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
Paid Sick Time

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

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
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.

Didn’t Oregon just pass a law creating a new paid family & medical leave insurance program?
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

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

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

COVID-19 and Unemployment Insurance in Oregon

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Portland Regional Office, Oregon Law Center
The UI System before COVID-19

- Funded by federal government, state government, and employers
- Run by the State of Oregon (the Oregon Employment Department)
- Provides partial income replacement while a person who recently lost a job is looking for work
- $151 to $648 per week, depending on work history
- Benefits available for up to 26 weeks
- Must have legal authorization to work, be looking for work, be able to work, and be available for work
For Example...

Linda works 40 hours per week at a daycare center and earns $15/hour, or $600/week. She works at the daycare center for three years before she is laid off. Linda’s weekly UI benefit amount would be approximately $390/week, a little less than 2/3 of her wages.
How Has UI Changed in Response to COVID-19?

- Creates a special UI system for people who are unemployment/partially unemployed because of COVID-19
- Applies to unemployment between 1/27/20 and 12/31/20
- Pays more money - $600 on top of the usual amount (so $751 to $1248 per week)
- Available for longer – up to 39 weeks (3 month extension)
- Self-employed, independent contractors, and gig workers can qualify ($676 to $924 per week)

- People with insufficient work history, who already used up their 26 weeks of UI, or who are seeking part-time work can qualify

- Don’t have to look for work if “employer attached” – furlough or other agreement to come back to work

- Can get UI even during times the person is unable to work because of COVID-19
Wait...is Linda making more money with post-COVID-19 UI?

- Yes! Working full-time, she made $600/week. With emergency pandemic UI, she can receive $990/week.

- **But remember**, she has to be unemployed/partially unemployed **because of COVID-19** and she has to look for (and accept!) work unless she has a **COVID-19 reason** that she cannot work.
- **Pre-COVID-19 rule:** you can get partial UI benefits, but only if income goes below weekly benefit level.

- **COVID-19 rule:** same as above, but you also get the additional $600/week.

- **Back to Linda.** Imagine that instead of being laid off, her hours are cut from 40 to 20 hours per week, so she now gets $300 per week in wages. She would get:

  $390 \text{ (full UI benefit amount)} - \$300 \text{ (new wages)} = \$90$

  \text{plus } \$600 = \$690/\text{week}
What Is Work Share?

- Employers can sign up for program that lets them use UI benefits to subsidize wages, as an alternative to layoffs
- Makes up difference between reduction with pro-rated UI benefit amount

**Back to Linda**, who is working 20 hours/week and earning $300/week in wages

- Recall that without Work Share, she would get $690/week
- With Work Share, she would get $795/week (in wages + UI)
How Do You Apply?

- Call 1-877-FILE-4-UI
- Apply online at https://www.oregon.gov/employ/unemployment/pages/default.aspx
- You can get benefits by direct deposit or on a pay card
- If your application is denied or you disagree with the amount, you have 20 days to request a hearing
  - *If you’re not sure, appeal!
- Weekly must call or use online system to certify eligibility and job search activity
You can only get UI benefits if you have authorization to work in the U.S.

Many immigrants who are not citizens can qualify

UI benefits are an “earned benefit” and not a public charge benefit, so there will be no negative effect on immigration status in the future.
Overview of Resources Available for Small Business

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smallbizcovid19.com
COVID Relief Packages

➔ Coronavirus Preparedness and Response Act - March 3, 2020
   *Disaster grants*

➔ Family First Act - March 18, 2020
   *Paid Leave, UI, food assistance*

➔ CARES Act - March 27, 2020
   *Big and small loans, UI, + more*

➔ Covid Relief IV - TBD
   *Details unclear, but likely will focus on recovery*
Federal COVID-19 Small Business Relief

➔ Covid-19 Loan and grant programs for small businesses
  ◆ Economic Injury Disaster Loans (EIDL) & Emergency Economic Injury Grants
  ◆ Paycheck Protection Program
  ◆ Debt relief for SBA borrowers

➔ Reimbursable Paid Leave

➔ Unemployment Insurance

*More detailed information and links available:*

smallbizcovid19.com/resources

Economic Injury Disaster Loans (EIDL) & Emergency Economic Injury Grants

➔ Expands disaster loan program nationwide and to more kinds of businesses
➔ Loans up to $2 million with 3.75% interest rate & deferment up to 4 years
➔ Substantially relaxed guidelines
➔ Includes grants up to $10,000 for use on payroll, employee sick leave, rent & other business obligations
➔ Apply online at - disasterloan.sba.gov
Paycheck Protection Program

→ 8 weeks cash assistance for wages, health benefits, some paid leave, mortgage interest, rent, utilities, interest on other debt

→ Borrow up to 2.5 monthly payroll or $10 million (whichever is less), 4% interest max

→ Full Loan forgiveness if maintain payroll/salary; % if reduced.

→ Provisions for rehiring without penalty

→ Apply through SBA 7(a) approved lenders

→ Business with EIDL COVID loan may also apply to PPP & refinance EIDL into PPP (but no double-dipping). Emergency EIDL grant subtracted from amount forgiven in PPP.

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Debt Relief for SBA Borrowers

➔ For six months, SBA covers loan payments (principal, interest, and fees) for existing borrowers

➔ Includes Community Advantage, 504, Standard 7(a), microloans

➔ No debt relief for Paycheck Protection Program loans but businesses can apply to PPP while receiving SBA debt relief

➔ Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship

◆ This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis.

➔ Delay of Payment of Employer Payroll Taxes

◆ Allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020
Putting all the Pieces Together

1. Understand each option
2. Think about possible sequencing to stack options

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What We’re Working on for COVID IV Package
American Enterprise Institute estimates the cost of replacing lost revenue for affected firms for three months to be $1.2 trillion.
More work to do: Covid IV

Covid III Fixes:

➔ PPP expansion
➔ EIDL expansion
➔ Increased & equitable access

Covid IV Additions:

➔ Need significantly more in grants for small business & overall to cover payroll, rent, utilities, and other expenses (include existing capital costs for owners that are adapting their businesses for driving recovery)
➔ Fund some of the small business stimulus with excess profit taxes on the largest corporations benefiting from small business closure, like Amazon
➔ No excess fees / no predatory small business lending
➔ Consumer protections include small business
Oregon program that pays employees for up to 60 days of work when an employer “ceases operations” and cannot make payroll

- Employees can get up to $10,000 in unpaid wages
- May need to file within 60 days of the closure – don’t wait!

Contact the Wage and Hour Division by email: whd screener@boli.state.or.us or telephone: 971-673-0844 (Ore. Relay TTY: 711) to request a claim form
Join our child care advocacy effort

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