

Tweak To Colo. Sick Leave Rule Helps Ease Compliance

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Jake Rubinstein was quoted in a Law360 article discussing the Colorado Department of Labor and Employment's (CDLE) recent change to its paid sick leave rule, allowing employers to calculate a worker's hourly rate for paid sick time by averaging their hourly earnings over the previous 28 to 31 days, amending the formerly used 30-day lookback period. The state's Healthy Families and Workplaces Act (HFWA) took effect in 2021, requiring up to six paid sick days per year, which accrue at a rate of one hour of leave per 30 hours of work. Still, some employers have issues with how the HFWA intersects with other forms of time off, such as leave offered through the Colorado Family and Medical Leave Insurance program.

While the time off may be compliant, workplace policies for how employees access it may need refining. However, the CDLE has helped answer questions about what employers should do in difficult situations and better understand their obligations. Jake explained that the HFWA is part of a series of progressive policies lawmakers have enacted in recent years. He shared, "HFWA was primarily designed to benefit low-wage workers because the reality is that higher-wage workers, white collar professionals, managers, executives — they already have paid sick leave." While smaller businesses may struggle to comply with the law because of the impact of a single person's absence, Jake advises clients to take a broad outlook on paid sick leave. He suggested, "Look at a more generous sick leave policy as a recruitment and retention benefit. Look at it as a benefit in creating a healthier workplace."

Colorado's current low unemployment rate forces employers to work harder to attract talent. Jake noted, "You could say, instead of the minimum one hour of sick leave per every 30 hours worked, we're going to offer one full day of sick leave for every month worked. If you're having trouble attracting and retaining people, try making tweaked improvements to benefits and see if that makes a difference." He emphasized that viewing paid sick leave as a tool for recruiting a solid workforce helps reframe it from a labor cost to an investment in the business. He said, "No matter what, you have to offer HFWA as a minimum. But you should probably offer more."

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