

## **KNOW YOUR RIGHTS: Massachusetts Paid Sick Time**

### **1) What does the Massachusetts Paid Sick Time law do?**

Massachusetts' permanent paid sick time law gives workers up to 40 hours of sick time a year, which can be used to recover from physical/mental illness or injury; to seek medical diagnosis, treatment, or preventative care; to care for a family member who is ill or needs medical diagnosis, treatment, or preventative care; to attend the worker's or a family member's routine medical appointment; or to address needs that may arise if the worker or the worker's dependent child is a victim of domestic violence.

Additionally, the State released [administrative guidance](#) clarifying that sick time under Massachusetts's sick time law can also be used for certain COVID-19 related reasons, such as if the worker or a family member is required by public health officials or a healthcare provider to quarantine.

In May 2021, the Massachusetts Legislature passed H.B. 3702, which gives COVID-19 emergency paid sick time to workers in relation to COVID-19—employers who aren't eligible for federal tax credits under [the FFCRA](#) (which expired on September 30, 2021) may be eligible for reimbursements through the State related to emergency paid sick time. The Legislature extended the law in September 2021. Note that unlike full wage replacement under the permanent paid sick time law, an employee isn't entitled to COVID-19 emergency paid sick time in excess of \$850 per week. COVID-19 emergency paid sick time is available to covered workers when:

- They need to: (i) self-isolate and care for themselves because of their COVID-19 diagnosis; (ii) seek or obtain medical diagnosis, care or treatment for COVID-19 symptoms; or (iii) obtain immunization related to COVID-19 or recover from an injury, disability, illness or condition related to such immunization;
- They need to care for a family member who: (i) is self-isolating due to a COVID-19 diagnosis; (ii) needs medical diagnosis, care or treatment for COVID-19 symptoms; or is obtaining an immunization related to COVID-19 or is recovering from an injury, disability, illness or condition related to such immunization;
- A quarantine order, or other determination by a local, state or federal public official, a health authority having jurisdiction, the employee's employer or a health care provider that the employee's presence on the job or in the community would jeopardize the health of others because of the employee's exposure to COVID-19 or exhibiting of symptoms, regardless of whether the employee has been diagnosed with COVID-19;
- They need to care for a family member due to a quarantine order, or other determination by a local, state or federal public official, a health authority having jurisdiction, the family member's employer or a health care provider that the family member's presence on the job or in the community would jeopardize the health of others because of the family

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member's exposure to COVID-19, regardless of whether the family member has been diagnosed with COVID-19; or

- They are unable to telework because they have been diagnosed with COVID-19 and the symptoms inhibit their ability to telework.

The law became effective on June 7, 2021 and remains in effect until funds in the COVID-19 Emergency Paid Sick Leave Fund run out or until April 1, 2022, whichever is first.

**2) Am I covered?**

Under Massachusetts' permanent paid sick time law: if you work as an employee in Massachusetts, you are probably covered, whether you are a **full-time, part-time, or temporary** worker. However, the law does not cover federal employees and employees of certain municipalities unless the municipality has opted into the law.

Under the COVID-19 emergency paid sick time law: if you work as an employee in Massachusetts, you are probably covered, whether you are a **full-time, part-time, or temporary** worker. However, the law does not cover federal employees.

**3) How much sick time can I earn under Massachusetts' permanent paid sick time law and receive under the COVID-19 emergency paid sick time law?**

Under Massachusetts' permanent paid sick time law: you earn **1 hour** of sick time for **every 30 hours worked**, up to a maximum of **40 hours** per year. If your workplace has **11 or more workers**, that time must be paid. If your workplace has **fewer than 11 workers**, your sick time may be unpaid—but you can't be fired or punished for taking it.

Under the COVID-19 emergency paid sick time law: **if you work 40 hours or more per week**, you can take **up to 40 hours** of emergency paid sick time. **If you work less than 40 hours per week** but maintain a regular schedule with consistent weekly hours, you can take emergency sick time for the number of hours that you work on average per week over a 14-day period. **If your schedule and weekly hours vary from week to week**, you can take emergency sick time for: (i) the average number of hours that you were scheduled to work per week over the 6-month period immediately preceding the date on which your emergency paid sick time begins, *or* if you didn't work over that 6-month period, (ii) a number of hours that you reasonably expected to work per week at the time you were hired. Unlike paid sick time under Massachusetts' permanent paid sick time law, workers do not have to earn—based on hours worked—this COVID-19 emergency paid sick time.

Under both the permanent paid sick time law and the emergency paid sick time law, all covered employees are protected against being fired or punished for using or requesting their sick time (including threats, discipline, demotion, reduction in hours, termination, etc.).

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**4) What if my work or my child’s school or daycare is closed for a health emergency?**

You cannot use your sick time under either Massachusetts’ permanent paid sick time law or the COVID-19 emergency paid sick time law because your work or your child’s school or day care is closed, unless you would otherwise be able to use your sick time (for example, if you are sick or caring for a sick family member).

**5) Which of my family members are covered by the law?**

Under Massachusetts’ permanent paid sick time law: you can take sick time to care for yourself or a child, spouse, parent, or parent of a spouse.

Under the COVID-19 emergency paid sick time law: you can take emergency paid sick time to care for yourself or a child, spouse, domestic partner, parent (or person who stood *in loco parentis* to you when you were a minor child), parent of a spouse or a domestic partner, grandchild, grandparent, or sibling.

**6) What if I already have paid leave or paid time off?**

Under Massachusetts’ permanent paid sick time law: if you already get any paid leave (vacation, paid time off, etc.) that you can use as sick time **and** it’s **at least** the same amount you would earn under this law, the law does **not** give you any additional paid time off.

Under the COVID-19 emergency paid sick time law: emergency paid sick time is in addition to all job-protected paid and unpaid time off, including sick time under Massachusetts’ permanent paid sick time law and time off under any existing employer policy or program. You cannot be required to use any other paid leave before using COVID-19 emergency paid sick time (unless there is a future federal law for required COVID-19 emergency sick leave, which is not the case at this time). Additionally, if your employer has a separate COVID-19 sick leave policy that would give you at least the amount of COVID-19 emergency paid sick time that you would be entitled to and that you can use for the same purposes and under the same conditions under the law, you are not entitled to additional emergency paid sick time.

**7) When can I begin using my sick time?**

Under Massachusetts’ permanent paid sick time law: you start earning sick time immediately but cannot use it until 90 days after the start of your employment.

Under the COVID-19 emergency paid sick time law: you can take emergency paid sick time immediately, beginning June 7, 2021.

**8) Do I need a doctor’s note?**

Under Massachusetts’ permanent paid sick time law: only after an absence of more than 24 consecutively scheduled work hours (and the note does not have to specify your illness).

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*Under the COVID-19 emergency paid sick time law:* you may be required to submit a written request for emergency paid sick time to your employer and written support for your need for emergency paid sick time.

*The Massachusetts Attorney General is in charge of enforcing the permanent paid sick time law; the Executive Office of Labor and Workforce Development and Executive Office for Administration and Finance is in charge of implementing the COVID-19 emergency sick time law, and the Executive Office for Administration and Finance will handle reimbursement applications from employers.*

**All covered workers are protected against being fired or punished for using or requesting sick or safe time or emergency paid sick time.** If you have a problem—or want more information—call A Better Balance’s **free** legal clinic at **1-833-NEED-ABB**.

*Please note that this fact sheet does not represent an exhaustive overview of the paid sick time laws described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker’s specific circumstances or category of employment.*