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CLIENT BULLETIN

COVID-19 FREQUENTLY ASKED QUESTIONS

The novel coronavirus known as COVID-19 has affected every public safety employee in California. The information available from governments, health care agencies and media about the rapidly-spreading disease changes daily as new cases and new living restrictions arise. The purpose of this Client Bulletin is to answer some of the questions most frequently asked by public safety employees and labor associations about the effects of COVID-19 on work, family and healthcare.

HOW DO I OBTAIN MEDICAL BENEFITS IF I AM AN ON-CALL OR TEMPORARY EMPLOYEE?

If you do not already receive medical benefits from your County employer or as a qualified dependent on another person's insurance, you can obtain medical coverage through the Covered California insurance exchange created under the Affordable Care Act. Based on projections that as many as 1 million Californians may lose health coverage due to the economic impact of COVID-19, Covered California recently has re-opened its open enrollment period and has listed COVID-19 as a "life-changing event" that can qualify an applicant for health care. The Covered California website is www.coveredca.com.

AM I ELIGIBLE FOR WORKERS' COMPENSATION BENEFITS IF I CONTRACT CORONAVIRUS?

A workplace exposure to COVID-19 may be a compensable injury if the effects cause temporary or permanent disability. Workers' compensation benefits can include medical care, temporary or permanent disability benefits, supplemental job displacement benefits and death benefits payable to a spouse, child or other dependent. Under Labor Code section 4850, peace officers are entitled to up to one year of salary in lieu of disability payments.

There is as yet no statutory authority in California identifying COVID-19 as a condition presumed related to work; however, contracting other contagious diseases such as meningitis, tuberculosis and pneumonia is presumed work-related for most peace officers. A "presumption" makes it easier to prove causation because the injury or disease that develops or manifests itself while the employee is working as a peace officer is considered work-related unless the employer proves otherwise. Any amendment to those rules to include COVID-19 will have to come from the state Legislature.

Any peace officer who believes he or she may have been exposed to coronavirus on the job should seek immediate medical attention and, if the officer tests positive for the virus, file a workers' compensation claim (DWC 1) through the employing agency and contact a reputable workers' compensation attorney for further assistance with the claim.

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AM I REQUIRED TO USE MY OWN LEAVE BANKS IF I NEED TO STAY HOME FOR CHILD CARE?

Many public employees have been forced to stay home to provide child care because their child's school or child care facility is closed during the pandemic. The new federal "**Families First Coronavirus Response Act**", which takes effect April 2, temporarily expands the Family and Medical Leave Act (FMLA) to require public employers to provide job-protected leave to employees who have to stay at home for child care due to COVID-19. Some counties may elect to supplement the new FMLA provisions with additional pay and benefits.

Under the expanded FMLA provisions, the **first 10 days of the child care leave period are unpaid**, although the employee can substitute leave balances for that time. For the remaining ten weeks of the child care leave period, the employer must provide a full-time employee with paid leave at a pay rate that is at least two-thirds of the employee's regular rate of pay, up to \$200 a day but no more than \$10,000 in total pay. For part-time employees, eligibility for leave and pay varies depending on the employee's average hours.

Employers that are health care providers or emergency responders may elect under the new law to exclude employees from this expanded FMLA leave. An employee must have been employed for at least 30 calendar days before he or she can take advantage of the expanded FMLA benefit.

AM I ENTITLED TO ANY ADDITIONAL SICK LEAVE IF I TEST POSITIVE OR AM QUARANTINED?

The Families First Coronavirus Response Act included the Federal Emergency Paid Sick Leave Act, which entitles a full-time public employee to **80 hours of paid sick leave** if the employee is unable to work or telework because of COVID-19. These hours are in addition to any other existing paid leave bank. The sick leave requirement applies to any employee who:

- is subject to a Federal, State, or local quarantine or isolation order related to coronavirus
- has been advised by health care provider to self-quarantine due to coronavirus
- is experiencing symptoms of coronavirus and is seeking a medical diagnosis
- is caring for an individual who is subject to a quarantine or isolation order or is under self-quarantine
- is caring for their child because the school is closed or childcare provider is unavailable due to coronavirus, or
- is experiencing a similar condition as specified by the Secretary of Health and Human Services

Emergency sick leave under the new law is paid at the employee's regular rate of pay if the leave is for the employee, up to \$511 a day and \$5,110 in the aggregate, but at two-thirds of the employee's regular rate of pay if the employee needs the leave to care for another person or the employee's child, up to \$200 a day and \$2,000 in total. Part-time employees are limited to sick leave based on the average number of hours the employee works in a two-week period.

Employers are prohibited from requiring employees to use other paid leave before using the emergency sick time. An employer cannot require the employee to find a replacement employee as a condition of receiving the paid sick time.

AM I ELIGIBLE FOR UNEMPLOYMENT BENEFITS IF I AM UNABLE TO WORK DUE TO COVID-19?

The California Employment Development Department (EDD), which administers unemployment benefits, has **eliminated the waiting period** for disability insurance claims for those unable to work due to COVID-19 infection or exposure. Disability insurance is a short-term benefit payment to employees who have a full or partial wage loss due to a non-work-related illness or injury.

Paid Family Leave (PFL), which provides up to six weeks of benefit payments, also is available through EDD to employees caring for a family member who is ill or quarantined from COVID-19. Most employers will integrate PFL with other eligible leave, such as FMLA.

Unemployment insurance also is available through EDD to employees whose hours are reduced or eliminated because of COVID-19. While this is more likely in the private sector than in public employment, a protracted period of coronavirus lockdown may cause public agencies to reduce manpower as a cost-saving measure.

If you have any questions about leave benefits or other employment issues related to the COVID-19 pandemic, you should contact your labor association, local agency or association counsel for additional guidance.

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