

## COVID-19 Massachusetts Emergency Paid Sick Leave Frequently Asked Questions

**May 28, 2021**

**Q: What is the new law?**

A: COVID-19 Massachusetts emergency paid sick leave (MEPSL) was enacted on xx and requires Massachusetts employers to provide a maximum of 40 hours of paid time to an employee experiencing certain COVID-19 related conditions if the employee is unable to work or telework.

**Q: When is this law effective?**

A: It is effective from May 28, 2021 until September 30, 2021 or the date that the funding dedicated to reimbursing employers for the program is exhausted, whichever is first.

**Q: Can employees receive MEPSL for a qualifying COVID-19 related reason before the law's effective date?**

A: No, there is no retroactive application of this law.

**Q: Which employees are eligible?**

A: All Commonwealth employees are eligible.

**Q: Is the time pro-rated for employees who work less than 40 hours in a week?**

A: Yes, employees who work less than 40 hours a week, but maintain a regular schedule with consistent hours per week, will be provided MEPSL that is equal to the number of hours the employee works per week, on average over a 14-day period of their regular schedule. For example, employees who regularly work 37.5 or 18.75 hours per week will be capped at those amounts.

**Q: Do employees who have accrued sick leave qualify for MEPSL?**

A: Yes, MEPSL is in addition to any sick leave eligible employees may have already earned.

**Q: When can an eligible employee use MEPSL?**

A: Employees may use MEPSL (when they are unable to work or telework) for five qualifying reasons:

1. An employee's need to: (i) self-isolate and care for oneself because of the employee's COVID-19 diagnosis; (ii) seek or obtain medical diagnosis, care or treatment for COVID-19 symptoms; or (iii) obtain immunization related to COVID-19 or the employee is recovering from an injury, disability, illness or condition related to such immunization;
2. An employee's need to care for a family member who: (i) is self-isolating due to a COVID-19 diagnosis; or (ii) needs medical diagnosis, care or treatment for COVID-19 symptoms;
3. A quarantine order, or other determination by a local, state or federal public official, a health authority having jurisdiction, the employee's employer or a health care provider that the employee's presence on the job or in the community would jeopardize the health of others because of the employee's exposure to COVID-19 or exhibiting of symptoms, regardless of whether the employee has been diagnosed with COVID-19;
4. An employee's need to care for a family member due to a quarantine order, or other determination by a local, state or federal public official, a health authority having jurisdiction, the family member's employer or a health care provider that the family

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member's presence on the job or in the community would jeopardize the health of others because of the family member's exposure to COVID-19, regardless of whether the family member has been diagnosed with COVID-19; or

5. An employee's inability to telework because the employee has been diagnosed with COVID-19 and the symptoms inhibit the ability of the employee to telework.

**Q. If an employee takes paid sick leave under the MEPSL, does that count against other types of paid sick leave to which the employee is entitled under State Law or policy?**

A: No. Paid sick leave under the MEPSL is in addition to other leave provided under State, or local law; a collective bargaining agreement; or policy.

**Q: When is MESPL no longer available to an employee?**

A: When the MESPL allotment has been exhausted or beginning with the employee's next scheduled work shift immediately following the termination of the need for paid sick time. The duration of the program is dependent on the availability of reimbursements available to employers, or September 30, 2021, whichever comes first.

**Q: What is telework?**

A: The term "Telework" means work the Employer permits or allows an Employee to perform while the Employee is at home or at a location other than the Employee's normal workplace.

**Q: If an employee is able to telework while quarantined, is the employee entitled to MEPSL?**

A: No, if the employee is able to telework, normal wages must be paid and it is not compensated MEPSL. An employee is able to telework if: there is work for the employee; the employer permits telework, and there are no extenuating circumstances (like serious COVID-19 symptoms) preventing the employee from performing that work.

**Q: An employee has tested positive for COVID-19, but is indicating that they feel well and want to telework, can they?**

A: Yes, if the employee is not experiencing symptoms that would impair their ability to telework and indicates that they are able and willing to telework, that employee may be permitted to do so.

**Q: An employee has tested positive for COVID-19 and although they typically telework, they experience symptoms that make them unable to telework, can they use MEPSL?**

A: Yes, this would be an appropriate use of MEPSL.

**Q: How does MEPSL apply to an employee who has not yet received a diagnosis?**

A: Paid sick leave taken for this reason is limited to time the employee uses to seek a medical diagnosis (making, waiting for or attending an appointment) and is unable to work. An employee cannot use MEPSL to self-quarantine if they have not taken steps to receive a medical diagnosis. Employees who are able to telework while seeking a medical diagnosis should continue to do so.

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**Q: What are the covered family members for whom an employee can take MEPSL?**

A: The law defines family member as: “the spouse, domestic partner, child, parent or parent of a spouse or domestic partner of the employee, a person who stood in loco parentis to the employee when such employee was a minor child or a grandchild, grandparent or sibling of the employee. For the purposes of this definition, “person who stood in loco parentis” shall not include a person with whom the employee has no personal relationship.”

**Q: Can employers require an employee to find a replacement for their shift before they can take MEPSL?**

A: No. This is prohibited by the law.

**Q: Can an employee use their accrued leave before using MEPSL?**

A: An employee may choose to use their accrued leave before using MEPSL but cannot be forced to do so.

**Q: Are there any caps on how much employees are paid?**

A: MEPSL is capped at \$850 per week.

**Q: How long is MEPSL law in effect?**

A: The duration of the program is dependent on the availability of reimbursements available to employers, or September 30, 2021, whichever comes first.

**Q: What documentation can be requested to support the need for MEPSL?**

A: Employees requesting to use COVID-19 Massachusetts emergency paid sick leave must provide written documentation in support of the reason the leave is needed. The documentation must include:

- the employee’s name;
- the date or dates for which leave is requested and taken;
- a statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
- a statement that the employee is unable to work, including by means of telework, for such reason.

In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee shall also include:

- the name of the governmental entity ordering quarantine or the name of the health care provider advising self-quarantine; and
- if the person subject to quarantine or advised to self-quarantine is not the employee, that person’s name and relation to the employee.

**Q: How much notice do employees have to provide?**

A: Employees should provide as much notice as practicable or foreseeable. After the first workday an employee receives COVID-19 Massachusetts emergency paid sick leave, an employer may require the employee to follow reasonable notice procedures in order to continue receiving COVID-19 Massachusetts emergency paid sick leave.

**Q: Can the MEPSL be used intermittently?**

A: Yes, an employee may use COVID-19 Massachusetts emergency paid sick leave on an intermittent basis and in hourly increments

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**Q: How do I track an employee's use of MEPSL?**

A: Agencies may use their typical tools and processes to keep track of employee use of MEPSL. HRD will provide a job aid and other supports to agency HR to ensure compliance with the law.

**Q: How do employees receive pay for using MEPSL?**

A: Agency HR staff should enter the appropriate time reporting code (TRC) on behalf of employees approved to take EPSL. These TRCs will provide the appropriate pay for employees through their regular means of receiving pay (direct deposit or check). See the Communication to Agency HR for more information on the new TRCs.