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# Paid Sick Leave in New York City

How Are Workers and Families Being Protected  
During the COVID-19 Pandemic?

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# Introduction

As COVID-19 spreads across neighborhoods, cities, and countries, New York City has been hit especially hard, becoming an epicenter of the virus.<sup>1</sup> While the number of cases grows, legislative and executive bodies, at both the state and federal levels, have passed measures designed to mitigate the countless problems cropping up in the fallout. A key policy response to the crisis is the provision of paid sick leave.

While most states and cities in the U.S. do not provide paid sick leave to employees, many workers in New York City have been entitled to some amount of paid sick leave prior to COVID-19 under New York City's Paid Safe and Sick Leave Law, passed in 2014, and New York State's Paid Family Leave Act, passed in 2018. New Yorkers also stand to benefit from two new pieces of emergency paid sick leave legislation passed by the New York State Legislature<sup>2</sup> and U.S. Congress.<sup>3</sup> In addition to the recently enacted state and federal legislation, there are efforts to permanently expand paid sick leave in New York State.<sup>4</sup>

This brief outlines the paid sick leave options available to New Yorkers before and after the onset of COVID-19, how recent legislation helps fill gaps in coverage, and the gaps in coverage that remain.

## Paid sick leave in New York City prior to COVID-19

Since 2014, New York City has had its own Paid Safe and Sick Leave Law,<sup>5</sup> which provides employees<sup>6</sup> with up to 40 hours, or about five days, of paid sick leave. The law does not cover people who work for employers with fewer than five employees; people who work “off the books”; independent contractors; or people who work fewer than 80 hours per year.<sup>7</sup>

In addition, in 2018 New York State passed the Paid Family Leave Act, updated in 2020,<sup>8</sup> which provides employees<sup>9</sup> with up to 60 percent of their regular pay for 10 weeks to care for a new child or for loved ones suffering from a serious illness.

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<sup>1</sup> Higgins-Dunn, N. (2020, March 20). *New York City is the new coronavirus epicenter with one-third of all US cases, Mayor de Blasio says*. Retrieved March 26, 2020, from <https://www.cnn.com/2020/03/20/new-york-city-is-the-new-coronavirus-epicenter-with-one-third-of-all-us-cases-mayor-de-blasio-says.html>

<sup>2</sup> *Senate Bill S8091, 2019-2020 Legislative Session. (NY 2020)*

<sup>3</sup> *Families First Coronavirus Response Act, H.R. 6201, 116th Cong., 2nd Session. (2020)*

<sup>4</sup> Harris, C. (2020, April 2). *Proposed budget bill keeps school aid flat, includes paid sick leave*. Retrieved from <https://www.timesunion.com/news/article/Proposed-budget-bill-keeps-school-aid-flat-15173790.php>

<sup>5</sup> *Paid Safe and Sick Leave Law FAQs. (2017, February 28)*. Retrieved March 26, 2020, from <https://www1.nyc.gov/site/dca/about/paid-sick-leave-FAQs.page>

<sup>6</sup> *Employees not covered include those working for employers with fewer than five employees, independent contractors, those working 80 hours or less a year, federal work study employees, and physical and occupational therapists, speech language pathologists, and audiologists, who are licensed by the New York State Department of Education.*

<sup>7</sup> *Paid Safe and Sick Leave Law FAQs. (2017, February 28)*. Retrieved March 26, 2020, from <https://www1.nyc.gov/site/dca/about/paid-sick-leave-FAQs.page>

<sup>8</sup> *New York State Paid Family Leave: Employee Facts. (n.d.)*. Retrieved March 26, 2020, from [https://www.ny.gov/sites/ny.gov/files/atoms/files/PaidFamilyLeave\\_EmployeeFactSheet.pdf](https://www.ny.gov/sites/ny.gov/files/atoms/files/PaidFamilyLeave_EmployeeFactSheet.pdf)

<sup>9</sup> *Employees who work 20 or more hours per week are eligible after 26 weeks while those who work less than 20 hours per week are eligible after 175 days.*

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New York City's Paid Safe and Sick Leave Law is meant to guarantee workers their pay in the event of an illness, but data from the Poverty Tracker, a longitudinal, representative survey of 4,000 New Yorkers run by Robin Hood and Columbia University's Center on Poverty and Social Policy, shows that many workers continue to lose pay when they stay home from work sick. Recent data from 2018 indicates that, among those who utilized sick leave,<sup>10</sup> 30 percent said they were not paid for the days they took off (Figure 1). This rises to about 60 percent among those in poverty and to about 40 percent among those facing material hardships such as not being able to afford food, housing, medical care, and other costs.

