



VAL HOYLE
Labor Commissioner

COVID-10/Coronavirus in Oregon: Facts about Sick Time

As news of COVID-19/coronavirus continues to grow, you should know that all Oregonians can access protected time off from work. The law requires it. Employers should consider steps to address employee fears, prevent onsite outbreaks, or respond if one occurs.

Facts first

While much is unknown about this new virus, clear proactive and preventative measures represent some of the most effective weapons for staying healthy at work.

As the status of the outbreak evolves, employers should stay abreast of developments from reliable sources. Use the best available information in formulating safety, attendance or travel concerns. Consider sharing links or information with employees from the [CDC](#), the [World Health Organization](#) and [OSHA](#).

Preventative measures

Wash your hands! In the absence of a vaccine, the CDC recommends the standard precautions for flu prevention: make sure soap, hand sanitizer and tissues are available for hand washing and disinfecting often-touched surfaces.

Employers can also limit potential exposure by cutting back on business travel to affected areas, encouraging staff who are ill to stay home, or providing telework options where appropriate.

INFORMATION FOR EMPLOYERS

Q: Can I require an employee traveling back from an affected area to stay home?

A: Yes, employers have the ability to ask an employee returning from an affected area (or exposure to a person with the disease) to stay home – but step softly here. The incubation period for a coronavirus is typically 14 days. If someone develops the disease, they may be contagious for longer. Potentially, this much time off could be a real hardship for employees. In addition, be sure a factual basis exists for a decision to exclude someone from the workplace – do not single out people of a specific national origin or race.

Employers may also send an employee home who appears to have symptoms of a contagious illness. Requiring medical certification would also be an option after a third consecutive absence. Keep in mind that an employer would need to cover any out-of-pocket expenses for obtaining the certification.

Of course, any absence due to actual illness or an order by a public official declaring a public health emergency would trigger protected sick time. For employers covered by OFLA or FMLA, a progression of the disease could result in a serious health condition that qualifies for protected leave (and a right to access to any other paid leave bank).



With that in view, consider allowing telework options where appropriate and access to other paid leave banks.

Q: My employee refuses to handle merchandise that came in from China and even sealed the shipment with biohazard tape. What now?

A: First, take a deep breath. Employers do have a general duty to provide a place of employment free from recognized hazards that cause or are likely to cause the death or serious physical harm to employees. Employees also have the protected right to raise good faith concerns about the health and safety of the workplace (even if the employee is wrong on the merits). A calm conversation about actual risks, supplemented with trusted material from sources like the CDC on how viruses are transmitted may go a long way to alleviating concerns.

INFORMATION FOR WORKERS

Q: Am I allowed to take time off if I am sick or someone in my family is sick?

A: Yes. Oregon law protects sick time. You get at least 1 hour of protected sick time for every 30 hours you work. You can start taking sick time after you've worked for your employer for at least 90 days. You can use sick time for many reasons, including if you or a family member is sick, injured, experiencing mental illness, or need to visit the doctor.

If your employer has 10 or more employees (or six or more if they have a location in Portland), they must give you paid sick time at your regular wage (up to 40 hours per year). Otherwise, sick time is unpaid but still protected.

If you work for an employer with at least 25 employees, chances are you are also eligible to take up to 12 weeks of protected time for any "serious health condition" you or a family member develops. Under the Oregon Family Leave Act, you have a right to access any available paid leave while on protected time.

Q: If my daughter's elementary school closes because of COVID-19, can I use sick time? I am also hearing the incubation period is two weeks. I don't have that much sick time saved. What then?

A: Yes - employees have a right to use sick time for a closure of their child's school (or place of care) by order of a public official due to a public health emergency. While sick time is not without limit, it may be that you and your employer can work out for a more flexible arrangement to allow for teleworking or working alternate hours.

Additionally, if you work for an employer with at least 25 employees, chances are you are also eligible to take up to 12 weeks of protected time for any "serious health condition" you or a family member develops. Under the Oregon Family Leave Act, you have a right to access any available paid leave while on protected time.

Q: Will I get paid if my employer closes the shop?

That depends. If a public official requires a shutdown for a health emergency, you would be entitled to use any accrued sick time. Employers with 10 or employees (six if they have a location in Portland) have to provide sick time with pay.

Employers can't dock the pay of salaried exempt employees for business closure absences beyond the employee's control unless the employee performs no work at all in a workweek. Employers must pay hourly employees only for the hours they work.

Q: Will my employer tell me if someone comes down with coronavirus?

Employers do have a duty to provide a place of employment, free from recognized hazards that cause or are likely to cause the death or serious physical harm to employees. That said, privacy laws will prevent your employer from sharing any specific medical information of another employee.