

# Paid Leave Concerns When Employees Get COVID-19 Twice

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Law360 (July 15, 2020, 4:21 PM EDT) -- The coronavirus has been novel in more ways than one. On one end of the spectrum, employers confront new questions of almost philosophical dimensions.

How much risk is too much risk? What risks should we ask our employees to accept? Where is the line between ordinary risk — the kind that employees undertake when they walk out the door every day to go to work — and the extraordinary risks posed by a pandemic from which, in the end, employers cannot entirely shield their workforces?

A seemingly more mundane novelty is the plethora of new COVID-19 laws and regulations. Compliance should just be a matter of reading a statute and, well, complying. But even there, an evolving real-world pandemic potentially makes compliance just as complicated.

One example we have helped our clients wrestle with involves exactly this kind of straightforward-on-paper, tricky-in-practice complexity.

One requirement of the Families First Coronavirus Response Act appears to be simple: When an employee working for an employer with under 500 employees gets sick with COVID-19, is seeking a COVID-19 diagnosis, or is subject to a quarantine order of a doctor or a government, they are entitled to up to 80 hours of emergency paid sick leave.

And that made perfect sense when the law was hurriedly drafted: You get sick once, and you do not get sick again, right?

Wrong. Mounting evidence now shows that contracting COVID-19 does not confer absolute immunity and that many individuals have now contracted the novel coronavirus more than once. So what happens when an employee exhausts his or her 80-hour emergency paid sick leave entitlement, recovers from COVID-19, and then contracts it again?

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