Figure 1

Share of workers not paid when out on sick leave

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<sup>10</sup> These results do not include self-employed workers.

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## Who was left out before COVID-19?

As discussed above, there are several reasons why workers might not be paid while home sick, even after the passage of a paid sick leave law. Some workers do not work enough hours to be covered by New York City's paid sick leave law (which covers only those working 80 hours per year or more). Others may work outside of New York City or be working “off the books,” as independent contractors, or for employers who do not comply with the law. And some may have been covered but exhausted their sick leave entitlement.

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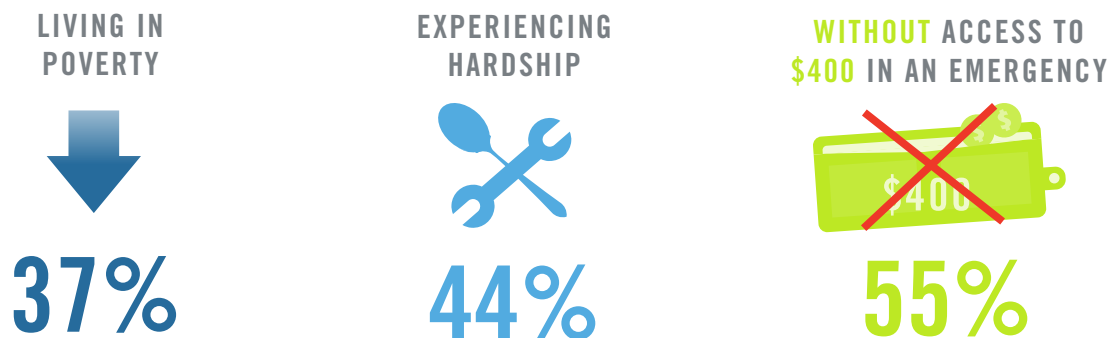
Poverty Tracker data shows that those who are not paid when they are out sick are some of New York City's most vulnerable workers, including workers who are low-income or part-time, and who face additional financial hardships.

Figure 2

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### Vulnerabilities among the 30 percent of New Yorkers not paid for sick leave

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In Figure 2, we see that among those who are not paid when they are out sick, 37 percent have incomes at or below the poverty line<sup>11</sup> and 44 percent are in households experiencing one or more material hardships, like not being able to afford food, medical care, or utilities. To put this in perspective, the citywide poverty rate in 2018 was approximately 20 percent and the citywide hardship rate was about 30 percent.<sup>12</sup> The majority of workers who are not paid when they are out sick, about 55 percent, cannot afford an emergency expense of \$400. These findings show that those without sick leave are disproportionately the lowest-income New Yorkers and face elevated rates of financial hardship. Without even \$400 to cover an emergency expense, some would have no choice but to continue working while they or their loved ones are sick or home from school.

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<sup>11</sup> In 2018, the poverty line for a two-adult, two-child family of renters in NYC was \$35,730.

<sup>12</sup> Collyer, S., Maury, M., Bushman-Copp, L., Garfinkel, I., Kennedy, L., Neckerman, K., ... Wimer, C. (2020). *The State of Poverty and Disadvantage in New York City* (Vol. 2, p. 19). New York, NY.

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## Paid sick leave in New York City after COVID-19: Federal and state laws expand benefits but still leave out vulnerable New Yorkers

Since the implementation of New York City's Paid Safe and Sick Leave Law in 2014, there have been increases in payment for sick leave,<sup>13</sup> but it is clear that not all workers are being paid for the time they take off, nor do all workers qualify for these benefits. In addition, with COVID-19's recovery time of two to six weeks,<sup>14</sup> depending on the severity, the period of up to five days allotted under the New York City law is insufficient for individuals suffering from the illness or caring for ill family members. For these reasons, the recent state and federal laws are important steps to help fill in these gaps.

The federal Emergency Paid Sick Leave Act and New York State's recently enacted paid sick leave legislation build on New York City's Paid Safe and Sick Leave Law by expanding paid leave to those suffering from COVID-19, though there are still major loopholes in coverage.

