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WESTERN STATES COUNCIL

2022 COVID-19 SUPPLEMENTAL PAID SICK LEAVE EXTENSION (AB 152)

Governor Newsom acknowledged the need and importance of ensuring workers continue to have access to COVID-19 Supplemental Paid Sick Leave benefits into the fall and winter months by signing AB 152 into law, which extends the COVID-19 Supplemental Paid Sick Leave benefit programs' expiration date from September 30th to December 31st, 2022.

AB 152 ensures that workers who have not used all of the previous bank of hours that began in January 2022 will have until December 31st to use that leave. Unfortunately, AB 152 does not grant workers a new bank of COVID-19 paid sick leave. AB 152 also clarified employers' obligations for testing workers.

Does AB 152 extend the date by when I can use my 2022 COVID-19 Supplemental Paid Sick Leave benefits?

Yes! AB 152 now allows workers to use their 2022 COVID-19 Supplemental Paid Sick Leave benefits until December 31st, 2022.

Does AB 152 give me a new bank of COVID-19 Supplemental Paid Sick Leave if I've already exhausted all of my benefits?

No, unfortunately AB 152 does not give workers any more new leave. It only allows workers who have not used all their leave to have until December 31st to use it. If you have exhausted all your 2022 COVID-19 Supplemental Paid Sick Leave, test positive for COVID-19, and believe that it was from a worksite exposure, please reach out to your local union about using Cal/OSHA COVID-19 Exclusion Pay.

What are the new employer testing obligations under AB 152?

AB 152 clarified an employer's obligations to test workers on or after the fifth day when using their second bank of 2022 COVID-19 Supplemental Paid Sick Leave. AB 152 clarifies that an employer can require a worker to submit to a second COVID-19 diagnostic test within 24 hours of their first diagnostic test on or after the fifth day.

Please contact your union and/or union representative for additional information on how to access COVID-19 Supplemental Paid Sick Leave or if you have specific questions.

2022 COVID-19 SUPPLEMENTAL PAID SICK LEAVE (SB 114)

Under SB 114 and AB 152, you are entitled to up to 80 hours of COVID-19 Supplemental Paid Sick Leave until December 31, 2022.

- **You are eligible for 40 hours of COVID-19 Supplemental Paid Sick Leave if you are:**
 - Infected with COVID-19
 - Experiencing COVID-19 symptoms and seeking a diagnosis
 - Quarantining or self-isolating due to COVID-19
 - Caring for a family member who has COVID-19 or must self-isolate or quarantine due to COVID-19
 - Caring for a child whose school or daycare is closed due to COVID-19 on site
 - You are eligible for up to 24 hours (potentially more - see more detailed answer below) if you are:
 - Receiving the COVID-19 vaccine or booster or recovering from its side effects
 - Taking a family member to get a vaccine or booster or caring for a family member recovering from side effects of receiving a vaccine or booster

You can get access to an additional 40 hours of COVID-19 Supplemental Paid Sick Leave, only if you are ill with COVID-19 or caring for a family member who is ill with COVID-19.

- If the employer requests a positive COVID-19 diagnostic test for you or your family member, you must provide it to get this additional 40 hours.
- Your employer must provide you with a test to determine if you are COVID-19 positive. If the employer does not provide you with a test, you get access to the 40 hours.
- If you refuse to take a test, you do not get access to the leave.

You may be eligible for retroactive payments from January 1, 2022 to February 18, 2022 if you used paid or unpaid leave for COVID-19 related reasons as stated above.

2022 COVID-19 SUPPLEMENTAL PAID SICK LEAVE (SB 114)

FREQUENTLY ASKED QUESTIONS

Is SB 114, the 2022 COVID-19 Supplemental Paid Sick Leave law the same as SB 95 the 2021 COVID-19 Supplemental Paid Sick Leave law?

