

KNOW YOUR RIGHTS: Colorado Emergency Paid Sick Time for COVID-19

The following information seeks to answer common questions about the Healthy Families and Workplaces Act (HFWA), Colorado’s paid sick leave law, and COVID-19. You may find more information about Colorado’s paid sick time law for general, non-COVID purposes, [here](#).

1) What is emergency paid sick time under Colorado’s paid sick leave law?

Under the HFWA, there are two types of paid sick leave: [general earned paid sick leave](#) and **emergency paid sick leave**. Emergency paid sick leave is *additional* paid sick leave available to Colorado employees when there is a declared **public health emergency (PHE)** related to infectious pandemics, epidemics, or bioterrorism.

On the date a public health emergency is declared workers have the right to *immediately receive additional* paid sick time that can be used for certain needs related to a *communicable illness* that is the cause of the emergency. COVID-19 has triggered a “public health emergency” for purposes of additional paid sick time under the law as of January 1, 2021. The public health emergency declaration for COVID-19 was recently extended by the federal government by a period of 90 days. As long as the declaration is not terminated during that period, the ability to use this public health emergency COVID-19 sick leave **is expected to** remain in effect until May 9, 2023, and may be extended.

Under the law, emergency paid sick leave for COVID-19 can be used:

- 1) when you need to self-isolate and care for yourself because of a COVID-19 diagnosis or symptoms;
- 2) getting preventive care, medical diagnosis, care, or treatment for symptoms of COVID-19;
- 3) when a public official, health authority, or your employer determines your presence on the job or in the community would jeopardize the health of others because of exposure to—or showing symptoms of—COVID-19 (whether diagnosed or not);
- 4) care of a family member in categories 1, 2, or 3 above;
- 5) care of a child or other family member when their child care provider is unavailable due to COVID-19, or their school or place of care is closed by a public official, school, or place of care due to COVID-19 (including if it is physically closed but providing remote instruction); or
- 6) when you’re unable to work because of a health condition that may increase susceptibility to or risk of COVID-19.

“Family member” is defined under the law as a person who is related by blood, marriage, civil union, or adoption; a child to whom you stand or stood “in loco parentis” (a child to whom you are “acting as a parent” and raising, or did so when the child was a minor); or a person for whom you are responsible for providing or arranging health-or-safety-related care.

2) Does my employer have to provide me with emergency paid sick leave under the law?

Most likely, yes. If you work as an employee in Colorado, you likely have a right to emergency paid sick leave under the HFWA, whether you are a **full-time, part-time, or temporary** worker. However, the law does not cover federal employees and certain railroad employees subject to federal law.

Since January 1, 2021, employers of all sizes with employees in Colorado have been required to provide additional paid sick leave for COVID-19. As stated above, the public health emergency declaration for COVID-19 was recently extended by the federal government by a period of 90 days. As long as the declaration is not terminated during that period, the ability to use this COVID-19 emergency sick leave **is expected to** remain in effect through at least May 9, 2023, and may be extended. For up-to-date information on whether this emergency remains in effect for additional emergency paid sick leave purposes in Colorado, please contact A Better Balance and/or reach out to the Colorado Department of Labor and Employment for more information. This fact sheet will also be updated in April 2022, if the state of emergency is extended.

3) How much COVID-19 emergency paid sick leave can I receive and use? How long do I have to use it?

On the date a public health emergency is declared, your employer must ensure that full-time covered workers (those working 40 or more hours a week) have access to up to 80 hours of sick time for a public health emergency like COVID-19, *including* any existing paid sick time under Colorado law.

Covered employees who are part-time, or working less than 40 hours per week, are entitled to an amount of sick time based on the amount of time they normally work—or are scheduled to work—in a two-week period.