### Below are the details for each law:

The Federal Emergency Paid Sick Leave Act applies to people working for employers with fewer than 500 employees. Employers with fewer than 50 employees can have the requirement waived, meaning people working for small employers are not guaranteed protection. The law mandates:

- Up to 10 days, or 80 hours, of paid sick leave for people who are quarantined, have been advised by a healthcare provider to self-quarantine, or are experiencing symptoms of COVID-19 and are seeking a medical diagnosis.
- Up to 10 days, or 80 hours, of two-thirds pay for those who are caring for a sick family member or a child whose school or daycare has closed. After the 10 days of two-thirds pay are used, employees<sup>15</sup> can continue to receive two-thirds of their normal pay under the expanded Emergency Family and Medical Leave Expansion Act for an additional 10 weeks.

New York State's expanded paid sick leave law mandates:

- Fourteen days of paid sick leave for quarantined workers in businesses with 100 or more employees.
- Five days of paid sick leave for workers in businesses with 11-99 employees or fewer than 10 employees and more than \$1 million in net income.
- Those working for an employer with fewer than 10 employees and less than \$1 million in net income are not guaranteed any paid sick leave. In New York City, these employees are guaranteed only the number of hours of sick leave that they have accrued (up to 40 hours) through the 2014 New York City paid sick leave law.
- After employees have utilized their paid sick leave under the state law, they can apply for paid family leave and disability benefits for up to 100 percent of their pay.
- Additionally, the state law expands coverage of paid family leave for employees who have a child under mandatory or precautionary quarantine.

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<sup>13</sup> Maury, M., Waldfoegel, J., & Wimer, C. (2020). *Spotlight on Paid Sick Leave: Results from the New York City Earned Sick Time Act*. New York, NY.

<sup>14</sup> Report of the WHO-China Joint Mission on Coronavirus Disease 2019 (Covid-19). (2020) (p. 14).

<sup>15</sup> Employees who have been employed for at least 30 days

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## How paid sick leave policies interact

Unfortunately, New York State's emergency paid sick leave law cannot be stacked on top of the federal law, meaning employees cannot use 14 days of paid sick leave from the state law in addition to 10 days under the federal law. In addition, estimates show that the federal law leaves out about approximately 80 percent of private sector workers because it does not extend to employers with more than 500 employees, although many of these people may be covered by employer-sponsored paid sick leave.<sup>16</sup>

The state and federal guarantees can, however, be combined with the city's paid sick leave benefits. This means that certain New York City workers are eligible for a maximum of 19 days of sick leave, a number closer to the short end of the recovery time from COVID-19.

## Gaps in coverage and considerations for future policies

Even when workers can combine New York State's recent paid leave expansion with New York City's Paid Safe and Sick Leave Law, not all workers have the coverage they need. People who work for smaller employers have fewer days of *guaranteed* paid sick leave. And people who are caring for children or family members quarantined or at home because of school closures are left with just 60-67 percent of their income. This is unlikely to be sufficient for New York City families who are already having trouble meeting their needs and who have less than \$400 in cash to meet an unexpected expense. Some workers, especially low-income workers, will have to live with less income and will be forced to make incredibly difficult decisions about whether to stay home to take care of their children and loved ones or to continue working.

As additional provisions and policies are debated, policymakers should consider who is left out of existing legislation and how the U.S., New York State, and New York City can better meet the needs of people during this crisis and those to come.

## Policy recommendations

If the goal is to expand paid sick leave and paid family leave to all employees suffering from COVID-19, taking care of someone suffering from COVID-19, or dealing with disruptions in child care, policymakers should consider:

1. Expanding coverage for employees at smaller employers.
2. Expanding length of coverage — studies show symptoms can last much longer than the 10 to 19 days people are entitled to if they are sick.
3. Expanding pay coverage to 100 percent for people caring for sick family members or caring for children during school closures.
4. Establishing these expanded policies in perpetuity so that people are protected during future public health crises without passing new emergency legislation.

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<sup>16</sup> Editorial Board (2020, March 14). *There's a Giant Hole in Pelosi's Coronavirus Bill*. Retrieved March 30, 2020, from <https://www.nytimes.com/2020/03/14/opinion/coronavirus-pelosi-sick-leave.html>