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## Paid Sick Leave Required for Colorado Employees

### Background

Colorado has enacted legislation (Senate Bill 20-205, The Healthy Families and Workplaces Act) that will require employers to provide paid sick leave and public health emergency leave to employees. The leave must be paid at least at the same rate the employee normally earns during worked hours.

*Please note, this communication only addresses the paid sick leave requirements of the act.*

### Summary

Starting January 1, 2021, for employers with 16 or more employees, and starting January 1, 2022, for all employers, the act requires employers to provide paid sick leave to their employees, accrued at one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year. An employee begins to accrue paid sick leave when employment with the employer begins and may use accrued paid sick leave as it is accrued.

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## Pay During Leave

- Paid sick leave must be compensated at the same hourly rate or salary and with the same benefits, including health care benefits, as the employee normally earns during hours worked.
- “Same hourly rate or salary” does not include overtime, bonuses or holiday pay.
- For employees paid on a commission basis only, “same hourly rate or salary” means a rate no less than the applicable minimum wage.
- For employees paid an hourly, weekly, or monthly wage and also paid on a commission basis, “same hourly rate or salary” means the rate of pay equivalent to the employee’s hourly, weekly, or monthly wage or the applicable minimum wage, whichever is greater.

## Accrual and Carryover

- Paid sick leave must accrue at a rate of at least one hour for every 30 hours worked, up to a maximum of 48 hours.
- Accrual begins when employment starts or the applicable effective date, whichever is later. However, employers have the option of providing all the paid sick leave at the beginning of the year, a practice commonly known as frontloading.
- If a former employee is rehired by the same employer within six months of the separation and was not paid for unused sick time at the time of separation, the employer must reinstate any paid sick leave that the employee had accrued but not used prior to the separation.
- Employees can start using sick time as they accrue the hours.
- Employees can use sick time up to a maximum of 48 hours.
- Employees can carry over 48 hours of unused sick time into the following calendar year.

## Reasons for Leave

- For the employee’s, or their family member’s, mental or physical illness, injury, or health condition, regardless of whether such conditions are diagnosed or require medical care at the time of the request.
- For the employee’s, or their family member’s, diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, including preventative care.
- When the employee or their family member is a victim of domestic violence, a family offense, sexual offense, stalking, or human trafficking. Leave may be used to obtain services, participate in safety planning, relocate, meet with an attorney or social services provider, participate in civil or criminal proceedings, file a complaint with law enforcement, enroll their child in a new school, or take any other action to ensure the employee’s or their family member’s health and safety.
- Public health emergencies where a public official has ordered closure of either the school, the employee’s childcare, or the employee’s place of business.

## Employee Notice

- When the need for leave is foreseeable, the employee must make a good-faith effort to provide advance notice and schedule the leave so that it doesn't unduly disrupt the employer's operations.
- While employers may have a policy with reasonable procedures for providing notice when the need for leave is foreseeable, employers are prohibited from denying leave based on noncompliance with the policy.
- For absences of four or more consecutive workdays, employers may require reasonable documentation that the leave is for a covered purpose.

## Employer Next Steps

- Covered Colorado employers should ensure compliance with the law and final rules by January 1, 2021.
- If you are a covered employer with employees in Colorado, HR Knowledge recommends that you review your existing policies to ensure compliance with the Colorado Paid Sick Leave law before the effective date(s) of January 1, 2021 if your employee headcount in Colorado is 16 or more, and before January 1, 2022, regardless of employee headcount.
  - If you are a Full-Service or Virtual HR client, we can assist you in updating your policies.
- You can read more about Colorado Paid Sick Leave [here](#).

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