



# **BEFORE IT'S TOO LATE:**

**How to close the paid  
sick days gap during  
COVID-19 and beyond**

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## ABOUT THIS REPORT

This report was prepared by the Decent Work and Health Network (DWHN) — a network of health providers based in Ontario who advocate for better health by addressing employment conditions. It is the first report of its kind in Canada. The analysis included in this report draws from best practices in jurisdictions across Canada, the US, and globally. The recommendations apply to Canadian provincial and territorial governments and the federal government.

In addition to a review of the latest evidence from medical and public health research, this report draws on findings from a national survey of physicians and 32 interviews with workers in Ontario who were impacted by inadequate paid sick days or employers requiring sick notes to access paid sick days. Both the survey and interviews were conducted by members of the Decent Work and Health Network (see Appendix B for more information on the methodology). Quotes reflecting key experiences of workers interviewed are included throughout the report. A summary of findings from the interviews with workers is included in Appendix C. The physician survey findings are reflected in the sections on the adequacy of paid sick days and requiring sick notes.

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## ACKNOWLEDGEMENTS

This report was a collective effort, with many health providers and workers contributing their knowledge, skills, and insights. The report would not have been possible without the workers who participated in the interviews. Support from the Ontario Employment Education and Research Centre (OEERC) and the Atkinson Foundation was crucial in the creation of this report. We respectfully acknowledge that this report was prepared on the traditional lands of the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee, the Wendat peoples, and other unrecorded nations. We are committed to active and ongoing solidarity with Indigenous struggles for self-determination. The DWHN is committed to addressing oppression and systemic discrimination within the workplace, healthcare system, and society at large as a significant contribution to improving health outcomes for all.

# EXECUTIVE SUMMARY

The COVID-19 pandemic has brought added urgency to the basic public health recommendation to stay home when sick. However, without effective paid sick leave legislation, too many workers are forced to choose between protecting public health by staying home and going to work sick to support themselves and their families. Paid sick days are an essential protection for all workers both during a pandemic and on a permanent basis to protect against other infectious illnesses like influenza.

The pandemic has exposed the urgency of addressing gaps in paid sick days as a matter of racial, gender, disability and economic justice. Low-wage racialized workers, who are more likely to be denied paid sick days, have faced higher rates of COVID-19 and greater negative economic impacts during the crisis. The most recent data available reveals that 58% of workers in Canada – and over 70% of workers making less than \$25,000 – have no access to paid sick days. Workplaces with precarious jobs have become hotspots for COVID-19, including long-term care homes, farms, meat-processing plants, nail salons, and grocery stores. The pandemic has clearly established precarious work, including the lack of paid sick days, as a public health hazard. These gaps are especially dangerous for workers with chronic health or immunocompromised conditions, and for persons with disabilities, seniors, children, and patients who rely on workers to provide care and support.

This report will examine public health research and medical evidence to better understand the efficacy of legislatively mandated paid sick days in containing infectious disease, including in curbing the spread of influenza and food-borne illnesses. Lessons are drawn from the SARS and H1N1 outbreaks about the important role of paid sick days during outbreaks in protecting public health and ensuring self-isolation directives are followed. Paid sick days also promote preventive care, create savings in the healthcare system, and reduce presenteeism (going to work while sick) with significant cost savings for businesses.

In Canada, paid sick days are only legislated in Quebec (2 days), PEI (1 day after 5 years of employment), and for federally regulated workers (3 days). Otherwise, workers rely solely on workplace policies for access to paid sick days. Rather than closing the gap in paid sick days during the pandemic, governments across Canada have responded by introducing unpaid, temporary leaves that are restricted to COVID-related reasons. Measures aimed at extending paid sick leave have only been introduced in the Yukon (a rebate accessed at the employer's discretion to provide paid sick days for COVID-related absences) and federally. Federally, a temporary program is set to provide 10 days of income support for COVID-related leave for workers without paid sick days. This program will not address the need for permanent paid sick days and raises concerns about barriers to access that would undermine its effectiveness.

*The pandemic is still here. We [still] don't have paid sick days. This intensifies the pressure to not miss a day. At my grocery store, we are almost all racialized workers and we take the TTC to work. On the bus there's no way to socially distance. Sometimes I'm literally face-to-face with people and at work I come into contact with over 200 people a day. I'm worried I'm going to get sick. If I get sick I have to stay home without pay and that means losing my financial security. I worry about things like paying rent. We need paid sick days as a security and so we're not expected to come in sick.*

— FELIX, GROCERY STORE WORKER

Canada lags behind other nations globally, in the bottom quarter of countries without guaranteed paid sick leave for workers on the first day of illness — a crucial measure that enables workers to stay home at the first sign of symptoms. Typically, other OECD countries legislate employer-provided paid sick days for short-term illness, with social insurance programs kicking in for longer term sick leave. In the US, which similarly does not guarantee employer-provided paid sick days, many jurisdictions have decided to close the gap. Since 2007, 13 US states and 23 cities or counties have instituted employer-provided paid sick days with positive outcomes for health, equity, business, and the economy.

This report also draws on interviews with workers about their experiences related to paid sick days and a physician survey about prescribing practices for common illnesses and sick notes, both conducted by Decent Work and Health Network members. Based on insights from the interviews and survey, the latest research, and best practices globally, this report advances 5 interrelated principles for effective paid sick day legislation:

- **Universal:** Available to all workers regardless of workplace size, type of work, or immigration status. Legislated, with no exemptions.
- **Paid:** Fully paid to ensure workers are not financially penalized for following public health advice.
- **Adequate:** At least 7 paid sick days provided on a permanent basis, with an additional 14 paid sick days during public health emergencies.
- **Permanent:** Available during the COVID-19 pandemic and beyond.
- **Accessible:** No barriers to access: prohibit employers from requiring sick notes; ensure no disruption of income or unnecessary applications; and provide sufficiently flexible leave that reflects the reality of workers' lives, healthcare needs, and caregiving responsibilities.

We hope these principles will act as a guide for jurisdictions across Canada to move quickly to adopt paid sick leave legislation to protect public health during the COVID-19 pandemic, through the upcoming influenza season, and beyond. The report concludes with recommendations for updating employment standards to provide employer-provided paid sick days — a proven and effective approach.

## SUMMARY OF RECOMMENDATIONS:

All provincial, territorial, and federal jurisdictions must update their employment standards to:

- Require employers to provide at least 7 days of paid emergency leave on a permanent basis.
- Require employers to automatically provide an additional 14 days of paid emergency leave during public health emergencies.

Any new paid sick leave legislation must:

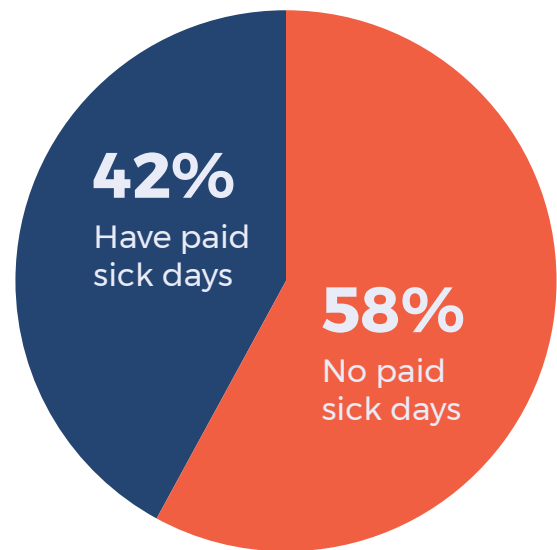
1. Ensure paid sick days are fully paid
2. Ensure paid sick days are adequate
3. Ensure paid sick days are permanent
4. Ensure paid sick days are available to all workers, regardless of employment status, immigration status, or workplace size
5. Prohibit employers from requiring sick notes
6. Prevent the introduction of any new barriers to accessing paid sick days
7. Cover personal sickness, injury, or emergency, as well as family emergencies and responsibilities

# INTRODUCTION: COVID-19 HAS EXPOSED THE GAP IN ACCESS TO PAID SICK DAYS

COVID-19 has highlighted the fundamental public health recommendation, “Stay home when sick.” Research demonstrates that staying home when sick is one of the most effective containment strategies for infectious disease.<sup>1,2</sup> The Public Health Agency of Canada (PHAC) recommends that anyone with COVID-19 or influenza symptoms stay home and avoid contact with others.<sup>3,4</sup> Provincial public health agencies in Canada advise self-isolating for up to 14 days after the onset of COVID-19 symptoms. These directives echo global public health agencies: the World Health Organization (WHO) recommends that anyone with COVID-19 symptoms stay home and self-isolate.<sup>5</sup>

