

**Alert | Health Emergency Preparedness Task Force:
Coronavirus Disease 2019**



April 14, 2020

COVID-19-Related Supplemental Sick Leave Benefits Now Available to Certain City of Los Angeles Workers

Mayor Eric Garcetti signed the City of Los Angeles COVID-19 Supplemental Paid Sick Leave Ordinance (the Ordinance) into law on April 7. Originally passed by the Los Angeles City Council on March 27, the new Ordinance applies to employers who have at least 500 employees nationwide (i.e., those businesses that had been excluded from the reach of the Families First Coronavirus Response Act) and requires these employers to provide two weeks of additional paid sick leave to workers who are unable to work because of specified COVID-19-related reasons. The Ordinance is effective April 10, 2020, and will expire Dec. 31, 2020, unless extended before that date. ***However, the Mayor took further action on the Ordinance.***

While commending the City Council’s efforts to protect more Angelenos affected by the current pandemic, Mayor Garcetti raised concerns regarding the scope of the Ordinance and the “excessive burdens and costs upon businesses,” which he noted could unintentionally lead to further work stoppages and staffing shortages at hospitals and health facilities – the frontlines of this fight against COVID-19. To address these issues, the mayor signed an **Emergency Order**, effective immediately, **temporarily suspending and replacing** the Ordinance with modified provisions that exclude a greater number of businesses, at least until two calendar weeks after the local state of emergency for COVID-19 is lifted. The mayor has urged the City Council to consider amending its Ordinance in line with the Emergency Order modifications “in the near future.”

Mayor Garcetti's Emergency Order, clarified by the rules and regulations issued by the City of Los Angeles Office of Wage Standards of the Bureau of Contract Administration on April 11, 2020, provides for the following:

Covered Employers

The Emergency Order applies to any employer that has either: (i) 500 or more employees within the City of Los Angeles; or (ii) 2,000 or more employees anywhere within the United States.

Certain categories of employers have been exempted from the Emergency Order, including:

- (i) employers of workers that provide global parcel delivery services;
- (ii) employers that have paid time off policies providing at least 160 hours of paid leave annually to the applicable workers (excluding paid holidays and paid bereavement leave);
- (iii) certain new businesses that started or relocated to the City of Los Angeles on or after Sept. 4, 2019, through March 4, 2020;
- (iv) government agencies;
- (v) businesses and organizations that were closed or nonoperational for a period of at least 14 days due to a City of Los Angeles official's emergency order relating to COVID-19 or that provided at least 14 days of leave; and
- (vi) certain employers of emergency and health services personnel, including but not limited to, hospitals, skilled nursing and congregate living health facilities, law enforcement and first responders, gang and crisis intervention workers, public health workers, and related contractors and others working for emergency services providers or working at certain health facilities.

Eligible Employees

Employees are eligible for Supplemental Paid Sick Leave (SPSL) benefits if they work for a Covered Employer and they perform any work (including telework) within the geographic boundaries of the City of Los Angeles and have been employed by the same employer from Feb. 3, 2020, through March 4, 2020.

Supplemental Paid Sick Leave Entitlement

Full-time employees who work at least 40 hours per week are entitled to receive 80 hours of SPSL, which must be calculated based on an employee's average two-week pay over the period of Feb. 3, 2020, through March 4, 2020. An employee who works less than 40 hours per week and is not classified as full-time is entitled to receive SPSL in an amount no greater than the employee's average two-week pay over the period of Feb. 3, 2020, through March 4, 2020. The amount of SPSL hours that must be provided to this employee is determined by adding the number of hours worked in four consecutive weeks during this period and dividing that total by two.

When calculating the SPSL entitlement, overtime premiums are not to be considered when calculating the employee's average two-week pay. However, the base rate before the premium for any overtime hours should be included in the calculation. Employers may cap SPSL paid to each employee at \$511 per day, and \$5,110 in total per employee.

Generally, the SPSL provided for by the Emergency Order is in addition to other paid leave benefits already provided by the employer. However, the employer's obligation to provide 80 hours will be reduced for every hour the employer allows the employee to take paid leave on or after March 4, 2020, in an amount equal to or greater than the Emergency Order's requirements (not including previously accrued hours, such as use of accrued vacation/PTO or other available sick leave), for any of the qualifying reasons described below or in response to an employee's inability to work due to COVID-19.

An employer and an employee may not reach an agreement to waive the SPSL obligations.

Qualifying Reasons for SPSL

Under the Emergency Order, an employee who is unable to work or telework may make an oral or written request to take SPSL for any one or more of the following qualifying reasons:

1. The employee takes time off due to a COVID-19 infection or because a public health official or health care 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 health care providers have required or recommended isolation or self-quarantine; and/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 child care provider caring for a child under the age of 18 temporarily ceases operations in response to a public health or other public official's recommendation. This provision is only applicable to an employee who is unable to secure a reasonable alternative caregiver.

Documentation, Recordkeeping and Enforcement

Employers are not permitted to require a doctor's note or other documentation for the use of SPSL, nor may the employer inquire into or require an employee to provide a description or explanation of the illness or condition necessitating the leave. Employers may only require that the employee, verbally or in writing, provide the reason for taking leave — such as child care, quarantine, vulnerable medical condition, caring for a family member — for purposes of recordkeeping.

Employers should retain documentation reflecting compliance, including, but not limited to, documentation of paid leave provided to employees and requests for SPSL. Such documentation should include the name of the employee requesting SPSL, the date for which it is requested, the category or reason for the leave, whether or not the request was approved, and if not, the reason for denial.

The Emergency Order also prohibits retaliation against any employee for exercising their rights under the Order and provides that employees may bring a civil action for violation of the Order and be awarded damages. Therefore, employers should exercise caution before reaching any conclusion as to whether they are exempt from the Order and denying benefits, and before taking any other action that could be construed as retaliatory.

For more information and updates on the developing COVID-19 situation, visit [GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#).

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