

HFWA Coverage Broadens in 2021

The Healthy Families and Workplaces Act ([HFWA, S.B. 20-205, July 12, 2020](#)) signed into law by Governor Polis last year contains provisions that expand paid sick leave in 2021.

WHO IS COVERED?

The HFWA applies to all Colorado employers with 16 or more employees in 2021. Coverage expands to employers of any size in 2022. The Act does not apply to federal government employees, but it does apply to Colorado state employees, including county employees. If an employer under a collective bargaining agreement already provides paid sick leave equal to or more generous than in the HFWA, that employer is exempt from the Act's requirements as long as employees covered by the bargaining agreement have equivalent paid leave to that which the Act provides.

HOW IS PAID LEAVE CALCULATED?

Employers must provide one hour of paid leave for every 30 hours worked, up to 48 hours per year. Paid leave begins accruing on an employee's first day. Exempt employees accrue leave as if they work 40 hours weekly, even if they work more. However, non-exempt employees accrue leave for every hour worked, even overtime hours. Leave is paid at the same hourly rate or salary as regular pay with the same benefits but need not include overtime, bonuses, or holiday pay.

WHEN CAN PAID LEAVE BE TAKEN?

The Act lists five reasons that paid leave can be taken:

1. a mental or physical illness, injury, or health condition that prevents work;
2. obtaining preventive medical care, or a medical diagnosis, care, or treatment, of any mental or physical illness, injury, or health condition;
3. being a victim of domestic abuse, sexual assault, or criminal harassment who needs leave for medical attention, mental health care or other counseling, victim services (including legal), or relocation; or
4. care for a family member who has a mental or physical illness, injury, or health condition, or who needs the sort of care listed in category (2) or (3);
5. due to a public health emergency, a public official closed the employee's (A) place of business or (B) child's school or place of care, requiring the employee to care for the child.

WHAT DOCUMENTATION & RECORDS DO EMPLOYERS NEED?

If leave is four or more consecutive days, employers may require documentation to show that leave is for a purpose covered by the HFWA. For more information on the type of documentation employers may require, see [Interpretive Notice & Formal Opinion \("INFO"\) # 6B](#). The HFWA requires employers to keep records on each employee for a two-year period showing hours worked, paid sick leave accrued, and paid sick leave used. Employers are required to notify employees in writing of their rights under the Act and display an [informational division poster](#) in a conspicuous and accessible place.

WHAT THIS MEANS FOR COUNTIES

Counties should inform employees of their rights under the HFWA and review their policies to ensure they are in compliance with the Act. Please note that the provisions in the HFWA that covered paid COVID-19 leave expired on December 31, 2020, but that the other provisions of the HFWA are still in effect. For more information, consult your county attorney or contact CTSI at 303 861 0507.