Without public policy, however, behavioural recommendations are limited. Despite clear evidence and public health directives to stay home when sick, workers without paid sick days are forced to choose between sacrificing their financial security for public health or going to work sick to support themselves and their families – an untenable choice. The federal government has recently acknowledged that no one should “have to choose between protecting their health, putting food on the table, paying for their medication or caring for a family member.”<sup>6</sup> However, a lack of paid sick days persists. In Canada, only 3 jurisdictions have legislated minimal paid sick days: workers in Quebec have 2 paid sick days a year, workers in PEI have 1 paid sick day after 5 years with the same employer, and workers in federally regulated sectors have 3 paid sick days a year.<sup>1</sup> Ontario legislated 2 paid sick days a year in 2018, but the current government repealed them.<sup>7,8</sup>

## WHO HAS PAID SICK DAYS IN CANADA?<sup>ii</sup>



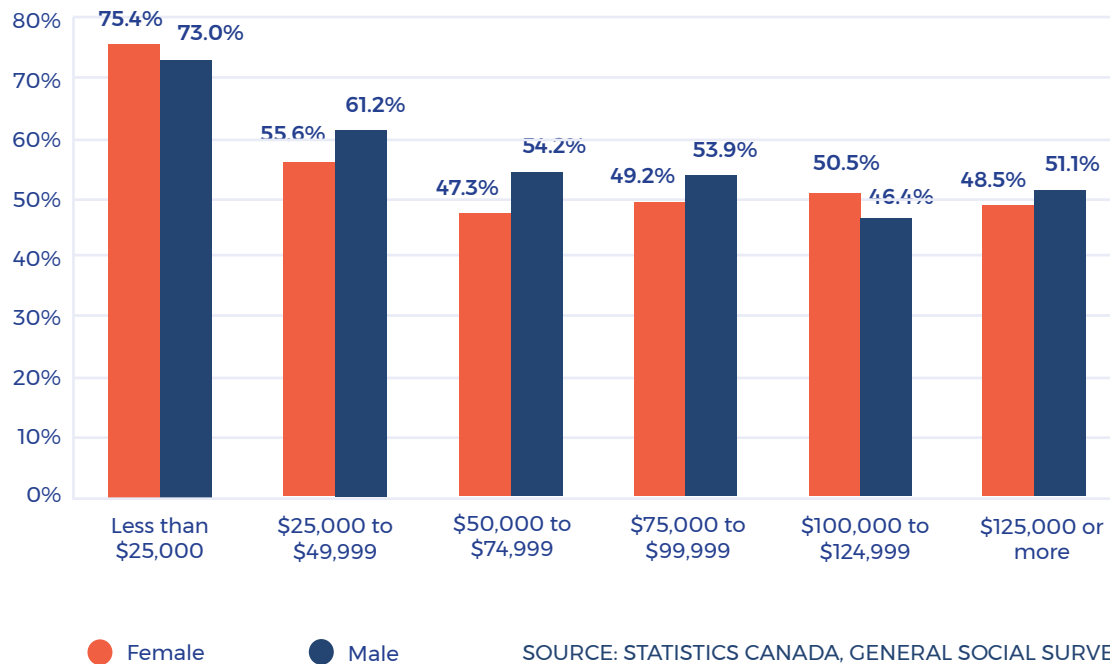
In the absence of legislation, workers rely on workplace policies for access to paid sick days. But a lack of legislative coverage denies paid sick days to over half the Canadian workforce. The most recent data available, from 2016, reveals that 58% of workers in Canada do not have a single paid sick day – ranging from 51% to 61% provincially.<sup>9</sup> Workers without paid sick days are more likely to be in low-wage jobs, which are disproportionately held by women, racialized workers and workers with disabilities. About half of workers making over \$50,000 do not have paid sick days, but that number jumps to over 70% for workers making \$25,000 or less.<sup>10</sup>

Many low-wage jobs are occupations with a high risk of exposure to COVID-19.<sup>11</sup> In effect, the absence of paid sick leave legislation denies paid sick days to those workers who need them most.<sup>12</sup> This is not only unjust but a threat to public health and the economy. Workers who have been recognized as essential during the pandemic – grocery store workers, care workers, delivery workers, and

i See Appendix A for more information about paid and unpaid sick days across Canada.

ii Yalnizyan A. After CERB: Paid sick leave provisions in Canada. Atkinsonfoundation.ca. <https://atkinsonfoundation.ca/atkinson-fellows/posts/after-cerb-paid-sick-leave-provisions-in-canada/>. Published June 17, 2020. Accessed August 6, 2020.

## LACK OF ACCESS TO PAID SICK DAYS BY INCOME AND GENDER<sup>iii</sup>



SOURCE: STATISTICS CANADA, GENERAL SOCIAL SURVEY, TABULATIONS BY JACOBSON CONSULTING INC.

Note: This chart is reproduced with permission from Armine Yalnizyan's brief, "After CERB: Paid sick leave provisions in Canada".

cleaners — are among those denied the essential protection of paid sick days. In the trade and transportation sector, which include grocery store and warehouse workers, 62% of workers lack paid sick days. In the service sector, including food services, the percentage is higher at 75%. Even in the health care and social services sectors, where risk of exposure to infectious disease is highest, 50% of workers do not have paid sick days.<sup>13</sup>

The COVID-19 pandemic has laid bare inequities in the labour market. Income and working conditions are the leading social determinants of health<sup>14</sup> and, predictably, low-wage workers have been hardest hit by the current crisis.<sup>15</sup> Over 80% of COVID-19 cases in Canada have been linked to long-term care,<sup>16</sup> where workers are primarily racialized women earning low wages in precarious jobs.<sup>17</sup> The biggest outbreak in a single workplace was at a Cargill meat-processing plant, where

mainly Filipino workers earn low wages and have no access to paid sick days.<sup>18</sup> Outbreaks on farms have led to over 1,000 cases and 3 deaths among migrant farm workers, primarily from the Caribbean and Latin America, who are denied paid sick days and whose temporary immigration status makes it impossible for them to assert their rights.<sup>19</sup> Outbreaks have been reported at grocery stores, nail salons, delivery companies, factories and other workplaces where precarious work is widespread.<sup>20,21,22,23</sup> Public health units have confirmed workplaces are key hotspots for the spread of the virus, especially as economies reopen.<sup>24</sup> The spread of COVID-19 has clearly established precarious work, including the denial of paid sick days, as a public health hazard.

As these outbreaks demonstrate, racialized communities have been most heavily impacted by COVID-19. While Canada does not

iii Yalnizyan A. After CERB: Paid sick leave provisions in Canada. Atkinsonfoundation.ca. <https://atkinsonfoundation.ca/atkinson-fellows/posts/after-cerb-paid-sick-leave-provisions-in-canada/>. Published June 17, 2020. Accessed August 6, 2020.



collect race-based COVID-19 data (a problem in itself), the disproportionate impact of the pandemic is clear — from the precarious work hotspots to the neighbourhoods most affected. For example, 52% of Toronto's population is racialized, yet racialized people account for 83% of COVID-19 cases in Toronto, and the city's northwest, home to some of the largest Black and Latin American communities, has the highest rate of COVID-19.<sup>25</sup> Racialized workers have also experienced a greater negative economic impact during the COVID-19 pandemic and are more likely to be struggling to pay for food, rent, and bills.<sup>26</sup> The link between systemic racism and health inequity is not unique to COVID-19. It has been well documented that racialized people living on low incomes are at higher risk of acute and chronic illness and death.<sup>27</sup> Increasingly, public health professionals are recognizing anti-Black and anti-Indigenous racism as a public health crisis.<sup>28,29</sup>

*I have accepted the fact that I'm going to get COVID. I think we all have. We're going to get it because of our working conditions, and we can't stay home when we're sick ... If we could take the time off when we had a cough or other symptoms, we could stop this entire process. But because we have no protection, we're forced to come into work. Without exception, all of us are going to get COVID and all of our families are going to get COVID.*

— WYATT, MUNICIPAL WASTE COLLECTOR

Not only a matter of income security and racial justice, access to paid sick days is also central to gender justice. Women not only disproportionately provide care, but they are more likely to report losing wages to care for others, including their children and families when they fall ill.<sup>30</sup> Full-time Canadian women workers took 12.6 days off from work in 2019, in comparison to 8.6 days by men in the same year.<sup>31</sup> Despite requiring more time off due to caregiving responsibilities, women are more likely to have low-wage jobs without access to paid sick days: 2016 data shows that 75%

of women earning less than \$25,000 have no paid sick days.<sup>32</sup> Recent analysis of paid leave revealed that of the low- to middle-income jobs most likely to be done by women in Canada — caring, clerical, catering, cashiering, and cleaning — only one (clerical work) can be done from home. The others are in-person jobs, often on the front lines of fighting COVID-19, including health care, cleaning, and food preparation.<sup>33</sup> The pandemic and the response, from suggestions to work from home to advice to stay home when sick, have highlighted the gender gap and demonstrated that women's labour is central to the economy but that labour protections for women (especially low-income racialized women) have been marginalized.

