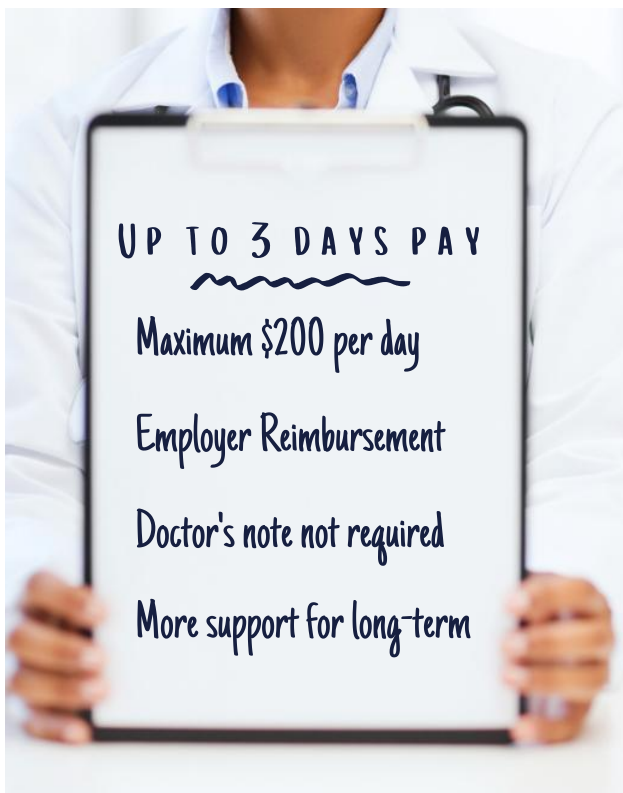


Ontario's new paid leave for COVID-19



WHAT YOU NEED TO KNOW

Q&As
on
page 3



The bare bones

On April 29, 2021, the Ontario government passed *Bill 284, COVID-19 Putting Workers First Act, 2021* amending the Employment Standards Act, 2000 (the "ESA") to require employers to provide employees with *up to three days of paid leave* if they miss work for reasons related to COVID-19.

Bill 284, COVID-19 Putting Workers First Act, 2021

The entitlement is retroactive to April 19, 2021 and will end on September 25, 2021, with the possibility that it might be extended.

Eligibility

Employees are entitled to three days of paid leave if they are:

- Under medical investigation, supervision or treatment related to COVID-19;
- Going to get vaccinated;
- Experiencing a side effect from a COVID-19 vaccination;
- Under a direction from their employer, medical practitioner or other authority to self-isolate;
- Providing care or support to a dependent who is:
- Sick with COVID-19 or has symptoms of COVID-19; or
- Self-isolating due to COVID-19
- Employees are not required to provide a medical note to qualify for this leave.

Keep in mind...

- **Doctor's note not required**
- **The 3 days don't have to be consecutive**

Employers and their workers can call a dedicated COVID-19 Sick Days Information Centre hotline at **1-888-999-2248** or visit **Ontario.ca/COVIDworkerbenefit** to get more information and updates about the proposed Ontario COVID-19 paid leave days.

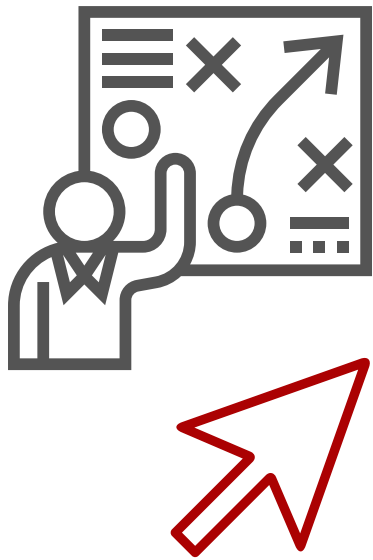
Calculation of Paid Leave Benefit

The leave under Bill 284 will be calculated and paid out by using the employee's regular rate of pay.

The legislation provides that employers will be required to pay the employee the lesser of \$200 per day and either:

- i) the wages the employee would have earned had they not taken the leave, or
- ii) if the employee receives commissions or tips, the greater of the employee's hourly rate, if any, and the minimum wage that would have applied to the employee for the number of hours the employee would have worked had they not taken the leave.

Eligible employees will be paid up to a maximum of \$200 per day.



There are many more conditions that might apply to your situation, so check the complete details here:

Employers and their workers can call a dedicated COVID-19 Sick Days Information Centre hotline at **1-888-999-2248** or visit Ontario.ca/COVIDworkerbenefit to get more information and updates about the proposed Ontario COVID-19 paid leave days.



Employers Can Apply for Reimbursement

Employers can apply to the Workplace Safety and Insurance Board ("WSIB") in order to be reimbursed for payments, up to a maximum of \$200 per day, per employee. Employers will not be reimbursed for this paid leave if the employee received benefits under the Workplace Safety and Insurance Act, 1997 ("WSIA") for the days of the leave.

You'll need a completed application in the form approved by the WSIB, along with proof of payment and several other details.

Keep in mind...

