

Influenza State of Emergency Declaration Activates Employers' Duty to Grant Additional Emergency Sick Leave to Afflicted Employees

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On January 27, 2026, Puerto Rico Governor Jennifer González Colón issued Executive Order 2026-005 (OE-005) declaring a state of emergency as the result of the Influenza epidemic currently affecting Puerto Rico.

OE-005 activates Law No. 37-2020, which grants a special paid emergency sick leave of five (5) working days for private sector *non-exempt* employees who suffer, or are suspected of suffering, from the illness that resulted in the declaration of a “State of Emergency” by the Governor or Secretary of Health.

Law 37-2020 provides that non-exempt employees afflicted (or suspected of being afflicted) by an illness recognized by a “State of Emergency” are entitled to use all their accrued vacation and sick leave, plus any other available paid leave; and, if upon exhausting all these leaves, the employee continues to be afflicted with a covered illness, the employee will be entitled to this additional emergency paid sick leave of up to five (5) working days.

Law 37 is an amendment to Puerto Rico Law No. 180-1998, which regulates the accrual, use and payment of mandatory paid sick leave benefits to hourly employees. Since Law 180-1998 does not cover executives, administrators, or professionals, as defined by the *Fair Labor Standards Act* and Puerto Rico’s Regulation 13, these are also excluded from the special sick leave benefit of Law 37-2020.

OE-005 will be in effect indefinitely until the Puerto Rico Governor or the Secretary of Health declares the end of the Influenza epidemic state of emergency.

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