



## Healthy Working Families Act - 2018

### FAQ on Maryland's new paid sick days law

#### When does the Healthy Working Families Act go into effect?

The Healthy Working Families Act (HWFA) becomes a state law on February 11, 2018. On that day, covered employees will begin earning paid or unpaid sick and safe leave.

#### What does this law do?

HWFA allows workers in Maryland to earn paid or unpaid sick and safe leave. HWFA is not a general paid-time off policy but instead a law that will allow workers to take care of their health and safety and that of their family members.

#### Does HWFA apply to all of Maryland workers?

HWFA has certain limitations and does not apply to all of Maryland workers. Specifically, HWFA does not apply to the following: agricultural workers; realtors, workers under the age of 18; workers employed by a temporary services agency to provide temporary staffing services to another person; workers directly employed by an employment agency to provide part-time or temporary services to another person; workers that regularly work less than 12 hours week; workers in the construction industry covered by a collective bargaining agreement waiving sick and safe leave in clear and unambiguous terms; workers that are on-call in the health or human services industry that can reject or accept a shift, not guaranteed to be called for work and not employed by a temporary staffing agency.

#### Which workers get paid versus unpaid sick and safe leave?

- Those that work for employers that have 15 or more employees can earn paid sick and safe leave.
- Those that work for employers that have 14 or less employee can earn unpaid sick and safe leave.

#### What is the difference between sick leave and safe leave?

Sick leave is the time used to take care of an illness and/or preventive care. Safe leave is the time used to address a situation in which safety is at risk, such as domestic violence. Under HWFA, both types of leave are permitted.

#### How soon can an employee use sick and safe leave?

An eligible worker begins earning sick and safe leave on February 11, 2018. HWFA states that employers may require new employees to wait 106 days before they can use their earned leave, though they begin accruing it as soon as they start working. However, employers may choose to allow their employees to access their earned leave at any point prior to the 106-day waiting period.

#### How does HWFA impact businesses that already provide sick days to their employees?

The business may continue with their current paid-time off policy so long as the policy meets the law's minimum time requirements (up to 40 hours per year) and allows workers to use the time off for sick and safe leave.



## HWFA 2018 FAQ – CONT'D

### **How much sick and safe leave do employees earn?**

Employees earn 1 hour of leave for every 30 hours of work, and the employer may limit total earned leave to 40 hours in one year. The HWFA allows employers to cap the *total* earned leave accrued – including leave carried over from a prior year -- to 64 hours. Likewise, employers are permitted to cap use of earned sick and safe leave at 64 hours per year. Employers may choose to be more generous in the amount of leave that may be earned by employees.

### **What happens if an employee does not use the leave they earned in that year?**

With some exceptions, employees may generally carry unused sick and safe leave over to the following year. However, the HWFA allows employers to limit the amount of leave carried over to 40 hours, even if an employee has more than 40 earned and unused hours at the end of the year. Employers may choose to be more generous in the amount of leave that may be carried over. Additionally, employers are not required to permit carry over if they front-load the leave available to employees at the beginning of the year.

### **How much leave can a worker use at any point?**

An employer may not require a worker to take leave in an increment of time not exceeding 4 hours.

### **Can my employer ask for proof that I was sick or that I took leave related to domestic violence or stalking?**

HWFA allows employers to ask for verification after an employee has taken leave for two-consecutive work shifts. Employers are not required to ask for verification.

### **Can an employer deny my sick leave?**

Employers may deny a request for leave if the employee failed to provide a notice as soon as practicable and/or failed to comply with the employer's notice requirements. Private employers licensed under Title 7 or Title 10 of the Health – General Article that provide services to developmentally disabled or mentally ill individuals may deny a request for leave if the employee's request would cause a disruption in services to the individual receiving care.

### **Do employers have to notify their employees of this new law?**

Yes. Employers must notify their employees if they can earn leave under HWFA by way of a notice. The notice must include a statement of how the sick and safe leave is accrued, the purposes for which the leave may be used, the purposes for which the leave may not be used, a statement that the employer will not take adverse action against employees that use leave, and a warning that complaints made in bad faith by employees may be punishable by law.

### **Are employers required to inform employees of how much time they have earned?**

Yes. HWFA states that employers must provide a statement in writing to the employee regarding the amount of earned sick and safe leave that is available for use by the employee. This statement must be provided to the employee at the time wages are paid to the employee.

### **What can a worker do if they believe their employer is not following this new law?**

Employees who believe their employer violated the HWFA will be able to file a complaint with the state's Department of Labor and Licensing Regulation (DLLR) once forms and regulations are complete. However, there is pending legislation that would delay enforcement (and only enforcement, not coverage, accrual or use) of this new law until April 12, 2018. The delay is intended to give DLLR the time to draft regulations and set in place a formal complaint process.

*Current as of January 23, 2018*