Emergency paid sick leave can be taken at any point during the declared COVID-19 public health emergency and up until four weeks after the official end to the public health emergency. The public health emergency declaration was recently extended by the federal government by a period of 90 days. As long as the declaration is not terminated during that period, the ability to use this public health emergency COVID-19 sick leave **is expected to** remain in effect until May 9, 2023, and may be extended. **However, workers are only entitled to receive this additional COVID-19 public health emergency leave once, even if the emergency extends for a long period of time.** Workers employed on January 1, 2021 were entitled to this time starting on that day, and workers who began new employment after that date were entitled to COVID-19 emergency paid sick time at the start of their employment.

Note: Even during a public health emergency, like COVID-19, workers continue to earn—based on hours worked—permanent paid sick leave for general health needs, as described [here](#).

4) As a covered employee, can I use emergency paid sick leave to get a COVID-19 vaccine? What about a booster shot?

Yes, and yes! The Colorado Department of Labor and Employment has confirmed that emergency paid sick leave can be used to obtain a COVID-19 vaccine or booster shot. This is because these activities are considered types of preventative care, a purpose covered by the HFWA’s emergency sick leave and general earned sick leave provisions.

5) What about time I need to recover from side effects from a COVID-19 vaccine or booster shot?

Yes, you are also covered for the time you need to recover side effects that you may experience after getting a COVID-19 vaccine or booster shot, and you may use either your permanent or additional COVID-19 emergency sick leave for that time.

6) Am I also covered to help or care for my child or other family member who gets a COVID-19 vaccine or booster?

Yes, you are covered to help a child or other family member get a COVID-19 vaccine or booster shot or to provide COVID-19 follow-up care due to vaccine or booster side effects.

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

During a declared public health emergency, you can also use your additional COVID-19 emergency paid sick leave to take care of a child or other family member when the individual’s child care provider is unavailable due to the emergency, or if the child’s or family member’s school or place of care is closed by a public official due to the emergency.

8) What if I take sick time for COVID-19 and it can count as both COVID-19 emergency paid sick time *and* general paid sick time under Colorado’s law?

Employers are required to allow employees to use their COVID-19 emergency sick leave *before* using any of their permanent, earned paid sick time for general health needs.

9) Do I need a doctor’s note to use emergency paid sick leave for COVID-19?

Documentation is *not required* for emergency paid sick leave for a qualifying COVID-19 purpose, as described in Question #1.

10) What if I already get paid leave for COVID-19 purposes?



Headquarters
5 Columbus Circle, 11th floor
New York, NY 10019
tel: 212.430.5982

Southern Office
2301 21st Ave. South, Suite 355
Nashville, TN 37212
tel: 615.915.2417

DC Office
815 16th Street NW, Suite 4162
Washington, DC 20005

Colorado Office
303 E. 17th Ave., Suite 400
Denver, CO 80203

abetterbalance.org | info@abetterbalance.org

If you already get paid leave (vacation, paid time off, etc.) that you can use as sick time for COVID-19 purposes, it is possible that you may not be entitled to additional sick leave under the law but that would only be true **IF all three of the following are met**: 1) the leave can be used for the **same purposes and under the same conditions** as sick time under the Colorado law, including use for the COVID-19 purposes described earlier, and without retaliation; 2) it's **at least** the same amount you would earn under the Colorado law, including the additional time off for a public health emergency like COVID-19; and 3) your employer **notified you in writing** that their paid leave or paid time off policy satisfies the requirements of Colorado's sick time law.

11) Are there protections against retaliation for using or requesting sick leave? Who enforces the law? Can I contact A Better Balance if I have a problem or need more information?

All covered employees are protected against retaliation for using or requesting their sick time or attempting to exercise their rights under the law (retaliation includes discipline, demotion, reduction in hours, termination, reporting or threatening to report your suspected citizenship or immigration status, etc.). It is also unlawful to be denied paid sick time you have a right to take.

The Colorado Department of Labor and Employment's Division of Labor Standards and Statistics is in charge of enforcing this law.

If you face retaliation or punishment, have a problem, or want more information about your sick leave rights in Colorado, 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 law 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.