Legislating paid sick days is also a matter of disability justice. Statistics Canada data shows that employment for people with disabilities is characterized by precarity. In general, women and men with disabilities were employed most often in retail trade, accommodation, and food services. Men with disabilities also work in construction and transportation, without access to many existing employment standards protections and without paid sick days.<sup>34</sup> Generally speaking, workers with disabilities earn less than their able-bodied counterparts. The absence of paid sick days increases the likelihood of income insecurity among those who already face additional expenses in accommodating disabilities, such as transportation, clothing, and other necessary supports. Three-quarters of people with disabilities require prescription medication, and disabled workers are over-represented in occupations with no supplemental health benefits.<sup>35</sup> A study in San Francisco found that workers with chronic health conditions, alongside single mothers, were the most likely to report needing paid sick days.<sup>36</sup> Persons with disabilities and health conditions who rely on personal attendants and personal support workers are especially vulnerable when workers have no other choice than to work when sick. When gaps in paid sick days create space for outbreaks to occur, they pose a disproportionate threat to chronically ill, disabled and immunocompromised people.



Like vaccines, paid sick days must be universal in order to protect the most vulnerable. The crisis in long-term care illustrates how precarious work and gaps in paid sick days expose the most vulnerable. When low-paid racialized women healthcare workers are denied protections like paid sick days, elderly and immunocompromised people die. It is no coincidence that a majority of healthcare workers who have died of COVID-19 were personal support workers.<sup>37</sup>

To “reduce the health gap,” the World Health Organization urges governments to make “decent work a central goal of social and economic policy-making.”<sup>38</sup> Paid sick days are a key component of decent work and a key social determinant of health necessary for addressing health inequities. COVID-19 has exposed the glaring gap in access to paid sick days across Canada, and governments at the provincial, territorial, and federal levels can no longer deny the need for all workers to stay home when sick. Since the outset of the crisis, health providers have been recommending 7 permanent paid sick days and an additional 14 paid days during public health emergencies.<sup>39</sup>

Paid sick days save lives. A pandemic amid an economic crisis heightens the urgency of legislating paid sick days, which play a particularly important role during crises. As the WHO explains, it is in times of crisis that workers most “fear dismissal and discrimination when reporting sick,” leading to “choosing between deteriorating health and risking to impoverish themselves” with severe impacts on public health and the economy.<sup>40</sup>

Unfortunately, rather than closing the gap in paid sick days during the COVID-19 pandemic, governments in Canada have responded with inadequate provisions that leave the gap wide open. Provincial and territorial governments have mandated unpaid leave as a temporary measure restricted to the COVID-19 pandemic or public health emergencies. The federal government announced a national temporary income support for 10 days of COVID-related sick leave.<sup>41</sup> This is a positive step, which will help some workers take necessary time off related to COVID-19, but provides only temporary support that will end with the pandemic. While details

about implementation are forthcoming, this temporary leave provision is not expected to be employer-provided and therefore raises concerns about barriers to access for workers. This type of program is no substitute for permanent paid sick days. To deliver effective paid sick leave legislation, health providers have long been recommending raising employment standards provincially and federally – a mechanism proven to extend access to paid sick days and close the gap.

As we prepare next steps in addressing the pandemic, including a potential second wave of COVID-19 and upcoming influenza seasons, we must learn from the gaps in our sick leave policies exposed throughout the first COVID-19 wave. This report will examine recent and current sick and emergency leave standards in Canada, to evaluate necessary steps to ensure the public health directive to stay home when sick and self-isolate can be achieved for all workers. Five interrelated key principles of effective paid sick leave legislation will be advanced: universal, paid, adequate, permanent, and accessible. We hope these principles will serve as a guide for provincial, territorial, and federal governments to legislate effective paid sick days amid the COVID-19 pandemic and beyond.

# **SECTION 1**

# **EVIDENTIAL**

# **BASIS FOR**

# **STAYING HOME**

# **WHEN SICK**

## EVIDENTIAL BASIS FOR STAYING HOME WHEN SICK

Staying home when sick is fundamental to individual health, public health, and the economy. Patients who stay home when they are sick get well quicker and access medical care more promptly, preventing more serious illness.<sup>42</sup> When parents stay home to care for sick children, children stay home and recover faster rather than spreading infections in schools.<sup>43</sup> Beyond the health benefits for individuals and families, enabling people to stay home also serves the public interest. When workers go to work sick, they put their co-workers, clients, and the public at risk of infection, increasing rates of infection and morbidity.<sup>44</sup> Moreover, going to work sick reduces productivity and increases the rate of mistakes on the job, resulting in occupational injuries and a significant economic cost to business.<sup>45</sup>

### A. CONTAINS INFECTIOUS DISEASE

Gaps in paid sick days threaten public health. The World Health Organization has recognized that “the absence of paid sick days forces ill workers to decide between caring for their health or losing jobs and income, choosing between deteriorating health and risking to impoverish themselves and often their families.”<sup>46</sup> Workers without paid sick days are 1.5 times more likely to go to work with a contagious illness.<sup>47</sup> Canadian research has shown that workers in high-risk settings — food handling, long-term care and child care — will continue to work when ill when they cannot afford to take time off.<sup>48</sup> The Public Health Agency of Canada found that 50% of food handlers reported working with gastroenteritis, and US studies found that 41% of healthcare personnel reported working with the flu.<sup>49,50</sup>

Paid sick days policies have been proven to reduce the spread of disease by increasing the rate at which workers stay home when sick.<sup>51</sup> In the United States, cities with paid sick days saw a 40% reduction in influenza rates during flu waves compared to cities without.<sup>52</sup> By enabling food service workers to stay home when they have gastroenteritis (stomach flu) or other infectious diseases, paid sick days are associated with a 22% decline in

rates of food-borne illness.<sup>53</sup> A study of nursing homes in New York found that paid sick leave policies reduced the risk of respiratory and gastrointestinal disease outbreaks.<sup>54</sup> Parents with paid sick days have also been found to be 20% less likely to send sick children to school, thus reducing the risk of children spreading infectious disease at school.<sup>55</sup> This has been recognized by Ontario physicians in a report by the Hospital for Sick Children (SickKids), which recommends paid sick days be part of the province’s plan for reopening schools.<sup>56</sup> This is especially important for children who are at higher risk due to chronic medical conditions, immunocompromised states, or developmental disabilities. As noted earlier, people with disabilities very often rely on the health and well-being of personal attendants and personal support workers, many of whom have no paid sick days. Paid sick days are also associated with higher influenza vaccination rates, resulting in increased vaccination coverage, which helps contain the spread of the flu.<sup>57</sup>

*“As a community worker at a respite shelter downtown, I am often in contact with those who are sick or have weak immune systems. This means I am constantly getting sick and run the risk of infecting others at my workplace. One of the guests actually passed away from a lung infection. I’m not blaming anyone, but it’s fair to say that from a public health perspective, our sick leave policies definitely didn’t make his chances better.”*

— JENNIFER, COMMUNITY WORKER

Overwhelming evidence indicates paid sick days significantly reduce the spread of infectious disease. The Public Health Agency of Canada recognizes that ensuring ill people do not enter the workplace is a key strategy for mitigating the risk of infectious disease spread. Well-designed paid sick leave policy is critical to ensure workers stay home when they are sick, including during the COVID-19 pandemic.

## B. ESSENTIAL DURING OUTBREAKS

During the COVID-19 pandemic, the Public Health Agency of Canada has encouraged employers to consider “adjusting personal/sick leave policies to enable employees to stay home when ill.”<sup>58</sup> While COVID-19 has heightened the importance of paid sick days policies enabling sick people to stay home, previous outbreaks of infectious disease also demonstrated the key role paid sick leave can play in containment. The current outbreak highlights gaps that have been left open for far too long.

