



## Healthy Working Families Act - 2018 FAQ on Maryland's new paid sick and safe days law

### When did the Healthy Working Families Act (HWFA) go into effect?

The HWFA became law on February 11, 2018. On that day, covered employees began earning leave.

### What does this law do?

HWFA allows workers in Maryland to earn paid or unpaid sick and safe leave. HWFA is not a general paid-time off policy but instead a law that will allow workers to take care of their health and safety and that of their family members.

### Does HWFA apply to all of Maryland workers?

HWFA has certain limitations and does not apply to all Maryland workers. Specifically, HWFA does not apply to the following: agricultural workers; realtors; workers under the age of 18; workers employed by a temporary services agency to provide temporary staffing services to another person; workers directly employed by an employment agency to provide part-time or temporary services to another person; workers who regularly work fewer than 12 hours week; workers in the construction industry covered by a collective bargaining agreement waiving sick and safe leave in clear and unambiguous terms; workers who are on-call in the health or human services industry that can reject or accept a shift, are not guaranteed to be called for work, and are not employed by a temporary staffing agency.

### Which workers get paid versus unpaid sick and safe leave?

- Those who work for employers that have 15 or more employees can earn paid sick and safe leave.
- Those who work for employers that have 14 or less employee can earn unpaid sick and safe leave.

### What is the difference between sick leave and safe leave?

Sick leave is time used to care for an illness and/or preventive care. Safe leave is time used to address a situation in which safety is at risk, such as domestic violence, sexual assault, or stalking. Both types of leave are permitted.

### How soon can an employee use sick and safe leave?

Covered employees began earning leave on February 11, 2018. Employers may require new employees to wait 106 days before they can use their earned leave, though they begin accruing it as soon as they start working. However, employers may choose to allow their employees to access their earned leave at any point prior to the 106-day waiting period.

### How does HWFA impact businesses that already provide sick days to their employees?

The business may continue with its current paid-time off policy so long as the policy meets the law's minimum time requirements (up to 40 hours per year) and allows workers to use the time off for sick and safe leave.



## HWFA 2018 FAQ – CONT'D

### **How much sick and safe leave do employees earn?**

Employees earn one hour of leave for every 30 hours of work, and the employer may limit total earned leave to 40 hours in one year. The HWFA allows employers to cap the *total* earned leave accrued – including leave carried over from a prior year – to 64 hours. Likewise, employers are permitted to cap use of earned sick and safe leave at 64 hours per year. Employers may choose to be more generous in the amount of leave that may be earned by employees.

### **What happens if an employee does not use the leave they earned in that year?**

With some exceptions, employees may generally carry unused sick and safe leave over to the following year. However, the HWFA allows employers to limit the amount of leave carried over to 40 hours, even if an employee has more than 40 earned and unused hours at the end of the year. Employers may choose to be more generous in the amount of leave that may be carried over. Employers are not required to permit “carry over” if: they front-load the leave available to employees at the beginning of the year; or, the employer is a governmental unit or non-profit organization and the employee is working pursuant to a one-year grant that is not subject to renewal.

### **How much leave can a worker use at any point?**

An employer may require a worker to take leave in an increment of time not exceeding four hours.

### **Can my employer ask for proof that I was sick or that I took leave related to domestic violence or stalking?**

Employers *may* request verification: after an employee has taken leave for two consecutive shifts; *or* if the employee agreed to provide verification at the time of hire and uses leave between the 107 and 120 days of employment. Employers are not required to ask for verification, nor are they required to seek written proof.

### **Can an employer deny my sick leave?**

Employers may deny a request for leave if the employee failed to provide a notice as soon as practicable and/or failed to comply with the employer’s notice requirements. Private employers licensed under Title 7 or Title 10 of the Health – General Article that provide services to developmentally disabled or mentally ill individuals may deny a request for leave if the employee’s request would cause a disruption in services to the individual receiving care.

### **Do employers have to notify their employees of this new law?**

Yes. Employers must notify their employees if they can earn leave under HWFA by way of a notice. The notice must include a statement of how the sick and safe leave is accrued, the purposes for which the leave may be used, the purposes for which the leave may not be used, a statement that the employer will not take adverse action against employees that use leave, and a warning that complaints made in bad faith by employees may be punishable by law.

### **Are employers required to inform employees of how much time they have earned?**

Yes. HWFA states that employers must provide a statement in writing to the employee regarding the amount of earned sick and safe leave that is available for use by the employee. This statement must be provided to the employee at the time wages are paid to the employee. The notification may be through an online portal.

### **What can a worker do if they believe their employer is not following this new law?**

Employees who believe their employer violated the HWFA will be able to file a complaint with Maryland’s Department of Labor, Licensing and Regulation (DLLR).

*Current as of August 30, 2018 – For more information [www.earned sick days md.org](http://www.earned sick days md.org)  
Check out our Facebook Page!*