

**PHILADELPHIA –
2021 PUBLIC HEALTH EMERGENCY LEAVE
(PHEL)**

Applies to employers with 50 or more workers.

**What Qualifies as a Public Health Emergency
(PHE)**

Means a declared or proclaims emergency related to a public health threat, risk, disaster or emergency that affects Philadelphia that is made or issued by a federal, state or local official with the authority to make or issue such a declaration or proclamation.

Eligibility

To be eligible an employee must have worked for a covered employer for 90 or more days and:

- (1) Work in Philadelphia;
- (2) Normally work in Philadelphia but currently telecommute from outside the city;
- (3) Work from multiple or mobile locations but spend 51% of the time working in Philadelphia.



EFFECTIVE: 3/29/2021 to TBD

Covered Uses – The 2021 ordinance expands the reasons for which employees can use PHEL. Leave is available for immediate use at any time during the COVID-19 public health emergency (and for one week following the conclusion or suspension of such emergency) when employees are unable to work due to one or more of the following reasons:

- A public official, public health authority, health care provider, or an employer determines that the employee’s presence on the job or in the community would jeopardize others’ health because of the employee’s exposure to COVID-19 or the employee is exhibiting symptoms that might jeopardize others’ health, regardless of whether the employee has a positive COVID-19 diagnosis;
- To care for a family member due to a public official, health authority, health care provider, or employer’s determination that the family member’s presence on the job or in the community would jeopardize others’ health because of the family member’s exposure to COVID-19 or the employer’s determination that the family member is a danger to others’ health because the family member is exhibiting symptoms that might jeopardize others’ health, regardless of whether the family member has a positive COVID-19 diagnosis;
- An employee needs to: (i) self-isolate due to a positive COVID-19 diagnosis; (ii) self-isolate due to experiencing symptoms of COVID-19; or (iii) seek or obtain medical diagnosis, care,

Employees can use PHEL in hourly increments.

An employer cannot require an employee to use other paid sick leave available to the employee, e.g., pre-COVID statutory Philadelphia paid sick leave, before the employee is eligible to use 2021 PHEL, unless state or federal law requires otherwise.

- or treatment if experiencing symptoms of an illness related to COVID-19;
- To care for a family member who: (i) is self-isolating due to a positive COVID-19 diagnosis; (ii) is self-isolating due to experiencing symptoms of COVID-19; or (iii) needs medical diagnosis, care, or treatment if experiencing symptoms of an illness related to COVID-19;
- To care for a child whose school or place of care has been closed, or whose childcare provider is unavailable, due to precautions taken in accordance with the public health emergency response;
- To obtain a COVID-19 vaccine; or
- To recover from any injury, disability, illness or condition related to a COVID-19 vaccination.

Rate of Pay

Hiring entities must pay PHEL at the work’s regular rate of pay, and with the same benefits, including health care benefits, as the individual normally earns, which cannot be less than the state minimum wage. To calculate the “regular rate of pay,” employers use the same formula they would for overtime purposes under state law.

Amount of Leave – Employer must provide—rather than have employees accrue—the following amounts of 2021 PHEL

Individual Who Works	Amount of Leave
<p>40 Hours or More per Week</p> <p>Bona fide executive, professional, and outside sales employees are assumed to work 40 hours in each workweek unless their normal workweek is less than 40 hours, in which case the amount of leave is based on their normal workweek.</p>	<p>80 hours</p>
<p><40 Hours Per Week</p>	<p>Receive an amount of leave equal to the amount of time they are scheduled to work or actually work on average in a 14-day period, whichever is greater.</p>
<p>Hours Vary Week to Week</p>	<p>Receive the average number of daily hours that the employee was scheduled over the past 90 days of work, including hours for which the employee took leave of any type, multiplied by 14.</p>

Employee Notice Requirements

Employees must provide notice to their employers as practicable and as soon as feasible, but only when the need for leave is foreseeable.

An employer can request that an employee submit a self-certified statement asserting that leave was taken for a covered reason under the ordinance.