After the 2003 SARS outbreak in Toronto, a study based on interviews and focus groups with affected people revealed fear of income loss was the top impediment to observing quarantine.<sup>59</sup> The World Health Organization has recognized that laws should ensure compensation for those financially impacted by public health orders, which is particularly important for those with lower incomes.<sup>60</sup> In Ontario, an independent commission established to examine how SARS was handled found that paid leave during quarantine was a crucial element of the province’s response to the virus. After initially suggesting financial compensation was not feasible, the provincial government ultimately developed a compensation system for workers who lost wages due to quarantine or caring for someone else in quarantine. Despite criticisms concerning delayed implementation (the system came into effect about 3 months after the first cases of SARS in Ontario were identified), experts have deemed compensation to be critical to the success of quarantine measures that contained the spread of SARS. As a result, the commission recommended legislating compensation for workers who lose wages due to quarantine *in advance* of the next public health emergency.<sup>61</sup>

After the H1N1 pandemic in 2009, a US survey found that adults without paid sick days were more likely to go to work sick. A quarter stated they would not get paid if they stayed home, and 1 in 6 would lose their jobs.<sup>62</sup> These gaps in paid sick days created major breaches of public health that exacerbated the pandemic: up to 8 million workers took no

time off work despite being infected, which is estimated to have caused 7 million additional infections among co-workers.<sup>63</sup> Another study of the H1N1 pandemic found that gaps in workplace policies contributed to more than 20,000 hospitalizations and more than 1,300 deaths, and that racialized workers were disproportionately affected because they had a greater inability to engage in social distancing at work. The study concluded, “Federal mandates for sick leave could have significant health impacts by reducing morbidity from influenza-like illness, especially in Hispanics.”<sup>64</sup>

*I got viral pneumonia in January. I could not call in sick because I get financially penalized. I couldn't go to the doctor because I was working until 10:00 PM. I couldn't get treated. I ended up giving viral pneumonia to 35 other employees in the workplace, and they gave it to their families — that's just from my case alone. I essentially gave viral pneumonia to about 250 other people. If I don't have access to paid sick days and my co-workers don't have access to paid sick days, and we're collecting the city's entire municipal waste, COVID-19 is going to hit us all and hit us hard. My concern with sick days has always been that if we can't protect ourselves as waste collection or essential workers and we fall, we bring a whole community down with us.*

— WYATT, MUNICIPAL WASTE COLLECTOR

The COVID-19 pandemic has therefore not only exposed the gaps in paid sick days, which disproportionately affect low-income women, racialized, and workers with disabilities, but also the failure of governments to learn from past pandemics in order to keep people safe. The overwhelming message from public health agencies during this pandemic has been that people should stay home when sick and engage in physical distancing. People with COVID-19 symptoms need to self-isolate until they get their results (which can take days) and until their symptoms resolve, and those who test positive need at least 14 days

of self-isolation. But this crucial public health advice has limited effect when all workers do not have access to the paid sick days required to follow these directives without losing income. Research on self-isolation during the COVID-19 pandemic has suggested that when compensation is assured, compliance is almost 40% higher.<sup>65</sup> Paid sick days are essential to protecting public health during outbreaks, during the COVID-19 pandemic and beyond.

### C. HEALTH AND HEALTHCARE BENEFITS

Gaps in paid sick days also contribute to healthcare costs. In the US, workers without paid sick days have been found to be twice as likely to use hospital emergency rooms for personal illness and more than twice as likely to take a family member to an emergency room because they could not take time off work.<sup>66</sup> So, in addition to containing the spread of infectious disease, providing paid sick days increases workers' access to primary care and reduces the likelihood of emergency room visits. A national sample of working adults with health insurance in the US found that paid sick days were significantly associated with increased use of outpatient care and reduced use of the emergency department. It concluded that "paid sick days may serve as a protective factor" from emergency room visits, which improves continuity of care and reduces healthcare expenditures.<sup>67</sup>

Paid sick days also enhance preventive care. Workers without paid sick days are 3 times more likely to delay or forgo medical care,<sup>68</sup> and female employees without paid sick days have lower rates of clinical breast exams and mammograms.<sup>69</sup> Conversely, workers with paid sick days have higher rates of cancer screening — including screening for breast, colon, and cervical cancer — and annual checkups.<sup>70</sup> A study of universal paid sick days in the US used modelling to predict vaccinations would increase by 1.6 million and result in 18,200 fewer healthcare visits annually.<sup>71</sup> By increasing access to preventive and primary care, paid sick days improve population health and reduce the burden of unnecessary visits and costs on the healthcare system.

*I am really worried that if I take time off from work for my diabetes appointments, my employers will fire me. What that means is that I've been pushing back my appointments. I've been missing the appointments. My blood sugar levels ended up getting really high and my diabetes took a turn for the worse. So, my doctor placed me on stronger insulin therapy. Since my diabetes was getting worse, I started having other complications with my feet and my blood pressure. I had a podiatrist appointment too and I missed it, so I ended up developing an infection in one of my toes. I almost lost my toe.*

— ALEXANDRA, EARLY CHILDHOOD EDUCATOR

*I worked as a part-time nurse in a hospital and because I was part-time, I didn't get any benefits. This meant that even though I was picking up shifts and working full-time hours, I didn't have paid sick days. I ended up hurting my back but felt like I couldn't take the time off. So, I kept working and ended up injuring my back even more.*

— KATIE, REGISTERED NURSE

*In February, I got really sick with a cold, and I didn't take the sick days because it was so early in the year and I was worried about taking them for myself. What if my daughters are sick or there is an emergency with the school? My cold was bad. I couldn't shake it. Usually when I'm sick, I'm sick for about a week, but I went to work anyway, and I was sick for 2 weeks. I just took medicine, but I knew that I still had the sickness. [With time off] I think my recovery time could have been shortened by half. Even if I could have taken one or two days off, I would have felt better. But that would've been a luxury for me. One I felt I couldn't take.*

— NANCY, HUMAN RESOURCES AND FINANCE ADMINISTRATOR



## D. REDUCING PRESENTEEISM IS GOOD FOR BUSINESS

Much of the hypothetical concern about expanding access to paid sick days centres on the economic impact of workers staying home when sick. These concerns not only exaggerate absenteeism related to paid sick days, but ignore the greater threat of presenteeism, that is “the phenomenon of people, despite complaints and ill health that should prompt rest and absence from work, still turning up at their jobs.”<sup>72</sup> In fact, studies show that workers carefully use paid sick days as intended and, as a consequence, are able to return to work faster and healthier with lower rates of chronic illness.<sup>73,74</sup>

Workers who are denied paid sick days do not avoid illness. On the contrary, they bring their infections to work and transmit them to their co-workers, take longer to recover from illness, are less productive, and have less satisfaction at work. Workers without paid sick leave also report higher levels of psychological distress, and are almost 1.5 times more likely to report that symptoms of distress “interfere a lot with their life or activities.”<sup>75</sup> Benefits Canada reports that mental health is among the top short- and long-term disability trends, noting that failure to address early symptoms with short-term mental health days results in longer term, more costly absences.<sup>76</sup>

Paid sick days have a protective effect on mental and physical well-being, allowing workers to perform better on the job, increasing productivity, and preventing burnout. Going to work sick results in more mistakes and a higher risk of injury, and workers with paid sick days have been found 28% less likely to get injured at work.<sup>77,78</sup> Paid sick days have been shown to reduce the chance of workers leaving a job by 25%, resulting in substantial savings for business due to reduced turnover.<sup>79</sup> Evidence consistently demonstrates that the cost of presenteeism in lost productivity is higher than absenteeism – with US research suggesting it could be as much as 10 times higher.<sup>80,81</sup>

*Having 2 paid sick days was a source of protection from the heavy workload and mental stress of being a professor. I knew I could take a day off to prevent extreme burnout when my anxiety and depression were becoming really intense. Knowing that I had paid sick days made me feel more secure and more able to complete my job duties*

— CLARA, COLLEGE PROFESSOR

*When you are sick, you cannot take care of other people. You should be able to stay home until you recover, so that you can give patients the care they deserve.*

— ELENA, PERSONAL SUPPORT WORKER\*

\* Elena went to work throughout her own chemotherapy treatment for breast cancer.