- Retroactive to April 19, 2021
- Employers must apply for reimbursement within 120 days of making the payment
- The benefits end September 25, 2021 but that date could be extended

Longer Leaves

The Canada Recovery Sickness Benefit (CRSB) gives income support to employed and self-employed individuals who are unable to work at least 50% of their scheduled work week because they are either:

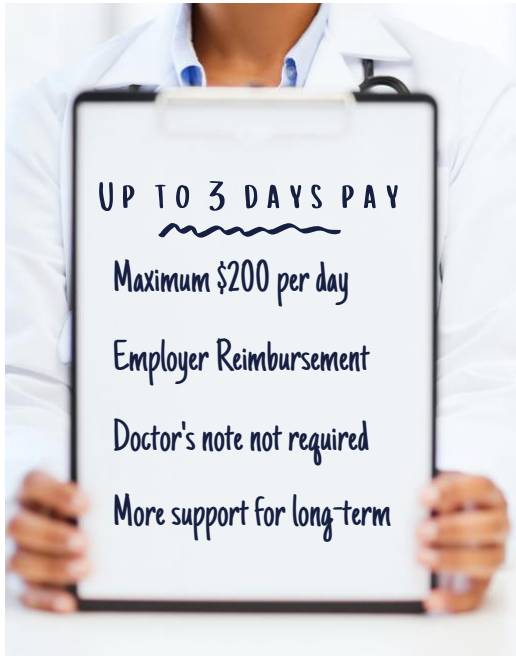
- sick with COVID-19
- need to self-isolate due to COVID-19
- have an underlying health condition that puts them at greater risk of getting COVID-19

Employees are not eligible for the CRSB if they are receiving paid leave from their employer for the same period or receiving any of the following for the same period:

- Canada Recovery Benefit (CRB)
- Canada Recovery Caregiving Benefit (CRCB)
- short-term disability benefits
- Employment Insurance (EI) benefits
- Québec Parental Insurance Plan (QPIP) benefits

CLARIFYING DETAILS

Ontario's new paid leave for COVID-19



Ontario to Introduce Paid COVID-19 Leave

Province to reimburse employers for up to three paid leave days related to COVID-19 for every employee.

Here are some common questions answered.

1. What if employees were already entitled to paid leave under their employment contracts?

Employees who were already entitled to at least three paid leave days for certain reasons relating to COVID-19 under their employment contracts are not entitled to additional paid leave under the Act. If, however, employees were already entitled to paid leave for reasons relating to COVID-19, but for less than three days, employees will be entitled to the balance of three days minus the entitlement in their contract. [Source: [Mondaq.com](https://www.mondaq.com)]

2. Under what circumstances is an employee entitled to paid leave?

The paid leave will only be available to employees who:

- Are covered by the Employment Standards Act; and
- Do not already receive paid sick time through their employer.

Independent contractors and federally regulated employees would not qualify for paid leave under the legislation. [Source: [Lexology.com](https://www.lexology.com)]

3. Details on Government Reimbursement

Eligible employers would be able to apply for a reimbursement from the government of up to \$200 per paid leave day taken by an employee.

If an employee's regular rate of pay is less than \$200 per day, reimbursement to the employer would be no more than the employee's regular rate of pay.

Applications for reimbursement must be made within 120 days of the paid leave.

The News Release indicated that Ontario will partner with the Workplace Safety and Insurance Board to deliver the program and reimburse employers.

[Source: [Lexology.com](https://www.lexology.com)]

CLARIFYING DETAILS

4. When did an employer's obligation to pay leave begin?

While the Act came into force on April 29, the paid leave entitlement is retroactive to April 19 and will remain in force until at least September 25, 2021. If an employee took unpaid leave between April 19 and April 29, where the eligibility for paid leave under the Act would have been satisfied, then the employee may elect to be paid for that leave by advising the employer in writing within 14 days after April 29 that the employee has elected to take the leave as paid leave. [Source: [Mondaq.com](https://www.mondaq.com)]

5. How can employers be reimbursed for providing paid sick leave?

Employers can apply for reimbursement of amounts paid for COVID-19 sick leave with Ontario's Workplace Safety and Insurance Board (WSIB). Employers may be entitled to be reimbursed a maximum of \$200 per day, per employee.

However, employers are not entitled to be reimbursed for payments made to an employee on or after April 29 for a paid leave under an employment contract where the employee would be entitled to paid leave under the Act. Employers are also not entitled to reimbursement where employees received benefits under the Workplace Safety and Insurance Act. [Source: [Mondaq.com](https://www.mondaq.com)]

6. How to claim reimbursement payments?

The Act specifies how employers must claim reimbursement from the Workplace Safety and Insurance Board and, notably, certain time limits are imposed. Applications for reimbursement must be made within 120 days of the payment and employers must carefully follow the procedural steps for filing applications.

Notably, the Board reserves the right to reject applications where they are incomplete or filed outside of the specified limitation periods. The Act specifies that employers have no right of reconsideration or appeal.

[Source: [Mondaq.com](https://www.mondaq.com)]

7. When would employees *not* be eligible?

- Employees who already receive an equal or greater amount of paid sick leave through their employer are not eligible for this benefit.
- Employees are not eligible for the CRSB if they are receiving paid leave from their employer for the same period.

Further Resources

Bill 284 - An Act to amend the
Employment Standards Act, 2000



Ontario COVID-19 Worker Income
Protection Benefit

Canada Recovery Sickness
Benefit (CRSB)

