

Colorado Health Emergency Leave with Pay (“Colorado HELP”) Rules, 7 CCR 1103-10 (tentative adoption date March 11, 2020):

Updated 3/11/20; this page will be updated as events related to the State of Disaster Emergency declared by Governor Polis evolve.

Frequently Asked Questions

What do these rules do?

- Temporarily requires employers in certain industries (listed below) to provide a small amount of paid sick leave to employees with flu-like symptoms who are being tested for coronavirus COVID-19.

How much paid sick leave must be provided?

- The employer must provide up to four days of paid sick leave to employees with flu-like symptoms who are being tested for coronavirus COVID-19. If the employee receives a negative test result, the paid leave ends.

Do employers who already provide paid leave need to provide an additional four days of sick leave?

- **No.** If an employer already provides the paid leave necessary to meet these rules’ requirements, then the employer does **not** need to provide additional leave. However, if an employer does not already provide enough paid sick leave to comply with these rules, it will have to provide additional paid sick leave to meet the rules’ requirements. And if an employee already exhausted any paid leave allotted by the employer, but then has flu-like symptoms and is being tested for COVID-19, he or she is entitled to the additional paid sick days these rules provide.

Which employees and employers are covered by these sick leave rules?

- Employers and employees in one of the following industries or jobs are covered:
 - Leisure and hospitality
 - Food services
 - Child care
 - Education, including transportation, food service, and related work with educational establishments
 - Home health, if working with elderly, disabled, ill, or otherwise high-risk individuals
 - Nursing homes
 - Community living facilities
- Workers are covered regardless of pay rate or method (hourly, weekly, piece rate, etc.); the daily pay during leave is either their established daily rate or, if their pay fluctuates, their average daily pay for the past month.

How long will these rules stay in effect?

- The rules take effect March 11, 2020, for 30 days, or longer if the state of emergency declared by the Governor continues.

Why were these rules created?

- With the continuing spread of coronavirus COVID-19, coming to work while ill poses a serious threat to the health and safety of co-workers, others at the business, and the public generally. These rules will temporarily entitle certain employees to paid sick days in order to limit the spread of this disease.

Will additional funds be available for workers who need to be out of work longer than four days?

- The current emergency rules only speak to paid leave for the four-day period required for testing, because that is what CDLE could do immediately. The Governor has asked CDLE to identify other

potential supports and wage replacement, such as access to unemployment insurance. These options are under review to determine rulemaking authority, eligibility, etc.

What is the legal authority for these rules?

For many decades, it has been “unlawful to employ workers in any occupation within this state under conditions of labor detrimental to their health or morals” (Colorado Revised Statutes (“C.R.S.”) 8-6-104), and Colorado has declared in law that “[t]he welfare of the state of Colorado demands that workers be protected from conditions of labor that have a pernicious effect on their health and morals, and it is therefore declared ... that inadequate wages and unsanitary conditions of labor exert such pernicious effect” (C.R.S. 8-6-101(1)).

In accord with those legislative mandates, the Division has a range of rulemaking and enforcement authority to protect against workplace health and safety threats, including but not limited to: C.R.S. 8-1-111 (authority “to enforce all provisions of law relating” to laws and orders “requiring ... places of employment to be safe, and requiring the protection of the life, health, and safety of every employee”); C.R.S. 8-6-106 (authority to “determine ... standards of conditions of labor and hours of employment not detrimental to health or morals for workers”); C.R.S. 8-6-109(1) (authority to set minimum wage terms upon finding that “conditions of employment ... are detrimental to the health or morals ... of workers”).

Further, the State of Disaster Emergency declared on March 10, 2020, by Colorado Governor Jared Polis, as the number of identified coronavirus COVID-19 cases in Colorado and in the United States increased:

- (1) announced numerous measures to protect public health and safety, including directing that immediate rulemaking be initiated to provide employees in certain industries with paid sick leave for possible coronavirus cases and testing; and
- (2) supported such action pursuant to executive authority statutes, including but not limited to C.R.S. 24-33.5-704(2) (“Under this part 7, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.”); C.R.S. 24-33.5-704.5(1)(e) (“In the event of an emergency epidemic that has been declared a disaster emergency, the [expert emergency epidemic response] committee shall convene as rapidly and as often as necessary to advise the governor, who shall act by executive order, regarding reasonable and appropriate measures to reduce or prevent spread of the disease, agent, or toxin and to protect the public health.”); and C.R.S. 24-33.5-711.5(2) (“The conduct and management of the affairs and property of each hospital, physician, health insurer or managed health care organization, health care provider, public health worker, or emergency medical service provider shall be such that they will reasonably assist and not unreasonably detract from the ability of the state and the public to successfully control emergency epidemics that are declared a disaster emergency. Such persons and entities that in good faith comply completely with board of health rules regarding the emergency epidemic and with executive orders regarding the disaster emergency shall be immune from civil or criminal liability for any action taken to comply with the executive order or rule.”).