# **SECTION 2**

# **BEST PRACTICES FOR PAID SICK DAYS LAWS GLOBALLY**

## BEST PRACTICES FOR PAID SICK DAYS LAWS GLOBALLY

### A. CANADA LAGS BEHIND OTHER COUNTRIES

The case for paid sick days is widely accepted around the world. A recent study showed that 181 countries have some form of national paid leave for sickness.<sup>82</sup> Most OECD countries provide long-term paid sick leave through a social security system and provide paid sick days for short-term illness or the initial portion of longer paid sick leave through employers.<sup>83</sup> This two-stage model of social insurance and employer-provided paid sick leave has benefits, including facilitating the administration of short-term leave and higher average income replacement rates.<sup>84</sup>

Canada lags behind other countries in guaranteeing workers access to adequate paid sick days for short-term illness. Canada is in the bottom quarter of countries worldwide that do not guarantee paid sick leave on the first day of illness – a crucial measure that enables workers to stay home at the first sign of symptoms.<sup>85</sup> In 19 of 34 OECD countries, employers are required to pay at least the first week of sick leave.<sup>86</sup> Analysis of paid sick leave in 22 countries ranked highly for economic and human development revealed that, for a 10-day illness, workers are entitled to at least 7 days of paid leave in Australia, Austria, Belgium, Finland, Germany, Greece, Iceland, Luxembourg, Netherlands, Norway, Sweden, and Switzerland. Canada is one of only 5 of these 22 countries where employers are not required to pay for paid sick days for short-term illness (except for minimal paid sick days in Quebec, PEI, and for federally regulated workers).<sup>87</sup>

For longer term illness, Canada's Employment Insurance (EI) system provides up to 15 weeks of sick benefits, equivalent to 55% of earnings (up to a maximum \$573 per week), to workers who qualify. In Canada, only about 40% of unemployed workers currently receive regular EI benefits, dropping to less than 30% in urban centres.<sup>88</sup> EI sickness benefits provide crucial leave for workers facing longer term illness and

efforts must be made to improve this benefit and expand access. EI sickness benefits, however, are not designed to ensure workers can stay home at the first sign of symptoms or for short-term illness, which is why effective paid sick leave legislation is crucial.

Responsibility for mandating paid sick days in Canada lies with provincial, territorial, and federal governments, through employment standards. Most Canadian jurisdictions only provide unpaid, job-protected leave for sickness. Prior to 2018, only PEI provided paid sick leave in the form of only 1 day after 5 consecutive years of work. In 2018, Ontario began to provide 10 flexible job-protected personal emergency leave (PEL) days to all workers, with the first 2 days paid, and removed the ability for employers to demand a medical note. Unfortunately, in 2019, the new provincial government revoked these 2 paid days, restricted how the remaining 8 days are used, and brought back the bureaucratic barrier of allowing employers to require a sick note. In January 2019, Quebec instituted 2 paid days of sick or family leave after 3 consecutive months of employment. In September 2019, the Canadian government amended the *Canada Labour Code* to provide federally regulated workers with 5 personal leave days, the first 3 days paid.<sup>iv</sup> Workers in the rest of the country are left to rely on workplace policies and collective agreements to gain access to paid sick days, which leaves the gap in paid sick days wide open.

Shockingly, in response to the worst global pandemic in a century, no Canadian jurisdiction has raised employment standards to expand access to paid sick days. All provincial governments have provided some form of job-protected emergency leave, and most have prohibited employers from requiring medical notes. These leaves, however, are temporary, unpaid, and restricted to COVID-related absences. The only province to expand permanent leave entitlements is British Columbia, which legislated 3 unpaid days of sick leave, bringing them more in line with unpaid leave protections offered in other provinces.

<sup>iv</sup> See Appendix A for more information about paid and unpaid sick days across Canada.

*I was so happy when the 2 paid sick days came in 2018. I work part-time as a receptionist in a non-union position, so for the first time ever I had paid time off. I got the flu in 2018 and 2019. I took 2 days off both times, but my experience was very different. When I got the flu [in 2019], I felt I couldn't relax because I didn't have paid sick days. My financial situation is very tight, so I would have gone to work even though I was sick if I hadn't lost my voice. But since I work as a receptionist, I need to be able to speak. I felt very stressed. I was still recovering weeks later. In 2018, when I had the paid sick days, I didn't feel stressed about missing the day's wages. When I was at home, I didn't worry about work, I just focused on getting better. It took me about a week to feel better.*

— BEATRICE, RECEPTIONIST

More than 6 months after the onset of the pandemic, measures to extend paid sick leave have been introduced only in the Yukon and federally. The Yukon introduced a rebate for employers providing paid sick days, but the measure is temporary, limited to COVID-related absences and accessed at the employer's discretion.<sup>89</sup> The federal government introduced a temporary national sick leave program that aims to provide income support for 10 days of leave related to COVID-19 for workers currently without paid sick days.<sup>90</sup> This temporary measure will help some workers who need income support to take sick leave related to COVID-19, but unfortunately does not address the need for permanent paid sick days during and after the pandemic. Moreover, while implementation details have yet to be released, an approach to sick leave that does not mandate employer-provided paid sick days raises concerns about ease of access. In order to enable workers to take time off at the first sign of symptoms, it is essential that they face no disruption of

income or barriers to access, such as sick notes or application forms. The federal government could provide leadership on this issue by guaranteeing adequate paid sick days in the *Canada Labour Code* and encouraging provinces to follow suit.

## B. LEARNING FROM PAID SICK DAYS LAWS IN THE US

Like Canada, the United States has no national paid sick days policy. However, over the last decade, several jurisdictions have introduced their own paid sick days mandates to close the gap, and Canada could learn from this experience. In 2007, San Francisco became the first jurisdiction in the US to mandate paid sick days<sup>91</sup> and, in 2014, New York City became the largest jurisdiction, extending paid sick days to 1.4 million workers.<sup>92</sup> Overall, 13 states and 23 cities or counties across the US have instituted paid sick days.<sup>93,94</sup> Typically, these laws mandate up to 40 hours (5 days) of sick leave accrued at an hour of sick time for every 30 to 40 hours worked per year.<sup>95</sup>

Jurisdictions that recognized the benefits of employer-provided paid sick days before the pandemic are also expanding them during the pandemic. On March 17, 2020, New York state enacted legislation that requires large employers to provide 14 additional paid sick days for COVID-related leave during the pandemic,<sup>96</sup> and several weeks later passed legislation to extend permanent paid sick days statewide by 2021.<sup>97</sup> In July, Colorado introduced one of the most comprehensive paid sick days laws in the US to date, including up to 48 hours (6 days) of permanent paid sick time and to up to 80 hours (10 days) of paid sick time during public health emergencies, available to all workers.<sup>98</sup> At the federal level, in March, US Congress passed a bill that provides up to 80 hours of paid leave for COVID-related reasons, which could have greatly closed the gap in paid sick days at the most urgent time. Unfortunately, after a more robust version was introduced, the bill was altered to exclude as many as 106 million workers, dramatically

reducing its efficacy.<sup>99,v</sup> However, Colorado took an encouraging step and mandated coverage at the state level for those explicitly excluded from the federal bill.<sup>100</sup>

The expansiveness of paid sick leave varies across US jurisdictions, with the additional weakness that some paid sick leave mandates create gaps based on workplace size or worker classification, without basis in public health. But policy-makers have taken some steps to close these gaps. In New Jersey, a more expansive employee definition ensured that workers exempt from minimum wage laws (often domestic and agricultural workers) were not also excluded from paid sick days. Almost no US paid sick leave requires a minimum number of hours worked, and include part-time, full-time, seasonal, and temporary workers. Unfortunately, independent contractors in the US are not covered by paid sick time, many of whom are misclassified when they are in fact employees.<sup>101</sup> This is a key gap that Canadian policy-makers should take seriously and aim to address.

Experience in US jurisdictions demonstrates that legislating paid sick days is not only necessary but feasible. In fact, employer-provided paid sick days are a proven approach to closing gaps in access, resulting in positive outcomes for health, equity, business, and the economy. Another key US lesson is that paid sick days do not lead to abuse by workers but must be accompanied by a commitment to enforcement to ensure employers are compliant. Lessons from the US experience of legislating paid sick days are outlined below.

