

# LEGAL UPDATE

## New York Issues New Guidance on COVID-19 Leave

New York state employees who are **not** in quarantine or isolation but are prohibited from coming to work by their employers for COVID-19 exposure reasons must be paid their regular rate, according to new guidance issued by the New York Department of Labor (NYDOL). The Jan. 20, 2021, guidance also addresses additional COVID-19 leave issues.

### COVID-19 Leave

In March 2020, New York enacted a law providing job-protected leave for employees **under a COVID-19 quarantine or isolation order**. Employee payment during the leave depends on employer size and income.

### New Guidance

The NYDOL's new guidance on the COVID-19 leave law includes the following:

- Employees who return to work after completing quarantine or isolation and then test positive must be provided COVID-19 leave, even if they already took the leave during their prior quarantine or isolation period.
- Employees who test positive at the end of quarantine or isolation may not report to work and must be allowed COVID-19 leave. However, it is not recommended that employees be tested to discontinue quarantine or isolation.
- Employees **not under a quarantine or isolation order**, whose employers nonetheless bar them from work due to COVID-19 exposure (or possible exposure) must be paid their regular rate until they return to work or enter quarantine or isolation. Notably, despite the guidance on this point, **the COVID-19 leave law requires leave only for employees under a quarantine or isolation order.**
- Employees may only take leave for three quarantine or isolation orders, and the second two leave periods must be supported by positive tests.

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### Highlights of New Guidance

- ☑ Employees who test positive after returning to work must be allowed a new period of leave.
- ☒ Employees may not return to work if they test positive after completing quarantine or isolation.
- ☑ Employees not under a quarantine or isolation order who are barred from work must be paid their regular rate.

***The guidance requires compensation for employees not under quarantine or isolation orders, even though the law does not.***



**JP Griffin Group**