No, the two laws are different and have different ways workers qualify for COVID-19 Supplemental Paid Sick Leave. SB 95, the 2021 COVID-19 Supplemental Paid Sick Leave law workers were eligible under last year expired on September 30, 2021. SB 114 is a completely new law and will give workers COVID-19 Supplemental Paid Sick Leave law starting on February 19, 2022, with potential retroactivity to January 1, 2022. Please note the different reasons to be able to access this new leave in the questions below.

What does this new COVID-19 Supplemental Paid Sick Leave law provide workers?

SB 114 provides workers with up to 80 hours of COVID-19 Supplemental Paid Sick Leave.

Workers get access to 40 hours of COVID-19 Supplemental Paid Sick Leave if the worker is infected with COVID-19; experiencing COVID-19 symptoms and seeking a diagnosis; quarantining or self-isolating due to COVID-19; caring for a family member who has COVID-19 or must self-isolate or quarantine due to COVID-19; caring for a child whose school or daycare is closed due to COVID-19 on site; receiving the COVID-19 vaccine or booster or recovering from its side effects (for a maximum of 24 hours); or taking a family member to get a vaccine or booster or caring for a family member recovering from side effects of receiving a vaccine or booster (for a maximum of 24 hours).

Workers can get access to an additional 40 hours of Supplemental Paid Sick Leave if they are ill with COVID-19 or caring for a family member who is ill with COVID-19 and show documentation of a positive COVID-19 test if asked. If the employer requests proof of diagnosis for the family member, the worker must provide it. If a worker requests leave under these 40 hours, the employer must provide the worker with a COVID-19 test. If the employer does not provide the test, the worker is eligible for the additional 40 hours of paid leave. If the worker refuses to take the test, they will not be eligible for the leave.

The 80 total hours of COVID-19 Supplemental Paid Sick Leave a worker is entitled to under SB 114 is in addition to other paid and unpaid leaves, time-off, and vacation the employer provides you and any paid sick leave available under the Healthy Workplaces, Healthy Families Act of 2014.

Who is eligible for COVID-19 Supplemental Paid Sick Leave?

Workers who work for public or private employers with 26 or more workers are required to provide this benefit to all workers, full or part-time.

Full-time employees and employees scheduled to work, on average, at least 40 hours per week in the two weeks preceding the date the covered employee took COVID-19 supplemental paid sick leave are entitled to up to 80 hours of COVID-19 Supplemental Paid Sick Leave.

Part-time employees will be entitled to COVID-19 Supplemental Paid Sick Leave based on the total number of hours the worker is normally scheduled to work for the employer over one week. If the worker works a variable number of hours, it will be seven times the average number of hours the worker worked each day for the employer in the six months before the covered employee took the COVID-19 Supplemental Paid Sick Leave. If the worker worked less than six months but more than seven days, the calculation shall be made over the entire period the covered employee has worked for the employer.

2022 COVID-19 SUPPLEMENTAL PAID SICK LEAVE (SB 114)

FREQUENTLY ASKED QUESTIONS

What can I use COVID-19 Supplemental Paid Sick Leave for?

Workers can use COVID-19 Supplemental Paid Sick Leave if the worker is infected with COVID-19; experiencing COVID-19 symptoms and seeking a diagnosis; quarantining or self-isolating due to COVID-19; caring for a family member who has COVID-19 or must self-isolate or quarantine due to COVID-19; caring for a child whose school or daycare is closed due to COVID-19 on site; receiving the COVID-19 vaccine or booster or recovering from its side effects; or taking a family member to get a vaccine or booster or caring for a family member recovering from side effects of receiving a vaccine or booster. Workers may receive a maximum of 24 hours out of the original 40 hours for reasons related to the vaccine.

Could I use COVID-19 Supplemental Paid Sick Leave to cover time getting vaccinated? What about recovery from potential side effects from the vaccine?

Workers can use up to 24 hours of COVID-19 Supplemental Paid Sick Leave (out of the original 40 hours provided) to attend a vaccine appointment or recover from vaccine-related side effects for themselves or a family member. A worker may be able to access additional hours if they have a doctor's note saying they or a family are continuing to experience symptoms related to a COVID-19 vaccine or vaccine booster and need more time.

