

# Philadelphia Enacts COVID-19 Supplemental Paid Sick Leave

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On March 10, 2022, Philadelphia Mayor Jim Kenney signed a [new ordinance](#) expanding COVID-19 Supplemental Paid Sick Leave (SPSL) until 2023.

The following are answers that employers need to their questions regarding the latest edition of Philadelphia's SPSL.

## **When does SPSL become effective?**

SPSL became effective on March 9, 2022.

## **How long will SPSL be in effect?**

SPSL requirements will remain in effect until December 23, 2023.

## **Which employers are covered?**

Employers with more than 25 employees must provide leave under the latest edition of SPSL.

## **Which employees are covered?**

An employee of a covered employer who is unable to work because of covered reasons. There is no length of service requirement.

## **What are the covered reasons for using SPSL?**

The following are covered reasons for using SPSL:

1. The covered employee is unable to work due to a determination by a public official or public health authority having jurisdiction, a health care provider, or an employer 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 because the employee is exhibiting

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symptoms that might jeopardize the health of others, regardless of whether the employee has been diagnosed with or has tested positive for COVID19.

2. The covered employee must care for a family member due to a determination by a public official or health authority having jurisdiction, a health care provider, or the family member's employer that the presence of the family member on the job or in the community would jeopardize the health of others because of the family member's exposure to COVID-19 or a determination by the employer that the employee is a danger to the health of others because they are exhibiting symptoms that might jeopardize the health of others, regardless of whether the family member has been diagnosed or having tested positive with COVID-19.
3. The covered employee must care for themselves or a family member self-isolating due to having tested positive or diagnosed with COVID-19.
4. The covered employee must care for themselves or a family member self-isolating due to experiencing symptoms of COVID-19.
5. The covered employee needs medical diagnosis, care, or treatment due to experiencing symptoms of an illness related to COVID-19.
6. The covered employee must care for a family member who needs medical diagnosis, care, or treatment due to experiencing symptoms of an illness related to COVID-19.
7. The covered employee is caring for a child, whose school or place of care has been closed, or the childcare provider of such child is unavailable, due to precautions taken in response to COVID-19.
8. The covered employee is receiving a COVID-19 test, vaccine or recovering from injury, disability or illness related to vaccination.

### **How many hours of SPSL are employees entitled to take?**

Covered employees who work at least 40 hours a week are entitled to up to 40 hours of leave unless the employer designates a higher limit. Covered employees who work fewer than 40 hours in a week are entitled to an amount equal to the amount of time the employee is otherwise scheduled to work or actually works on average in a 7-day period, whichever is greater and unless the employer designates a higher limit.

For covered employees with changing schedules, SPSL time is calculated as the average number of hours in a 7-day period the employee was scheduled to work over the past 90 days multiplied by 7.

Covered employees who are exempt from overtime requirements under the FLSA will be assumed to have worked 40 hours a week for purposes of SPSL entitlement unless their normal work week is less than 40 hours, in which case SPSL will be based upon that normal work week.

Employers may not require, as a condition of providing SPSL for an employee, that the employee search for or find a replacement to cover the hours during which the employee is using SPSL.

### **Are employers permitted to request documentation of an employee taking**

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## **SPSL?**

An employer is permitted *only* to request that an employee submit a self-certified statement asserting that leave was used for SPSL purposes.

## **What type of notice do employers need to provide to employees regarding SPSL and vice versa?**

Employers must notify employees of their entitlement to SPSL. The City has posted a [model notice poster](#) to its website with the SPSL information employers must post or provide to employees. For employees who do not maintain a physical workplace, or who telework or perform work through a web-based platform, an employer can fulfill SPSL notification requirements by sending the information via electronic communication or conspicuously posting it a in the web-based platform.

Covered employees must provide notice to their employer of the need for SPSL as practicable and as soon as feasible, but only when the need for leave is foreseeable.

## **What is the rate of pay that an employee is compensated for SPSL?**

Covered employees shall be compensated in the same manner as the regular rate of pay, including benefits if applicable, for the workweek in which the employee uses SPSL, provided that the hourly rate may not be less than the full state minimum wage.

## **What prohibitions are in place regarding SPSL?**

Employers are prohibited from retaliating against employees for utilizing SPSL, and aggrieved employees have the right to file a civil action against an employer for an alleged violation of the ordinance without first filing an administrative complaint.

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