#### **a. Paid sick days promote health and equity**

The public health benefits of paid sick days in terms of containing infectious disease are widely recognized, which is especially important for people with chronic health or immunocompromised conditions. Workers with disabilities face added expenses generally, are over-represented in precarious occupations, and suffer more harm from the

dearth of paid sick days.<sup>102</sup> Just as importantly, providing paid sick days to attendants, support workers, and other care workers is essential for protecting workers' health and the health of the people they serve.<sup>103</sup> In San Francisco, research shows that mandating paid sick days allowed workers to better care for their own health needs, attend medical appointments, and care for children and the elderly. One in four workers report being better able to care for their own and their family's health needs after paid sick days came into effect.<sup>104</sup>

*I remember one time my son was really sick, so I took him to the hospital. I had to stay at the hospital until 3:00 AM. The next day, I couldn't stay home with him, so I had to take my son to my work. I had no other choice. One of my co-workers even said to me, "It's not good for him to stay here, he's sick, he needs to rest. And, I can see you are also struggling." So, she actually ended up covering for me and did a long shift so that I could go home.*

— RUMI, FINANCE ADMINISTRATOR

*I have to do whatever it takes to try and save my sick days. When you have 2 small children you never know what's going to happen. One time, my young daughter got hand, foot and mouth disease and she had to stay out of daycare for 5 days. After that, my daughter's immune system was weak, and she got sick very often. I remember feeling stressed because whenever she was sick, I had to stay home and do mental calculations to think about how many sick days I had left, and whether this would affect my future employment.*

— NANCY, HUMAN RESOURCES AND FINANCE ADMINISTRATOR

<sup>v</sup> Exclusions from the paid leave provided under the Families First Coronavirus Response Act (FFCRA) include businesses that employ over 500 workers, businesses with fewer than 50 employees, certain healthcare providers and emergency responders, and some federal government workers. As a result, the majority of private sector workers are excluded, including many of the low-wage workers who need paid days most. For example, more than 2 million grocery store workers are excluded, despite being essential workers at risk of contracting COVID-19 at work.

The benefits of closing the gaps in paid sick days have been particularly felt among racialized, low-wage women workers. Across the US, being younger, female, racialized, less educated, or a farm/blue collar worker is consistently associated with reduced likelihood of having paid sick days.<sup>105</sup> In San Francisco, Black, Latinx, and low-wage workers were most likely to benefit from mandated paid sick days; Black and Latinx workers, older workers, and mothers were more likely to report better management of their health.<sup>106</sup> Mandating paid sick days improves the ability of women and workers in households with children to stay home when sick,<sup>107</sup> and access to paid sick days reduces the economic burden of staying home for women and racialized workers.<sup>108</sup>

**b. Closing the compliance gap is key to effective paid sick days**

It is a popular misconception that expanding access to paid sick days will invite widespread abuse, creating a gap between use of paid sick days and legitimate need. Studies of jurisdictions that have mandated paid sick days disprove such claims, while highlighting the need for enforcing paid sick days legislation to close the compliance gap.

*“In 2018, when I had paid sick days, I actually didn’t take them because I wasn’t sick. I was saving them for when I needed them. In 2019, they got taken away and unfortunately that year I got the flu and had to take unpaid sick leave.”*

— ASTRID, RECEPTIONIST

When San Francisco mandated up to 9 paid sick days, workers used an average of 3 and a quarter used none,<sup>109</sup> illustrating how workers treat paid sick days as insurance and use them carefully, in cases of personal or family emergencies and for necessary medical appointments. While there was no evidence that workers abuse paid sick days, some employers did: one-sixth did not provide paid sick days as mandated by law, and racialized

workers were more likely to be penalized for using their paid sick days.<sup>110</sup>

*“When I started this position in 2018, I had 2 paid sick days but did not get sick, so I did not take them. I currently do not have access to any paid sick days. Not having any paid sick days is a big financial stressor, a burden on my own health, and a risk to the health of those around me.”*

— JENNIFER, COMMUNITY WORKER

When New York City mandated paid sick days, a survey of employers found that “fully 98 percent of respondents reported no known cases of abuse and only 0.3 percent reported more than 3 cases.”<sup>111</sup> Whereas workers used paid sick days appropriately, many employers did not provide them as required by law. A year and a half after the law came into effect, only 58% provided them to all employees as required by the law, while 42% only provided them to some categories of employees. When paid sick days were only made available to some workers, part-time, temporary, or on-call workers tended to be denied access, with over two-fifths of their employers denying paid sick days to workers with less than full-time hours.<sup>112</sup> Therefore, closing gaps in paid sick days through legislation does not lead to workers abusing them, but does require enforcement to ensure employers comply.

**c. Paid sick days benefit small businesses and the economy**

Another popular misconception is that mandating paid sick days will harm the economy, especially small businesses. Studies not only disprove this claim but have found that the majority of businesses support paid sick leave legislation. In San Francisco, two-thirds of employers supported the new law, and six out of seven did not report any negative effect on profitability.<sup>113</sup> In New York City, a survey of employers (the majority of whom had less than 50 employees) found that they “were able to adjust quite easily to the new law, and for most the cost impact was



minimal to nonexistent.” A year and a half after the paid sick days law in New York City took effect, 86% of employers supported the law, 91% did not reduce hiring, 97% did not reduce hours, and 94% did not raise prices. In fact, job growth continued in New York City after the paid sick days law was implemented.<sup>114</sup>

Despite this reality, misconceptions about paid sick days being bad for small businesses have continued to be perpetuated, particularly in the US. These concerns have led to exclusions for employers who employ less than a certain number of workers in several American jurisdictions, contrary to public health and against global trends. In fact, no other country makes paid sick leave dependent on the size of a workplace.<sup>115</sup> Moreover, excluding small workplaces disproportionately impacts workers in precarious employment. For example, domestic workers have been vocal about how policy gaps in small workplaces exclude them from paid sick days laws and

have won a shift away from this approach in some jurisdictions.<sup>116</sup>

The COVID-19 pandemic has created hardship for small businesses, which have been calling for supports like rent relief and wage subsidies. It is crucial that policy-makers take seriously their responsibility to support small businesses at this time. But perpetuating gaps in paid sick days does not benefit anyone and poses a severe threat to public health. The COVID-19 pandemic has made clear that small workplaces, such as nail salons, are not immune to workplace spread. The American experience has demonstrated that exclusions based on workplace size are economically unnecessary, and that inclusive paid sick day laws are most effective.<sup>117</sup> Moreover, current Canadian guidance for workplace risk mitigation is not differential based on business size, but rather emphasizes key public health measures, including sick leave policy for workplaces of all sizes.<sup>118</sup>



In a small business, you know your employees, and it's very rare that someone will abuse a paid sick day. In fact, in my experience, you have to tell someone to go home because they're feeling sick, rather than wondering where they are.

If an employee is a manual labourer, the thought of them making a mistake is terrible, whether it's around machinery or making a mistake where they slip because they're not feeling so great or they're dizzy or have the flu – and the worker's compensation cost to me is almost their entire year's salary.

For the knowledge worker in IT, marketing or sales, which is most of the workers our company is involved with – the cost of their mistake is way more than paying for a day of that employee not being there. But more importantly, when employees feel that when they're at work they can engage in what they're doing and they can just enjoy it, it makes a big difference to me.

We worry too much about the abuse [of paid sick days], and not enough about the benefits from a societal, individual, and corporate basis. We're hung up on this little bit of abuse, which most people don't do.

— PAUL HAYMAN, SMALL BUSINESS OWNER IN ONTARIO



# **SECTION 3**

## **GUIDING PRINCIPLES FOR EFFECTIVE PAID SICK DAYS POLICY IN CANADA**

## GUIDING PRINCIPLES FOR EFFECTIVE PAID SICK DAYS POLICY IN CANADA

Much work remains to be done to close the gap in access to paid sick days in Canada. We have identified 5 principles for effective paid sick days policy. These principles may act as a guide for jurisdictions across Canada as they aim to adopt paid sick leave to protect public health during the COVID-19 pandemic and beyond. These interrelated principles describe who needs sick days, what kind of sick days are required, when they are required, and how workers should access them. They are followed by recommendations for the ways in which effective paid sick days should be implemented in Canada.

### A. UNIVERSAL

For paid sick days to be effective, they must be available to all workers. COVID-19 has demonstrated that infections anywhere are a threat to public health everywhere. Outbreaks in long-term care call for closing the gap in paid sick days for precariously employed personal support workers. Outbreaks on farms call for closing the gap in paid sick days for migrant workers. Outbreaks in nail salons call for closing the gap in paid sick days in small workplaces and among workers misclassified as independent contractors. Sick leave policy will not protect public health if it is not available to everyone. There must be no gaps excluding workers from paid sick days based on workplace size, type of work, or immigration or employment status.

Legislated paid sick days under provincial, territorial, and federal employment standards must be universal – available to all workers, no exceptions. Unfortunately, many exemptions to other provisions in employment standards do currently exist. For example, in Ontario, workers in agriculture, information technology, and construction do not have the same protections for hours of work and overtime afforded to other workers.<sup>119</sup> These types of exemptions erode the ability of employment standards to protect workers, especially those in low-wage and precarious work. No exemptions of this kind should be replicated or introduced with respect to paid sick days.

