

Colorado SB 20-205 “Healthy Families and Workplaces Act” (HWFA)

C.R.S. § 8-13.3-401 et seq.

Effective July 14, 2020

Summary

Colorado’s Health Emergency Leave with Pay (HELP) Rules are Terminated

The state or its agencies or entities, counties and cities, and municipalities **are included** in the HWFA and must comply with the statute’s provisions.

Employers who have already implemented paid sick leave policies that meet or exceed the standards under the HWFA are not required to add additional time to their existing policies. But, the HWFA does require that employers provide additional time in the event of a public health emergency

- For employees who work 40 hours or more – at least an additional 80 hours
- For employees who work less than 40 hours per week – either the amount of time the employee is scheduled to work in a 14 day period or the amount of time the employee actually works during an average 14 day period (whichever is greater)

The HWFA provides that employers in Colorado must provide Paid Leave in 2020 to employees who:

- Have COVID symptoms and are seeking medical diagnosis
- Are instructed by a government agent or health care provider to quarantine or isolate due to COVID
- Are taking care of someone else due to COVID precautions
 - o Someone ordered to quarantine or isolate or a child whose school, place of care, or childcare is closed or unavailable

Employees are only eligible for additional paid sick leave 1 time during the entirety of a public health emergency even if the emergency is amended, extended, restated, or prolonged

§ 8-13.3—403 – Paid Sick Leave – Accrual – Carry Forward to Subsequent Year – Comparable Leave Provided by Employer – No Payment for Unused Leave – Rules – Repeal

Effective date – December 31, 2020 – HWFA + requires all employers to comply with the Families First Coronavirus Relief Act (FFCRA)

January 1, 2021 – HWFA applies to employers with 16 or more employees

January 1, 2022 – HWFA applies to all employers regardless of size

Accrual

- Employees earn at least 1 hour of paid sick leave for every 30 hours worked by the employee
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- Employee is not entitled to earn more than 48 hours of paid sick leave/year unless the employer chooses a higher limit
- Nothing in the HWFA prohibits an employer from providing more generous paid sick leave that accrues at a faster or higher rate
- Employees can carry over up to 48 hours of unused paid sick leave to the following year

C.R.S. § 8-13.3-404 - Reasons for Taking Accrued Paid Sick Leave

The employee:

- (i) Has a mental or physical illness, injury, or health condition that prevents the employee from working; or
- (ii) Needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- (iii) Needs to obtain preventive medical care

The employee needs to care for a family member who:

- (i) Has a mental or physical illness, injury, or health condition that prevents the employee from working; or
- (ii) Needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or
- (iii) Needs to obtain preventive medical care

The employee or the employee's family member has been the victim of domestic abuse, sexual assault, or harassment and the use of leave is to:

- (i) Seek medical attention for the employee or the employee's family member to recover from a mental or physical illness, injury, or health condition caused by the domestic abuse, sexual assault, or harassment;
- (ii) Obtain services from a victim services organization;
- (iii) Obtain mental health or other counseling;
- (iv) Seek relocation due to the domestic abuse, sexual assault, or harassment; or
- (v) Seek legal services, including preparation for or participation in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment;

Due to a public health emergency, a public official has ordered the closure of:

- (i) The employee's place of business; or
- (ii) The school or place of care of the employee's child and the employee needs to be absent from work to care for the employee's child

§ 8-13.3-405 – Additional Paid Sick Leave during a Public Health Emergency

During a public health emergency, employer must supplement an employee's paid sick and safe time leave so that they may take the below amounts of leave:

- For employees who work 40 hours or more – at least 80 hours
- For employees who work less than 40 hours per week – the greater of either the amount of time the employee is scheduled to work in a 14 day period or the amount of time the employee actually works during an average 14 day period

An employee may use sick leave under this section until 4 weeks after the official termination or suspension of the public health emergency

§ 8-13.3-406 – Paid Sick Leave related to COVID-19

Employers must comply with the federal “Emergency Paid Sick Leave Act” in the “Families First Coronavirus Response Act”

§ 8-13.3-407 – Employee Rights Protected – Retaliation Prohibited

An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the person has exercised, attempted to exercise, or supported the exercise of rights protected under

§ 8-13.3-408 – Notice to Employees – Penalty – Rules

Employees must notify its employees, in writing, that they are entitled to paid sick leave as well post the [CO Workplace Public Health Rights](#) poster and distribute the [Division’s Interpretive Notice & Formal Opinion #6A](#)

§ 8-13.3-409 – Employer Records

An employer shall retain records for each employee for a two-year period, documenting hours worked, paid sick leave accrued, and paid sick leave used. If an issue arises as to an employee’s right to paid sick leave and the employer has not maintained or retained adequate records for that employee or does not allow the division reasonable access to the records, the employer shall be presumed to have violated the HWFA unless the employer demonstrates compliance by a preponderance of the evidence.

§ 8.13.3-415 – Collective Bargaining Agreements

The HWFA does not apply to employees covered by a Collective Bargaining Agreement if the CBA provides for equivalent or more generous paid sick leave.