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*Andrew M. Cuomo, Governor
Roberta Reardon, Commissioner*

GUIDANCE ON USE OF PAID SICK LEAVE FOR COVID-19 VACCINE RECOVERY TIME

On April 3, 2020, Governor Cuomo signed legislation establishing the right to leave for New Yorkers. New York’s paid sick leave law requires employers with five or more employees or net income of more than \$1 million to provide paid sick leave to employees, and for employers with fewer than five employees and a net income of \$1 million or less, to provide unpaid sick leave to employees. This law is in addition to the New York State provisions already in effect providing emergency paid sick time due to COVID-19, as well as the COVID-19 vaccination leave protections signed into law by Governor Cuomo on March 12, 2021.

Recent studies have found that workers were avoiding the COVID-19 vaccine due to a fear of missing a day of work, and thus a day of wages. While the side effects of the vaccine are usually rare, Section 196-b of the Labor Law allows employees to use sick leave “for mental or physical illness, injury, or health condition, regardless of whether it has been diagnosed or requires medical care at the time of the request for leave.” Therefore, employers are obligated to honor the employee’s desire to use accrued sick leave for the recovery of any side effects of the COVID-19 vaccination.

Employees are also entitled to leave under Section 196-c of the Labor Law to receive vaccinations. For additional information please visit: on.ny.gov/COVIDvaccineleave

This document supplements prior guidance on the application of Labor Law Section 196-b. All prior guidance remains in effect.

For additional information about COVID-19, please visit the New York State Department of Health’s coronavirus website: coronavirus.health.ny.gov/home

For additional information on New York’s Paid Sick Leave Law, please visit: ny.gov/paidsickleave

For additional information about New York’s COVID-19 sick leave law, please visit: ny.gov/COVIDpaidsickleave