Achieving universal paid sick days is also threatened by practices such as misclassification, contracting out, and hiring through temporary agencies. A review of Ontario labour laws in 2016 confirmed that employers misclassify workers to “avoid the direct financial cost of compliance with the ESA and other legislation.”<sup>120</sup> The federal government recognized the changing nature of workplaces and expanded the Canada Emergency Response Benefit (CERB) to include those who are misclassified as independent contractors or self-employed, and others who do not qualify for EI.<sup>121</sup> Jurisdictions across Canada should broaden the definition of employee under employment law – including with respect to paid sick leave entitlements – to include all workers who are paid to perform work or supply service for mandatory compensation.<sup>122</sup> This will help ensure paid sick days introduced in employment standards leave no gap in universality.

Paid sick leave legislation must also be accompanied by active enforcement to ensure it has the intended impact. In Canada, federal government and Statistics Canada research have shown that violations of the *Canada Labour Code* are widespread at the federal level, with half of employers found to be in partial violation.<sup>123</sup> Similarly, in Ontario, surveys of workers in low-wage and precarious jobs revealed that over one-third were owed unpaid wages, did not receive overtime pay, and lost their jobs without termination pay or notice.<sup>124</sup> Experience in US jurisdictions also demonstrates the importance of paid sick days laws being accompanied by strong enforcement: while New York City’s law mandated paid sick days be available to all workers (including part-time, temporary, and undocumented workers), many employers denied paid sick days to these same workers in violation of the law. Consequently, it is essential that paid sick leave legislation be accompanied by an expanded, proactive deterrence model of enforcement, which worker advocates have been calling for.<sup>125</sup>

All workers must have access to paid sick days – irrespective of workplace size, employment terms, or immigration status. Paid sick days must therefore be universal, a standard part

of every worker's benefits. This is a health and a social imperative. Paid sick days as a public health intervention will only be maximally effective when made available to everyone.

*“There was an excess of work without any breaks. There was no such thing as time off in any capacity. This led to back and hand injuries for almost every person I worked with, including myself. On one occasion, we went to our boss and told him our hands were going numb and our backs were aching. He said this was a normal part of our work and to just take an Advil. But we had been taking Advil and the pain was getting worse and my hands were almost always completely numb. The repetitive motion wore our tendons and wrists down. When some of us tried to assert our rights we got ridiculed and bullied by our employer and supervisors. Through a friend, I was able to go to the clinic to see a doctor. The doctor told me that I had a serious injury to my wrists and that if I kept working it was going to ruin them completely. I told my employer and the others. He did not report it, split us up into different work groups, and the bullying got worse.*

— JOSE, MIGRANT FARM WORKER

## B. FULLY PAID

For sick days to be effective they must be fully paid. When a worker gets sick, their having the financial means to stay away from the workplace to recover and reduce infection transmission is a public health imperative. Unpaid, job-protected leave provides no assurance of income and is a disincentive to workers staying home. A similar barrier arises when the replacement rate for paid sick leave is less than a worker's baseline income. Creating an income gap perpetuates the paid sick leave gap, contributing to presenteeism. One study reports that, in Germany, when the rate of paid sick leave income replacement was lowered from 100% to 80%, the reduction in sick pay led to an increase in contagious presenteeism or people going to work sick.<sup>126</sup>

Ensuring sick days are fully paid is critical, or our communities will pay for it with sick workers, sick co-workers, sick clients, and worse public health.

Lower replacement rates are particularly unfeasible for low-wage workers who are disproportionately women, migrant and racialized workers, and workers with disabilities. For a minimum wage worker, anything less than a full income replacement rate puts them at risk of falling below (or further below) the poverty line. For those workers who need it most, unpaid or low-paid sick leave is not affordable.<sup>127</sup> Closing the gap in fully paid sick days is not only a matter of public health, but also of equity. To ensure symptomatic and unwell patients stay home, paid sick days must be fully paid at a rate equivalent to a worker's wage.

*“I barely make enough to get by as it is. If I miss 1 or 2 shifts, it's tight financially. So, I try to make up the hours the following week because I don't want to lose the cash. Then I'm trying to catch up again to zero, which is not a fun game to play because I'm still not feeling well and working extra.*

— JENNIFER, COMMUNITY WORKER

## C. ADEQUATE

For paid sick days to be effective, they must also be adequate. This concept has been partially recognized through provincial pandemic responses, which provide at least 14 days of unpaid leave for people with COVID-19 who need that many days of self-isolation. However, these are temporary measures for unpaid leave, which fall short of the interconnected principles of sick days being paid and permanent.

For years prior to the COVID-19 pandemic, health providers have been calling for paid sick days adequate for non-pandemic times. Since 2015, health providers across Ontario have petitioned the provincial government to provide 7 paid sick days to all workers.<sup>128</sup> Seven days is reasonable and necessary to account

for physician prescribing practices for common illnesses. A 2019 survey of 182 physicians found they recommend patients with influenza-like illnesses stay home for a median of 4 days. For an upper respiratory tract infection (including the common cold) and gastroenteritis (stomach flu), physicians advise patients to remain home from work for a median of 2 days. For all conditions, a substantive portion of physicians advise patients to remain at home until the fever has resolved.<sup>129</sup> Adequate paid sick days must reflect the fact that every worker needs time off when they or their children are sick.

*I was having serious issues with my mental health, but I was going to work anyway because I can't fall behind financially. It got to the point that I was forcibly hospitalized. If that hadn't happened, I would've kept going in that state, and that is not okay. I was so terrified and I knew I couldn't skip out on my bills.*

— AMELIA, RETAIL WORKER

The number of paid sick days should reflect workers' lives. Statistics Canada provides measures of time lost from work because of personal reasons — specifically illness or disability, and personal or family responsibilities. In Canada, the average number of days lost per worker per year, for illness and disability, was 7.4 in 2015 and 8.4 in 2019. For women, the average number of days lost per year in the same category was 10.4 in 2019, compared to just 7 for men. The average number of days lost per worker per year for personal or family responsibilities was 2.2 for women and 1.6 for men in 2019.<sup>130</sup>

Like any medical intervention, the dose matters: a US study found that “a moderate number of paid sick days (6 to 9) indicated a significantly higher profile of having accessed preventive services compared with those with 0 to 2 days ... and paid sick days of 10 or more days indicated an even higher profile.”<sup>131</sup> Faced with the current pandemic, the government should expand paid sick days to include at least 7 permanent paid sick days, which health providers have been calling for,<sup>132</sup> plus 14

additional paid days during the pandemic.<sup>133</sup> If workers need 14 days of self-isolation with COVID-19, as recommended by local and international public health organizations, then they need 14 paid sick days for public health emergencies, as legislated by other jurisdictions.

*The pressure has built up so much with my conditions at work that I have developed issues with my mental health. I've been depressed and started getting panic attacks. The panic attacks can be really severe and debilitating, but I know I have to go to work. So, I try my best and go to work anyway, but that means my mental health is bad for much longer. When I do take half days off, I have to use my vacation time because I don't have paid sick days. What this means for me is that I basically spend my vacation in bed.*

— RUMI, FINANCE ADMINISTRATOR

## D. PERMANENT

The need to protect public health doesn't end after a pandemic. On the contrary, pandemics serve to highlight longstanding deficiencies in public health, and should encourage policy-makers to close the gaps so that societies can be healthier between pandemics and more resilient during them. In response to COVID-19, the federal, provincial, and territorial governments have expanded job-protected leave, but these leaves are temporary and restricted to reasons related to COVID-19. Paid sick days must be permanent, available during and after the pandemic, and not restricted to COVID-19.

The difference between COVID-19 and other illnesses is not always obvious. Symptoms of COVID-19 are non-specific and similar to many other viral illnesses, including influenza. Unfortunately, COVID-19 tests also have a high false negative rate.<sup>134</sup> Hence, public health authorities continue to recommend self-isolation for people with symptoms, even after they have received negative test results.<sup>135</sup> Access to paid sick days also improves

preventive care for diabetes, hypertension, and heart disease,<sup>136</sup> which are risk factors for severe COVID-19 and other acute illnesses. In addition, access to paid sick days is associated with higher vaccination rates, which are crucial for protecting against annual influenza.<sup>137</sup> Vaccination strategies are also expected to mitigate COVID-19 risks in the future. Universal paid sick days must continue beyond the current COVID-19 crisis to ensure that workers have access to vaccination strategies and preventive care, mitigating the risk of contracting COVID-19 and other illnesses.

