Empire State of Mind: Governor Cuomo Proposes Bill to Provide Immediate Assistance for New Yorkers Impacted by COVID-19

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On March 17, 2020, New York Gov. Andrew Cuomo announced a three-way agreement with the New York Legislature on a bill guaranteeing job-protection and pay for New Yorkers who have been quarantined as a result of COVID-19. The provisions of the legislation are set to take effect immediately upon passage.

COVID-19 Sick Leave Provisions

Employees subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the department of health, local board of health, or any other governmental entity duly authorized to issue such order due to COVID-19, will be entitled to sick leave as follows:

- Employers with 10 or fewer employees (as of Jan. 1, 2020) and a net income less than $1 million will provide unpaid sick leave, job protection for the duration of the quarantine order, and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to $150,000.
- Employers with 11-99 employees (as of Jan. 1, 2020) and employers with 10 or fewer employees (as of Jan. 1, 2020) and a net income greater than $1 million will provide at least 5 days of paid sick leave, job protection for the duration of the quarantine order, and guarantee their workers access to Paid Family Leave
and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to $150,000.

- Employers with 100 or more employees (as of Jan. 1, 2020), as well as public employees (regardless of number of employees), will provide at least 14 days of paid sick leave and guarantee job protection for the duration of the quarantine order.

Any sick leave under the bill is in addition to an employee’s accrued sick leave provided by the employer’s policy. An employee is not entitled to paid sick leave or any other benefits provided by the bill where an employee has returned to the United States after traveling to a country identified by the CDC as a level 2 or 3 risk that was taken for non-business reasons, where the employee was provided notice of the travel restrictions. While such employees cannot use paid sick leave under the bill, they will be eligible to use any accrued leave provided by their employer.

Employees are not eligible for sick leave under the bill in cases where they are deemed asymptomatic or have not yet been diagnosed with any medical condition and are physically able to work while under a mandatory or precautionary order of quarantine or isolation, whether through remote access or other similar means.

Further, the bill specifies that if the federal government provides sick leave and/or other employee benefits for employees related to COVID-19, employees will be entitled to any difference between the benefits offered by this bill and the federal government.

Employers are prohibited from discriminating or retaliating against any employee for taking leave pursuant to the bill.

**Statutory Sick Leave Beyond COVID-19**

The legislation also includes a paid sick leave proposal that was advanced by the Governor as part of his State of the State and FY 2021 Executive Budget. The legislation, which will be effective 180 days after enactment, amends New York Labor Law to provide paid sick leave for all employees as follows:

- Employers with 4 or fewer employees and a net income less than $1 million must provide at least 5 days of unpaid sick leave each year.
- Employers with 5-99 employees and employers with 4 or fewer employees and a net income greater than $1 million will provide at least 5 days of paid sick leave each year.
- Employers with 100 or more employees will provide at least 7 days of paid sick leave each year.

Beginning January 1, 2021, employers must provide employees one hour of sick time for every thirty days worked. Sick leave can be used for the following purposes:

- Mental or physical illness, injury or health condition of the employee or a family member;
- Diagnosis, care or treatment of a mental or physical illness, injury or health condition of, or for preventative care, for the employee or a family member; or
- The employee or a family member’s status as a victim of domestic violence or
sexual violence, stalking or human trafficking.

Employer’s must still comply with applicable state and local ordinances that meet or exceed the requirements set forth in the new bill.

This post also features contributions from Jamie Moelis.

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