No Pay Out Upon Termination

There will be no pay out of accrued but unused public health emergency leave upon termination, resignation, retirement, or other separation from employment.

Using Existing Paid Leave Benefits

In general, 2021 PHEL benefits are in addition to all other paid leave benefits an employer provides, and an employer cannot reduce the amount of 2021 PHEL it must provide the amount of paid leave an employee previously received, including any 2020 PHEL or other 2020 COVID-related leave. Under limited circumstances, however, employers can apply pre-existing benefits to satisfy 2021 PHEL requirements in whole or part.

Prohibitions

As a condition of providing PHEL, employers cannot require employees to search for or find a replacement to cover the hours during which they are using leave. Employers cannot reduce the amount of any paid leave an employee could use or accrue under the employer's existing policies (if any) as of March 1, 2021. Employers cannot take retaliatory personnel action or discriminate against an employee who exercises rights protected by the ordinance.

City of Philadelphia City Zip Codes Included – In SmartSearch, if the employee is working in “Philadelphia”, mark Personnel subarea as “Philadelphia.” If they live in Philadelphia but do not work in Philadelphia, mark Personnel subarea as “Other Locations”.

19019	19127	19155	19244
19092	19128	19160	19255
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19126	19154	19197	

COVID-19 Pandemic Paid Sick Leave Notice to Employees

Amendments to Chapter 9-4100

Healthcare Employee Pandemic Paid Sick Leave

Employer requirements:

Starting September 9 2020, Healthcare employers must provide certain Healthcare Workers (including pool employees and service employees) with paid sick leave when the employee tests positive for COVID-19. This includes hospitals, nursing homes, and home health providers.

In order to qualify, the eligible employee must have worked at least 40 hours within the three months prior to the positive COVID-19 test. In order to use your health care employee leave, you must request it from your employer.

Public Health Emergency Leave

2020 Employer requirements:

Starting September 17 2020 until December 31 2020, employers with **500 or more employees** must provide **up to 112 hours** of paid sick leave to employees who request it for certain COVID-19 reasons including :

- 1) Care for self or family member showing symptoms of COVID-19.
- 2) Care for self or family member advised to self quarantine by a health care provider.
- 3) Care for self or family member during local quarantine.
- 4) Childcare or school closure.

A note is not required in order to request public health emergency leave. Additional protections are outlined in the law and it's regulations. Employees excluded in the FFCRA can be eligible under this provision. In order to use your emergency leave, you must request it from your employer.

Employees with multiple employers have specific terms and conditions outlined in the regulations including start date. You may be eligible for state or federal benefits. There is no 90 day waiting period for eligible employees.

Employer requirements:

Starting March 29 2021 and during the COVID-19 pandemic, employers with **50 or more employees** must provide **up to 80 hours** of paid sick leave to certain employees who request it for certain COVID-19 reasons including :

- 1) Care for self or family member showing symptoms of COVID-19.
- 2) Care for self or family member exposed to COVID-19 in order to self isolate.
- 3) Childcare or school closure.
- 4) In order to receive a vaccine or recover from injury, disability or illness related to vaccination.

This paid sick leave must be provided outside of and prior to using the eligible employee's existing accrued paid time off banks for certain employees. Covered employers whose existing leave policies provides 160 hours or more of paid time off in 2021 that is not specifically designated as sick leave but can be used for the same purposes under the same conditions as required by this law shall not be required to provide additional paid sick leave. In order to use your emergency leave, you must request paid sick leave from your employer. Eligible employees must be employed for 90 days or more.

**Employers may be eligible to receive a federal tax credit when they provide emergency paid sick leave.*

Retaliation by employers is prohibited.



The Office of Worker Protections
215.686.0802
COVID19WorkerProtections@phila.gov

Employers
Request compliance
assistance by contacting the
Office of Worker Protections

Employees
File a complaint
by contacting the Office of
Worker Protections

Employees have two years from when the violation occurred to file a complaint. Our office will not ask for identification or social security information. Language access is available.