

# New York State Issues Guidance on Its COVID-19 Paid Sick Leave Law

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[As we reported last week](#), New York State Governor Andrew Cuomo signed legislation on March 18, 2020, that addresses the economic impact of the coronavirus outbreak and provides job-protected paid sick leave benefits to employees who are subject to a government-issued order of mandatory or precautionary quarantine or isolation due to COVID-19.

Specifically, New York State's coronavirus-focused paid sick leave law ("NY COVID-PSL") provides varying amounts of paid leave (either 5 or 14 days depending on the employer's size), job protected leave for the duration of a quarantine order, and guarantees workers access to New York Paid Family Leave and short-term disability benefits for the period of quarantine. Following on the heels of the law's passage, the State recently issued guidance that sheds light on how it interprets a "mandatory or precautionary order" under NY COVID-PSL.

The guidance entitled, "Obtaining an Order for Mandatory or Precautionary Quarantine" under NY COVID-PSL first states that qualifying orders should come from an employee's local health department. In the case that a local health department is unable to provide an order in a timely manner, an employee may provide an order from a licensed medical provider as a temporary substitute, and later provide an order from a local health department as soon as it becomes available. The guidance additionally provides that local health departments must provide requested orders within 30 days.

Next, the guidance details the information that health care providers must document and include in qualifying certifications. A qualifying certification includes:

- If you are subject to **Mandatory Isolation**, an attestation that you meet one or more of the following criteria:
  1. You have tested positive for COVID-19; or
  2. Testing is currently unavailable to you, but you are symptomatic and have had contact with a known COVID-19 case.
- If you are subject to **Mandatory Quarantine**, an attestation that you meet one or more of the following criteria:
  1. You have been in close contact with someone who has tested positive for COVID-19 or is currently in mandatory isolation; or
  2. You are symptomatic and have returned within the past 14 days from a country designated with a level 2, 3 or 4 advisory for COVID-19.
- If you are subject to a **Precautionary Quarantine**, an attestation that you meet one or more of the following criteria:
  1. You are asymptomatic and have returned within the past 14 days from a country designated with a level 2, 3 or 4 advisory for COVID-19; or

2. You have been determined to have had proximate exposure with someone who has tested positive for COVID-19.

The State's guidance raises a number of significant points in its discussion of qualifying certifications under NY COVID-PSL. First, while the guidance indicates that an order from a health care provider will trigger an employer's obligations to provide leave under NY COVID-PSL – a requirement that is a departure from the law's statutory language and our earlier understanding – the guidance also contemplates that employees will obtain certification from a local health department shortly thereafter.

Next, the guidance makes clear that employees who are sent home on a precautionary quarantine *by their employers* are entitled to the same benefits under NY COVID-PSL, so long as they follow the procedure set forth above.

The State's guidance additionally states that employees *may* be eligible for NY COVID-PSL in the event their child's school is closed due to a mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health or government entity. Should an employee's child's school close for preventative social distancing, however, the employee will need to seek offered benefits through their employer and/or through the Families First Coronavirus Response Act.

The guidance addresses other components of NY COVID-PSL. First, the State's guidance minimally requires employers to advise their employees of their rights under the law. The State's Department of Labor has issued an [employee fact sheet](#) that can be used for that purpose.

Second, the guidance reaffirms that employees do not have to apply for paid leave via New York Paid Family Leave and short-term disability benefits if NY COVID-PSL first requires that their employer offer paid sick leave – either 5 or 14 days depending on the employer's size. For the applicable paid leave period, the guidance clarifies that the number of paid days are calendar days, and the pay required should represent the amount of money that an employee would have otherwise received for the 5 or 14-day period.

Once an employee utilizes all paid sick days from their employer, the employee would then apply for New York Paid Family Leave and short-term disability benefits for compensation during the rest of their quarantine. Employers will have three business days to complete and return the employer sections on the State's [required Paid Family Leave forms](#) to employees, however, employees are still permitted to submit their applications to their employer's insurance carriers if they do not receive the forms within the required time frame. Employees must submit their completed forms together with their mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of health or government entity.

Finally, while the State's guidance does not explicitly address Governor Cuomo's current 'stay at home' orders, the guidance all but confirms that mandatory or precautionary orders of quarantine or isolation are only available to those who have had some ascertainable risk of exposure to COVID-19, and have obtained an order of quarantine from a health care provider or local health department. Therefore, our interpretation that Governor Cuomo's March 20 'stay at home' Executive Order is not a "mandatory or precautionary quarantine and isolation order" under NY COVID-PSL remains unchanged.

The State's guidance and Frequently Asked Questions can be accessed at:  
<https://paidfamilyleave.ny.gov/system/files/documents/2020/03/obtaining-order-of-quarantine.pdf> and  
<https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs>

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