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Understanding Payment Calculations Under The New Federal Paid Sick Leave and FMLA

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There are two parts of a new federal law arising from the coronavirus pandemic that will take effect on April 2, 2020 and remain in effect until December 31, 2020 concerning paid sick leave and an expanded/paid Family and Medical Leave Act (FMLA).

The paid sick leave may be taken for the six reasons identified below. It is limited to two weeks (the time is also covered by the 12 weeks of job protection FMLA leave).

The new law provides for emergency paid sick leave for the following reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in (1) or has been advised as described in (2).
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Calculating Payments

An employee out for reasons 1, 2 or 3 will be entitled to **paid sick leave** “up to \$511 per day.” The new federal sick leave law requires the payment of two weeks of sick leave for the greater of: (1) the employee’s regular rate of pay; (2) the federal minimum wage; (3) the state minimum wage up to \$511. After the two weeks, a sick employee would be able to utilize New Jersey Earned Sick Leave (other Paid Time Off if available), or apply for temporary disability.

An employee out for reasons #4-6, identified below will be entitled to **paid sick leave** “up to \$200 per day.” The new federal sick leave law requires the payment of two weeks of sick leave for 2/3 of the greater of: (1) the employee’s regular rate of pay; (2) the federal minimum wage; (3) the state minimum wage up to \$200. Thereafter, the employee would be eligible to apply for New Jersey Family Leave Insurance UNLESS they are #5 and then the employee is entitled to **paid FMLA** and an additional amount of paid time: 10 weeks of up to \$200 per day.

If you have any question regarding these new laws, please contact [Tracy Armstrong](#) or any member of our [Employment Law Team](#).

Attorney

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Practice

- Employment Law