

REMINDER: THE WESTCHESTER COUNTY PAID SICK LEAVE LAW IS IN EFFECT

Hodgson Russ Home Care Alert
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The Westchester County Earned Sick Leave Law (the “Sick Leave Law”) went into effect on April 10, 2019. Much like the New York City Safe and Sick Leave Law, Westchester County’s Sick Leave Law contains many similar provisions:

- requires employers with five or more employees to provide up to 40 hours of paid sick leave to employees who work at least 80 hours in Westchester County in a 12-month period;
- provides paid time off for: (a) the employee’s or a family member’s mental or physical illness, injury, or health condition, or for preventive medical care; (b) the care of the employee or a family member with a communicable disease where a public health official has determined that the person’s presence in the community presents a danger to others; and (c) the closure of the employee’s place of business, or school or care center attended by the employee’s child, due to a public health emergency;
- allows employees to accrue one hour of paid sick time for every 30 hours worked, up to a maximum of 40 hours of earned sick leave in a year. Employees may begin to accrue sick time off at the beginning of their employment or 90 days after the Sick Leave Law goes into effect, whichever is later. However, just like the New York City law, an employer may require new employees to wait 90 days prior to using their accrued sick time;
- requires the minimum increment of paid sick leave to be four hours, unless an employee needs to take an additional part of the day as a sick day;
- allows employees to carry over unused and accrued paid sick leave to the following year, however an employer may limit employees’ use of earned sick leave to a maximum of 40 hours per year;
- requires employers to compensate employees for earned sick time at the same hourly rate that they normally earn; and
- does not require employees to pay out accrued and unused sick leave time upon termination of employment.

To assist employers in complying with the Sick Leave Law, the Westchester County Human Rights Commission has published a Frequently Asked Questions (“FAQs”) document. For employers who have operations in New York City and Westchester

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County, a paid sick leave law comparison chart is available [here](#).

Covered employers are required to provide employees working in Westchester County with a copy of the Sick Leave Law and a Notice of Employee Rights at the beginning of the employees' employment or within 90 days of the date that the Sick Leave Law took effect (i.e., July 9, 2019), whichever is later. The Sick Leave Law also requires employers to display a copy of the Law and a Poster published by the Westchester County in a conspicuous location in the workplace.

Lastly, employers must preserve records for three years documenting (i) the number of hours worked by each employee, (ii) the amount of earned sick time accrued, and (iii) the amount of earned sick time taken by each employee. Failure to maintain these records will create a rebuttal presumption that the employer has violated the Sick Leave Law.

Employers with employees in Westchester County should evaluate their current paid time off policies and make adjustments, as necessary, to account for the requirements of the Sick Leave Law. To the extent employers' current paid time off policies meet or exceed the Sick Leave Law requirements, employers are not required to provide additional time off. However, the notice and policy requirements will still have to be implemented. Managers should be trained about the Sick Leave Law requirements, and how to harmonize those requirements with other leave policies that might be provided by the employer. Finally, covered employers should ensure that proper procedures are implemented to document and track compliance with the Sick Leave Law requirements.

If you have any questions, please contact the Leader of the Home Care Practice, Emina Poricanin, or any other member of our team. If you received this alert from a third party or from visiting our website and would like to be added to our Home Care Practice or any other mailing list, please visit us at <https://forms.hodgsonruss.net/subscription-center-hr.html>