

# New York City Department of Health Issues Standing Isolation Order for Purposes of New York State Emergency Sick Leave Law

**Law and the Workplace Blog** on May 12, 2020

The New York City Department of Health has issued a standing [Order](#) that creates a process for those who live or work in the City to receive the documentation needed to claim leave in certain circumstances under the New York State COVID-19 Emergency Sick Leave Law.

The State Emergency Sick Leave Law requires New York employers to provide job-protected sick leave to employees who are subject to an order of quarantine or isolation issued by the State of New York, a state or local health department, or any other governmental entity due to COVID-19. We previously addressed both the [Law](#) and [guidance](#) on the Law in prior posts. The new City Order directs certain New York City residents affected by COVID-19 to self-isolate at home or another appropriate location, and deems these residents to have been ordered to self-isolate for purposes of the state Emergency Sick Leave Law.

## ***Applicability of the Standing Order***

According to an [FAQ](#) issued by the NYC Department of Health, the Order applies to employees who live or work in New York City and currently meet or previously met the qualifications for mandatory isolation. Namely, the employee must: (1) have tested positive for COVID-19; (2) have had contact with a known COVID-19 case, be currently experiencing COVID-19 symptoms, and be unable to get a test; or (3) meet another qualification for mandatory isolation described by the New York City Department of Health, the New York State Department of Health, or the CDC.

The following circumstances qualify as “contact with a known COVID-19 case” under the second qualification scenario above:

1. Sharing the same household or having direct physical contact with a person who has tested positive for COVID-19 or is presumed to have COVID-19;
2. Having direct contact with infectious secretions (for example, being coughed on or touching a used tissue with bare hands) of a person who has tested positive for COVID-19 or is presumed to have COVID-19;
3. Having close contact, either by being within 6 feet for about 10 minutes or being in the same enclosed space for a sustained period, with a person who has tested positive for COVID-19 or is presumed have COVID-19; or
4. Travel on a cruise ship or from a country the CDC has recognized as a “hotspot” for COVID-19 and has issued a level 2, 3 or 4 travel advisory.

Notably, the Order does not apply to employees who are asymptomatic but must quarantine because they have been in close contact with someone who has tested positive or experienced COVID-19 symptoms. Such individuals should contact the New York City Department of Health to request an individual order in order to obtain leave under the Emergency Sick Leave Law.

### ***Completing and Submitting the Order to Employers***

The Order is not valid unless the employee completes and signs one of three Appendices attached to the Order. Appendix A applies to healthcare workers, Appendix B applies to employees who are not healthcare workers but who are otherwise deemed essential under the [recent executive orders](#) issued by Governor Andrew Cuomo, as interpreted by the Empire State Development Corporation’s [guidance](#), and Appendix C applies to all other employees. Employees must complete and sign the appropriate appendix, gather the necessary documentation showing that isolation is or was necessary, and submit the completed packet to their employer.

Additional steps may be necessary depending on which Appendix applies. For example, healthcare workers and other essential employees completing Appendix A or B must be advised to isolate by medical professional and receive documentation of such advice. Healthcare employees completing Exhibit A may also be asked by their employer to provide additional documentation or information that confirms the need for isolation. On the other hand, non-essential employees completing Appendix C must simply affirm the reason they are required to isolate.

### ***Processes in Other Jurisdictions***

New York City is not the first locality in the State to issue a standing order relating to quarantine or isolation due to COVID-19 exposure – [Dutchess](#), [Erie](#), [Orange](#), [Putnam](#), [Rockland](#), and [Westchester](#) Counties have all issued similar orders that apply to residents who have tested positive for COVID-19. Rather than issuing standing orders, [Nassau](#) and [Suffolk](#) Counties have created online portals through which residents may request individualized orders.

According to [guidance](#) issued by the State, employees in other counties should contact their local health department for an order. If the local health department is unable to immediately provide an order, the employee should: (1) submit documentation from a licensed medical provider that has treated the employee stating that the employee qualifies for the order; and then (2) follow up with the local health department, who must provide the requested order within 30 days.

Proskauer's team is closely monitoring these orders and will provide updates as they become available.

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