
OLR Bill Analysis

sSB 422

AN ACT CONCERNING THE ESSENTIAL WORKERS COVID-19 ASSISTANCE PROGRAM.

SUMMARY

This bill expands the Essential Workers COVID-19 Assistance Program to cover a broader range of essential employees. More specifically, these include people employed in a category that the Centers for Disease Control and Prevention (CDC) recommended for a vaccination in phase 1c of the COVID-19 vaccination program (e.g., employees in community housing services, transportation occupations, and restaurants, among many others). PA 21-2, June Special Session, § 289, established the program to provide benefits for lost wages, out-of-pocket medical expenses, and burial expenses to certain essential employees who could not work due to contracting COVID-19 or symptoms that were later diagnosed as COVID-19 between March 10, 2020, and July 20, 2021.

The bill also expands the program to provide COVID-19 leave benefits to those who missed work, without pay, for certain reasons related to COVID-19 since July 21, 2021. The eligible reasons for the leave include, among other things, the employee (1) having COVID-19 and needing to quarantine, (2) needing to quarantine because of COVID-19 symptoms or potential exposure to COVID-19, (3) being prohibited from working by his or her employer due to concerns over potential COVID-19 transmission, and (4) needing to care for a family member under quarantine or whose school has been closed due to COVID-19.

The expanded leave benefit is available to cover up to 80 hours of an employee's unpaid time lost from work between July 21, 2021, and the end of the emergency declared by the governor on March 10, 2022 (presumably, 2020), and extended by the legislature on February 14,

2022.

Lastly, the bill makes numerous technical and conforming changes.

EFFECTIVE DATE: Upon passage

ESSENTIAL EMPLOYEES

Under current law, the “essential employees” covered by the program are those employed in a category that the CDC’s Advisory Committee on Immunization Practices, as of February 20, 2021, recommended to receive a COVID-19 vaccination in phase 1a or 1b of the COVID-19 vaccination program. These include health care personnel, firefighters, police officers, corrections officers, food and agricultural workers, manufacturing workers, grocery store workers, public transit workers, education sector workers, and child care workers.

The bill further expands the essential employees covered by the program to include those who the CDC recommended for a COVID-19 vaccination in phase 1c of the program. These include employees in the transportation and logistics, food service, energy, shelter and housing, and news media workforce categories, among several others.

COVID-19 LEAVE BENEFITS

The bill also expands the program to provide up to 80 hours of COVID-19 leave benefits to “affected employees” who missed work, without pay, for an “eligible reason for leave” after July 20, 2021.

Affected Employees

Under the bill, “affected employees” eligible for COVID-19 leave benefits are essential employees, as amended by the bill, who due to an “eligible reason for leave” could not perform the functions of their job at any time between July 21, 2021, and the end of the public health and civil preparedness emergencies declared by the governor on March 10, 2022 (presumably, 2020), and extended by the legislature on February 14, 2022.

Affected employees do not include the following essential

employees:

1. those employed in a capacity where they worked solely from home and did not have physical interaction with other employees during the 14 consecutive days immediately before the eligible reason for leave or
2. those who received a written offer or directive from their employer to work solely from home but otherwise chose to work at their employer's work site.

Eligible Reasons for Leave

Under the bill, the “eligible reasons for leave” for which affected employees may receive COVID-19 leave benefits are any of the following:

1. affected employees' need to (a) self-isolate and care for themselves due to a COVID-19 diagnosis, symptoms, or exposure; (b) seek COVID-19 preventive care; (c) seek or obtain a diagnosis, care, or treatment for COVID-19 symptoms; or (d) seek or obtain a COVID-19 vaccine or booster dose, or recover from an injury, disability, illness, or condition related to one;
2. affected employees' need to comply with an order or determination to quarantine because (a) they have COVID-19 symptoms or possible exposure to COVID-19, regardless of whether they were diagnosed with COVID-19, and (b) their physical presence on the job or in the community would jeopardize their health or that of other employees or someone in the employee's household;
3. affected employees' inability to work because they were (a) prohibited from working by their employer due to health concerns related to potential COVID-19 transmission; (b) subject to a general local, state, or federal quarantine order; or (c) seeking or waiting for a COVID-19 diagnosis or test result after an exposure to COVID-19 or request by the employer;

4. affected employees' need to care for a family member who is (a) self-quarantining or subject to a general local, state, or federal quarantine order or (b) seeking preventive care, diagnosis, treatment, or a vaccine or booster, or recovering from them;
5. affected employees' need to care for a child or other family member whose (a) care provider is unavailable due to COVID-19 or (b) school or place of care has been closed due to COVID-19, including when it is physically closed but provides virtual learning, requires or has optional virtual learning, or requires or offers a hybrid of in-person and virtual learning; or
6. affected employees cannot work because they have a health condition that may increase susceptibility to or risk of COVID-19, including age, heart disease, asthma, lung disease, diabetes, kidney disease, or a weakened immune system.

Under the bill, a "family member" for whom an affected employee may use the leave includes a spouse, sibling, son or daughter, grandparent, grandchild, or parent, or an individual related to the employee by blood or affinity whose close association the employee is the equivalent of those family relationships.

Benefits

The bill allows eligible affected employees to receive up to 80 hours of benefits for their "uncompensated leave," which is the wages or salary they lost due to an eligible reason for leave. An employee's uncompensated leave does not include any leave from work that was covered by a paid leave plan provided by their employer or under a state or federal law.

Under the bill, an affected employee's benefit level, subject to available funds, must be 100% of his or her hourly uncompensated leave. The benefit is available retroactively to July 21, 2021, for work lost due to an eligible reason for leave.

As with the benefits currently provided by the program, the bill's COVID-19 leave benefits are not considered income under the state's

personal income tax law, corporation tax, or any other tax laws.

Applications

To apply for COVID-19 leave benefits, the bill requires an affected employee to submit a claim to the program administrator (i.e., the state comptroller) in a form the administrator requires. The claim must include (1) evidence of the employee's hourly earnings during the eight calendar weeks immediately preceding the date that the employee could not work due to an eligible reason for leave, (2) the amount of uncompensated leave the employee incurred due to the leave, and (3) any additional information the administrator requests or requires.

Claim Determinations, Appeals, and Overpayments

The bill extends the current program's provisions on claim determinations, appeals, and overpayments to COVID-19 leave benefits, which are briefly summarized below.

Claim Determinations. The administrator must promptly review the claims based on the provided information and evaluate each one to determine whether it should be approved and, if so, the benefit amount. The administrator must provide a written determination within 60 business days after receiving the claim notice or, if the administrator requested additional information, within 10 business days after receiving that information. The administrator must direct the comptroller to pay the COVID-19 leave benefits in the amount and for the duration determined by the administrator, if applicable.

Appeals. An affected employee may request that a claims determination be reconsidered by the administrator's designee. The request must be filed within 20 business days after the determination notice was mailed. The designee must conduct the requested reconsideration as a de novo review of all relevant evidence and issue a decision affirming, modifying, or reversing the administrator's decision. An affected employee cannot further appeal a case beyond the administrator's designee.

Overpayments. If a claim is paid to an affected employee erroneously

or due to the employee's willful misrepresentation, the administrator may seek repayment of benefits. For willful misrepresentation, the administrator may also seek payment of a penalty equal to 50% of the benefits paid because of the misrepresentation.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 4 (03/24/2022)