

Practice Update

Chicago and Cook County Now Require Paid Sick Leave for Employees

July 13, 2017

The City of Chicago and Cook County, Illinois have both jumped on the paid-leave bandwagon, joining a growing list of cities, counties and states requiring private employers to provide paid sick leave to its employees. With no federal sick pay requirement for non-government contractors, employers in the City of Broad Shoulders and surrounding Cook County will now need to pay employees who miss work for qualifying reasons. Suburban municipalities have been permitted to “opt-out” of the County Ordinance—more than 75% have done so thus far and the list is growing---so employers will need to check on the status of the Ordinance in the areas in which they or their employees operate.

Both Ordinances took effect on July 1, 2017. In Chicago, any entity or person that maintains a business within the City or that is subject to a City license is covered, regardless of the number of employees. In Cook County, all employers that have at least one place of business in the county and at least one “Covered Employee” is a “Covered Employer.”

Chicago and Cook County require accrual by employees of one hour of paid leave for each 40 hours of work, up to 40 hours per year. Newly hired employees are not exempt from the accrual requirement—although they might not be entitled to

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take the leave unless they work at least 80 hours in any 120-day period.

Employees are “covered employees” under the Ordinances if they work as little as two hours in any two-week period in the City/County.

Employees may use paid sick leave for their own illness or medical care, or for that of a family member, or if any of them are a victim of domestic violence or a sex offense or impacted by certain public health emergencies. Employers may carry over unused sick time to the next period, with differing amounts eligible for the carryover depending on whether the employer is an FMLA covered employer and whether the employee uses the leave for FMLA qualifying reasons. However, employers need not pay out unused paid sick leave on termination.

Employees covered by existing collective bargaining agreements are not included, but collective bargaining agreements entered into after July 1, 2017 will need to include a specific waiver to avoid the reaches of the Ordinances. Meanwhile, like absences under the FMLA, employers cannot discipline employees for using the leave, or count sick leave used toward an excessive absenteeism policy.

Most current vacation or PTO policies are likely to provide enough leave, but employers must still review and revise their policies to make sure that they address the details of the Ordinances. Among other things, all employers will still be required to address the carry-over questions, deliver notices to employees and post notices of the law in conspicuous locations for employees in Chicago ([click here](#)) and Cook County ([click here](#)) and determine the 12-month period that sets forth the accrual and carryover periods. The notices may be individually tailored to the employer, provided that certain key language is included. The Ordinances and their rules are complicated; in fact the County has published a 46-page document with Interpretive

and Procedural Rules ([click here](#)). Employers must update their handbooks and policies and keep abreast of the patchwork of local and state laws and their interplay with other state and federal laws to ensure their compliance and avoid lawsuits. Violations may result in damages of triple the amount of leave denied and the payment of employee's attorneys' fees.

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