness related to COVID-19; or
- Care of a family member who (a) is self-isolating due to being diagnosed with COVID-19; (b) is self-isolating due to experiencing symptoms of COVID-19; (c) needs medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID 19.

Covered employees must provide notice to their employers of the need for the above leave as soon as practicable, but there is no prescribed time set forth in the Ordinance. Employers cannot require that employees find a replacement worker to cover their hours.

Unless federal or state law requires, employers may not require employees to use other employer-paid leave prior to using the COVID-19 sick time. To the extent that federal or state laws require employers to provide paid leave or paid sick time related to COVID-19, employers are permitted to substitute leave under the federal or state law for their obligations under the Ordinance to the extent they coincide and the federal/state law allows concurrent use of paid leave. Additionally, if an employer has adopted a paid sick time policy specifically for use during COVID-19 after March 13, 2020 (the declaration of emergency), employers are permitted to substitute leave under such employer policy for the leave required under the Ordinance, to the extent they coincide.

## ■ Employer Action

Employers should review the Ordinance, as well as their paid leave policies and procedures and ensure they are complying with the Ordinance. Further guidance regarding notice obligations and required documentation would be welcome. It is important to note that the Ordinance does not provide tax incentives for employer, thus, employers will bear the burden of this cost.