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BULLETIN

To: Membership of Allied Building Metal Industries, Inc.

From: Steven N. Davi

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Re: COVID-19 Update: Emergency Paid Sick Leave

On April 7, we advised you regarding new emergency state legislation enacted on March 18, 2020, the COVID-19 Quarantine Leave Law (“QLL”), aka the COVID-19 emergency Paid Sick Leave Law, designed to provide employees with paid sick leave and job protection in the event of a quarantine order. As a refresher, the QLL is limited in scope. To qualify for QLL paid sick leave, employees must (i) be subject to a mandatory or precautionary order of quarantine or isolation for COVID-19, issued by the state of New York, the Department of Health, local board of health, or any government entity duly authorized to issue such order;¹ (ii) not be asymptomatic; and (iii) not be physically able to work through remote access or similar means.

The state Department of Health issued [Interim Guidance](#) on March 6 to assist local health departments in determining under what circumstances to issue a mandatory or precautionary quarantine. In conjunction with the QLL, the state also published [QLL FAQs](#) and [QLL Guidance](#) on March 25 to clarify how [employees may obtain](#) an order of quarantine or isolation qualifying them for QLL relief.

Now, the New York City Department of Health has issued a standing [Order](#) plus interpretive [FAQs](#) that streamline the process for those who live or work in New York City to claim emergency paid sick leave under certain circumstances covered by the state QLL.

Standing Order: Who Does it Apply To?

The standing Order applies to anyone seeking to apply for paid sick leave from their employer under the QLL, who lives or works in NYC, and who currently meets or previously met the qualifications for “mandatory isolation” related to COVID-19. The qualifications for “mandatory isolation” means the employee must (1) have tested positive for COVID-19; (2) have had “contact with a known COVID-19 case,” be currently experiencing COVID-19 symptoms, and be unable to get a test; *or* (3) meet another qualification for mandatory isolation described by the New York City Department of Health, the New York State Department of Health, or the CDC.

¹ However, employees subject to such a quarantine order stemming from non-business travel to a country under a level two or three CDC coronavirus-related travel advisory are generally ineligible for QLL benefits where, prior to such travel, they were aware of the travel advisory and these limitations on benefits, but went ahead and traveled anyway.

With regard to item “(2)” above, the FAQs define what is meant by “contact with a known COVID-19 case,” as follows:

1. Sharing the same household or having direct physical contact with a person who has tested positive for COVID-19 or is presumed to have COVID-19;
2. Having direct contact with infectious secretions (for example, being coughed on or touching a used tissue with bare hands) of a person who has tested positive for COVID-19 or is presumed to have COVID-19;
3. Having close contact, either by being within 6 feet for about 10 minutes or being in the same enclosed space for a sustained period, with a person who has tested positive for COVID-19 or is presumed have COVID-19; or
4. Travel on a cruise ship or from a country the CDC has recognized as a “hotspot” for COVID-19 and has issued a level 2, 3 or 4 travel advisory.

Claiming Paid Sick Leave under the Standing Order: Forms

There are three appendices attached to the standing Order. Employees must complete and sign the appropriate appendix, gather where indicated certain documentation showing that mandatory isolation is or was necessary, and submit the completed packet to their employer. Appendix “A” applies to healthcare workers. Appendix “B” applies to employees, other than healthcare workers, that have been deemed “essential” pursuant to the governor’s executive orders, such as [Executive Order 202.8](#), as amended, and recent [ESD Guidance](#). Appendix C applies to all other employees, that is, “non-essential” employees.

There is a critical difference between Appendices “A” and “B,” on the one hand, and Appendix “C” on the other hand. Healthcare workers and other essential employees covered by Appendix “A” or “B” must have been advised to isolate by a medical professional; such employee must submit supporting documentation to their employer as part of their claim for paid sick leave showing that their mandatory isolation is or was necessary as per the advice of a medical professional. Conversely, non-essential employees covered by Appendix “C” may merely self-certify that they have or had to isolate for one of the three reasons set forth above, that is, they (1) have tested positive for COVID-19; (2) have had “contact with a known COVID-19 case,” be currently experiencing COVID-19 symptoms, and be unable to get a test; or (3) meet another qualification for mandatory isolation described by the New York City Department of Health, the New York State Department of Health, or the CDC following. With regard to item “(3),” the employee would have to specify the reason.

In issuing this standing Order, New York City is following the lead of other localities in the state that have issued similar standing orders relating to COVID-19-related quarantine or isolation, including [Dutchess](#), [Erie](#), [Orange](#), [Putnam](#), [Rockland](#), and [Westchester](#) counties. [Nassau](#) and [Suffolk](#) counties have implemented online portals for residents to request individualized orders of quarantine or isolation.

We will continue to monitor and report on all material and relevant developments concerning these matters as they arise. In the meantime, please do not hesitate to contact the Allied office directly with any questions you may have.