COVID-19 & Leave Laws

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Paid Sick Time

What is the new federal sick time law?

New federal law (effective 4/2/20-12/31/20):

- Employer with fewer than 500 employees must provide up to 80 hours of paid sick leave for:
  - Personal illness, quarantine - paid at full wages up to $511/day
  - Care for a sick family member, or care for a child due to school/daycare closure - paid at 2/3rds wages up to $200/day
- Must be provided in addition to any other employer-provided leave; employer cannot require use of other PTO before emergency leave
- Cost to employer is reimbursable through refundable payroll tax credit
- Employers with <50 can apply for hardship exemption
- Health/emergency personnel can be exempted

FAQ from the Department of Labor here: https://www.dol.gov/agencies/whd/pandemic/ffcra-questions
Existing Oregon law:

- All employees can earn sick time at 1 hour for every 30 hours they work, up to at least 40 hours/year
  - Must be paid if employer has 10 or more employees in Oregon, or 6 or more in Portland (at usual wages)
- Can be used for: own illness or that of a family member, preventive care, other OFLA purposes, work or school closure due to public health emergency

How is it different than the Oregon sick time law we already had?
Paid Family Leave

What is the new federal family leave law?

New federal law - “child care leave”:

- Employer with fewer than 500 employees must provide up to 12 weeks of paid family leave ONLY to:
  - Employees who cannot work or telework due to a child’s school or daycare closure due to the pandemic.
  - First 10 days may be unpaid; these days can be combined with paid sick days or other leave.
  - After 10 days, employer must pay worker 2/3 of wages, up to $200/day or $10,000 total.
- Cost to employer is reimbursable through refundable payroll tax credit.
- Employers with <50 can apply for hardship exemption.
- Job protection in companies with 25+ employees.

FAQ from the Department of Labor here:
https://www.dol.gov/agencies/whd/pandemic/ffcra-questions
Oregon’s Paid Family & Medical Leave Insurance Program will not begin until January 2023.
Unpaid Family & Medical Leave

Are there other leave laws that might cover employees who need leave during COVID?

Oregon Family Leave Act (OFLA):

- Up to 12 weeks unpaid job-protected leave for employees working with an employer with >25 employees
  - Employees must have worked 6 mos with employer
  - Employee must have worked 180 days with employer
- Can be used for own serious illness, serious illness of a family member, new child, “sick child leave”, to care for child in public health emergency
- Employer must maintain health insurance during leave
Unpaid Family & Medical Leave

Are there other leave laws that might cover employees who need leave during COVID?

Federal Family & Medical Leave Act (FMLA):
- Up to 12 weeks unpaid job-protected leave for employees working for an employer with >50 employees (within 75 mile radius)
  - Employees must have worked 12 mos with employer
  - Employee must have worked 1250 hours in past year with employer
- Can be used for own serious illness, serious illness of family member, new child, military exigency
- Employer must maintain health insurance during leave
Getting reimbursed

How does an employer get reimbursed for the cost of providing new federally required leave?

- Retain appropriate documentation of leave taken in your records.
- Eligible employers who pay qualifying sick or child-care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child-care leave that they paid, rather than deposit them with the IRS.
- If there are not sufficient payroll taxes to cover the cost, employers will be able file a request for an accelerated payment from the IRS.
- The IRS expects to process these requests in two weeks or less. The details of this new, expedited procedure will be announced next week.