

## **Know Your Rights! The Colorado Health Emergency Leave with Pay Rule**

In response to the COVID-19 pandemic and the state of emergency in Colorado, the Colorado Department of Labor and Employment (CDLE) issued the Colorado Health Emergency Leave with Pay (HELP) emergency rule, [7 CCR 1103-10 \(2020\)](#). HELP requires certain employers to provide *paid sick leave* to allow their employees to get tested for COVID-19 or comply with instructions from a health care official to quarantine or isolate.

HELP went into effect on March 11, 2020, and was amended on March 26 and April 3. The rule will remain in effect for the duration of the state of emergency declared by the Governor.

The following is a breakdown<sup>1</sup> of how HELP works and what it covers:

### **How much paid sick leave do I get?**

Up to four calendar days.

- Employers must provide up to four calendar days (weekends are included) to employees with flu-like symptoms who (1) are either being tested for COVID-19 or (2) are under instructions from a healthcare provider to quarantine or isolate due to a risk of having COVID-19, even if not being tested.
- If you get negative test results before the end of the four days, the paid leave ends.

### **Can I get additional funds under HELP if I have to be out longer than four days?**

No. At the moment, the rules only provide paid leave for up to four days required for testing or to quarantine under a health care provider's instruction. CDLE is currently reviewing other potential supports and wage replacements. In addition, employees of certain employers may be entitled to paid leave under the Families First Coronavirus Response Act.

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<sup>1</sup> Disclaimer: This document provides general information only and should not be taken as legal advice for a specific situation. Please consult an attorney if you have a question about your rights. This document was drafted by the University of Colorado Law School Civil Practice Clinic; Aretha Franklin, Student-Attorney, and Zach Mountin, Supervising Attorney.

### **Do I have to provide proof to my employer?**

You might.

- An employer may – but is not required to – require an employee requesting the paid leave under HELP to produce documentation from the health care or provider or tester to support the need to take paid leave. Employers may accept any documents that shows the name, contact information, and type of health care/testing provider; the provider’s prescription for COVID-19 test or that a test was performed; and the date of the prescription/test OR if the above documents are not available, whatever documents you have with a written affirmation from you stating which documents are not available
- The documents do not have to be in a particular form or be sworn as affidavits; they can be copies rather than originals. You may redact any personal or medical information that is not part of the above-requested information.

### **When do I have to tell my employer that I want to take the paid leave?**

- Unless you are too ill to communicate, you must tell your employer that you will be absent either
  - As soon as possible
  - OR
  - Give notice of getting a COVID-19 test within 24 hours of being prescribed the test
  - AND
  - Provide any documents that your employer requests by either the end of your illness or you return to work, whichever is sooner.

### **My employer already provides paid leave. Do they have to give me an additional four days of sick leave?**

No. Employers that already provide four or more sick days of paid sick leave do not have to provide extra paid leave. However, if they do provide sick leave but it is less than four days of paid sick leave, they must provide additional days to comply with these rules.

### **What if I exhausted my paid sick leave allotted by my employer but I am being tested for COVID-19?**

You are entitled to additional paid sick leave IF you have flu-like symptoms and are being tested for COVID-19.

### **What if my employer does not comply with these rules?**

You may wish to consult an attorney or can file a [complaint](#) with CDLE’s Division of Labor Standards and Statistics. You should also continue to follow the advice of your medical provider, including getting tested for COVID-19.

## **Is my job covered under the rule?**

The rule covers employers and employees in the following industries or jobs: Leisure and hospitality, food services, retail establishments that sell groceries, food and beverage manufacturing, child care, education, home health, nursing homes and community living facilities.<sup>2</sup>

- **Leisure and hospitality:** Establishments that operate facilities or provide services to meet cultural, entertainment, and recreational interests of their patrons.
  - E.g.: Hotels, non-traditional lodging services, museums, zoos, event centers, spectator sports, skiing facilities, and fitness and recreational sport centers.
- **Food services:** Establishments that prepare meals, snacks, and beverages to customer order for immediate on-premises and off-premises consumption.
  - E.g.: Caterers, bars, food trucks, restaurants, coffee shops, and carry-out service shops with on premise baking.
- **Retail Establishments that sell groceries:** Establishments that sell food and beverage merchandise – including such merchandise which is fresh, preserved, packaged for off-site consumption, or for immediate consumption on the premises – which is sold from fixed point-of-sale locations.
  - E.g.: Grocery Stores, supermarkets, retail stores with a grocery section, Liquor stores, gas stations that sell food or beverages, convenience stores and specialty food stores
- **Food and Beverage Manufacturing:**
  - E.g.: Breweries, distilleries, wineries, bakeries, mills, slaughterhouses, other food and beverage processing and manufacturing
- **Child care:** Establishments primarily engaged in providing daycare of infants or children.
  - E.g.: Nursery schools, preschools, and babysitting services.
- **Education:** Establishments that provide teaching, instruction and/or training in a variety of subjects. They may be public, private, for-profit or non-profit.
  - Includes transportation (bus drivers), food service (school cafeterias), and related work with educational establishment
  - E.g.: Elementary and secondary schools, colleges and universities, trade schools, training centers, and cosmetology and barber schools.
- **Home health:** Establishments providing skilled medical, nursing, and other related services in the home to the elderly, disabled, ill, or other high-risk people.
  - E.g.: In-home hospice care, home infusion therapy, visiting nurse associations and home health care agencies.
- **Nursing homes:** Establishments providing inpatient nursing and rehabilitative services, generally for an extended duration, with a permanent core staff providing nursing and similar continuous personal care services.
  - E.g.: Nursing homes, assisted living facilities, rest homes, and inpatient care hospices.
- **Community living facilities:** Establishments providing residential and personal care services with onsite facilities for people are unable or choose not to live independently.
  - E.g.: Assisted living facilities without onsite nursing care facilities, rest homes without nursing care and assisted living facilities for the elderly without nursing care.

For more information visit the [rule documents](#) and FAQs.

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<sup>2</sup> Where the business only partially falls into one of these categories, employees working in that portion of the business are covered.