

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.

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.

Provided to you by [Kinloch Consulting Group, Inc.](#) Feb. 4, 2021

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. ©2021 Zywave, Inc. All rights reserved.

Kinloch
CONSULTING GROUP
An Optisure Risk Partner