If I or my family member has documentation of a positive COVID-19 test, which 40 hour bank of COVID-19 Supplemental Paid Sick Leave should I use?

If a worker or a family member is positive with COVID-19 and has documentation of a positive test, it is highly encouraged to use the second 40-hour leave which can only be accessed with a positive test. Using the second 40-hour leave ensures that workers still have the first 40 hours to use for reasons related to school or daycare closures, vaccines, and if the worker or their family member is exposed to COVID-19 but does not have a positive COVID-19 test to show the employer.

Do I have to pay for my COVID-19 test to determine if I'm eligible for the additional 40 hours of COVID-19 Supplemental Paid Sick Leave?

No, employers are required to pay for and provide the COVID-19 test to their employees. If the employer does not provide the worker with a test, the employer must provide the additional 40 hours of COVID-19 Supplemental Paid Sick Leave. If the worker refuses to take a test, the employer does NOT need to provide the additional 40 hours.

Can I still get COVID-19 Supplemental Paid Sick Leave if I refuse to take a test?

Workers who refuse to take a COVID-19 test or otherwise produce a positive test result when asked, will NOT be eligible for the additional 40 hours of COVID-19 Supplemental Paid Sick Leave.

When does COVID-19 Supplemental Paid Sick Leave go into effect?

SB 114 was signed on February 9, 2022 and goes into effect on February 19, 2022. COVID-19 Supplemental Paid Sick Leave under SB 114 will be retroactive to January 1, 2022 and extends through September 30, 2022. This means that covered employees who took qualifying leave between January 1, 2022 and February 19, 2022 can request payment for that leave if it was not paid by the employer in the amount that is required under this law.

What should I do if I used Paid Time Off (PTO) for COVID-19 related absences? Can I recover that time?

If you had to use PTO for COVID-19 related absences between January 1, 2022 and February 18, 2022, you are eligible for retroactive payment from your employer. Ask your employer verbally or by written request (written request is strongly recommended) and notify your union and/or your union representative of this request. Your employer may request documentation of a positive COVID-19 diagnostic test for the retroactive time period.

How do I use COVID-19 Supplemental Paid Sick Leave if I got sick earlier this year?

Employers will be required to provide retroactive payment to an employee that took unpaid or paid leave for COVID-19-related reasons. Ask your employer verbally or by written request (written request is strongly recommended) and notify your union and/or your union representative of this request. Your employer may request documentation of a positive COVID-19 diagnostic test for the retroactive time period.

*more information on documentation requirements is available here:
<https://www.dir.ca.gov/dlse/COVID19Resources/2022-SPSL-FAQs.html>

How much am I paid when I use 2022 COVID-19 Supplemental Paid Sick Leave?

The 2022 COVID-19 Supplemental Paid Sick Leave pay under SB 114 is calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick leave, not including overtime. The worker shall be compensated for each hour of COVID-19 Supplemental Paid Sick Leave at the regular rate of pay to which the worker would be entitled to as if they had been scheduled to work those hours.

An employer is not required to pay more than \$511 per day and \$5,110 total for the 80 hours of leave.

Can my employer force me to use this leave before using other types of leave?

No. Employers cannot require workers to use any other paid or unpaid leave, paid time off, or vacation time provided by the employer to workers before the worker uses COVID-19 supplemental paid sick leave or in lieu of COVID-19 supplemental paid sick leave.

Additionally, employers cannot require workers to first exhaust COVID-19 Supplemental Paid Sick leave before using exclusion pay leave provided under the Cal/OSHA COVID-19 Emergency Temporary Standards.

Who do I contact to help me access 2021 COVID-19 Supplemental Paid Sick Leave?

Please contact your union and/or union representative for additional information on how to access COVID-19 Supplemental Paid Sick Leave.

Where can I find additional information on COVID-19 Supplemental Paid Sick Leave?

To learn more about COVID-19 Supplemental Paid Sick Leave under SB 114, please visit <https://www.dir.ca.gov/dlse/COVID19Resources/2022-SPSL-FAQs.html>.