*I was managing a chronic medical condition in my hands. I used up all of my unpaid leave to go to my appointments and I ended up running out of days. Then, I had to use my vacation time or I went to work sick.*

— XIMENA, FACTORY WORKER

In heeding the clear lessons of the 2009 H1N1 pandemic, the annual flu season, and the first wave of COVID-19, governments should provide permanent paid sick days for all workers, thereby reducing the impact of the ongoing pandemic and improving public health afterward. Pandemics demand additional temporary public health measures, but also serve as an opportunity to close the permanent gap in paid sick days — like in the states of New York and Colorado, which have legislated permanent paid sick days, with additional days during pandemics.

The pandemic might be a temporary emergency, but public health is a permanent necessity. Any response to COVID-19 should be designed to improve population health beyond the pandemic. For example, access to public health services in Ontario (covered through OHIP) was expanded for undocumented workers during COVID-19, and a national coalition is now demanding health for all, regardless of status, beyond the pandemic.<sup>138</sup> Similarly, paid sick days need to be universal and permanent, so workers and public health is protected during COVID-19 and afterward.

## E. ACCESSIBLE

If sick days are universal, paid, adequate, and permanent, they will still fail to protect public health if barriers to their accessibility exist. Sick note requirements, disruption to income, and restrictions on how sick days are used all create serious gaps between the need for paid sick days and their use. Effective paid sick days must be seamlessly accessible.

### a. No required sick notes

Staying home when sick is fundamental to public health but allowing employers to require sick notes creates an unnecessary barrier to accessing paid sick days and staying home when sick. When required to get a sick note, sick workers either visit a health provider to get a note or they go to work sick — both options threaten patient recovery and public health.

To get a sick note, workers need to leave their home while sick, travel through their community, expose a clinic or hospital waiting room to their infection, and sometimes pay for the note. The Ontario Medical Association (OMA) acknowledges that “requiring patients with isolated illnesses to visit their healthcare provider may in fact delay their recovery by impeding their rest, and potentially expose them to additional contagious viruses.”<sup>139</sup> In addition, the OMA warns that requiring sick notes puts health providers at risk of exposure, which can lead to time away from work and exposure to patients and colleagues.<sup>140</sup> The Centre for Disease Control advises people with mild, flu-like illness against going to the emergency room, which is the unintended consequence of sick note requirements.<sup>141</sup> The Canadian Medical Association (CMA) warns that “writing a sick note is added administrative work — time that should be spent providing direct care to patients.”<sup>142</sup> Allowing employers to require sick notes is unnecessary, delays recovery for sick workers, worsens emergency department overcrowding, and wastes healthcare resources.

When sick workers avoid spending the time and costs of getting a sick note and instead go to work sick, their recovery is also undermined



and their co-workers, clients, customers, and the public are put at risk of infection. According to a national poll, 82% of Canadians would rather go to work sick than get a sick note.<sup>143</sup> If the majority of Canadians would rather go to work sick than get a sick note, the main outcome of sick note requirements is sending sick workers to work. This is especially dangerous for workplaces we rely on for our health, like food service and health care, including personal attendants, personal support workers, and home care workers who travel through the communities they serve. The financial cost of sick notes (which can vary greatly), compounded by transportation costs and lost wages (especially substantial

for workers with disabilities), also increases pressure on workers in precarious and low-wage jobs to go to work sick. To ensure workers can stay home when they are sick, paid sick days with no required sick notes are crucial.

*I'm paying \$40 just to have a 3- or 5-minute conversation with a doctor. They don't do any tests. That's how much I make in almost 3 hours. A lot of times, I would just force myself to go to my shift even though it will be painful.*

— KHALEESI, RETAIL WORKER

### PHYSICIAN SURVEY: SICK NOTES ARE UNNECESSARY AND UNDERMINE THE HEALTHCARE SYSTEM<sup>144</sup>

A 2019 survey of 182 Canadian emergency physicians found that 76% write at least 1 sick note a day, with 4% reporting they write 5 or more notes per day. Thirteen percent of emergency providers charge patients for a sick note at an average cost of \$22.50 (fees charged range from \$10 to \$80). The vast majority (83%) believe that patients can determine when to return to work most of the time, confirming that visits to the doctor for sick notes are unnecessary. Moreover, 90% believe that patients do not require additional medical care at half or less of these visits. In sum, the majority of emergency physicians are writing sick notes on a daily basis but believe that most patients can safely decide on their own when to return to work, and most do not require additional care.

**76%** of physicians surveyed write at least one sick note a day

**83%** of physicians surveyed agree patients can determine when to return to work

Survey responses expressed the impact of sick notes on physician workload and wait times. One physician working in a rural emergency department, where staff provide 2 to 5 notes per day, expressed that “employers requiring a physician note for time off work is an inappropriate and unnecessary burden on our public health system and a major contributor to wait times and [emergency department] loading in my center.” Other responses include, “Sick notes are a waste of the patient’s time. They should be home resting.” Sick notes are a needless additional burden, especially in a healthcare system already under many pressures.

Health providers recognize how sick notes can undermine their relationships with their patients. One emergency department physician said, “Sick notes cause relationship problems. Who am I the agent of? If the employer requires a sick or a return-to-work note, then they should pay for it.” Another physician working in a rural clinic said, “The worst aspect of it is the breakdown of [doctor-patient] relationships due to the referee-type involvement in this issue.” Health providers charging for a sick note can be frustrating for workers, as well as seed mistrust. Requiring sick notes is an unnecessary source of tension between patients and their health providers.



While providing sick notes has become a typical part of a physician or nurse practitioner's practice, evidence shows this provision is an unnecessary burden on the healthcare system, and is a source of frustration for both patients and health providers. The vast majority of patients who visit a health provider for a sick note do not require medical attention, and do not need to seek advice to know when to return to work.<sup>145</sup> Furthermore, in jurisdictions mandating paid sick days, no evidence that workers widely abuse paid sick days exists.<sup>146,147</sup> Sick notes are therefore an unnecessary burden on health providers and patients.

Due to widely recognized problems with requiring sick notes, the Canadian medical establishment has opposed obliging sick notes for minor illnesses for years. In 2007, Doctors Nova Scotia provided a template letter for physicians to send to employers, asking them to stop requiring sick notes and invoicing companies for the cost of the note.<sup>148</sup> During the 2009 H1N1 pandemic, and for years since, the OMA has spoken out against sick notes.<sup>149</sup> The president of the Canadian Medical Association has called sick notes a "public health risk,"<sup>150</sup> and the CMA launched a national "Say No to Sick Notes" campaign. Most recently, the Canadian Association of Emergency Physicians has also committed to advocating for "a ban on sick note requirements by employers via federal or provincial legislation."<sup>151</sup>

*I live in a rural community where access to a family doctor is limited. When I finally get in to see the doctor they are like, "Seriously, you're here for this?" It's such a waste of their time. And I'm not feeling well because I didn't get the rest I needed. I have waited in the ER for hours when I could have been at home in bed on the mend. When we didn't have to get sick notes, it was good for us. We finally felt like we could access sick days.*

— BRENDA, EARLY CHILDHOOD EDUCATOR

Public support for prohibiting employers from requiring sick notes is also strong. In 2017 nearly a thousand health providers across Ontario signed a petition calling for 7 paid sick days for all workers and the elimination of sick notes.<sup>152</sup> In 2018, the Ontario government prohibited employers from asking for sick notes. When the ability for employers to require a sick note was reinstated the following year, there was widespread opposition. A national poll found 76% of those surveyed thought people should stay home to recover rather than wasting their energy at a hospital or clinic, 74% felt that requiring a note is not a good use of healthcare resources, and 70% felt we should make it easier for sick people to avoid transmitting their infections to others.<sup>153</sup>

During the COVID-19 pandemic, health providers' anecdotal reports indicate that some employers have required not only "sick notes," but also "well notes" indicating it is safe for workers to return to work. These requirements send healthy workers into hospitals during a pandemic, exposing them to infection and wasting critical healthcare resources. In response to the pandemic, provincial governments have prohibited employers from requiring sick notes for unpaid leave for "reasons related to COVID-19." There is no public health reason to differentiate between medical reasons or for this measure to be only temporary. Sick notes are unnecessary, undermine patient recovery, waste healthcare resources, and threaten public health — especially during pandemics. There is strong opposition from the general public and the medical establishment, and it's time this consensus be put into practice across the country by ending the employer practice of requiring sick notes for minor illnesses, during COVID-19 and after.

#### **b. No disruption to income or administrative barriers**

Any income disruption is a disincentive for workers to stay home when sick. Consequently, any requirement of an application process or waiting period for payment threatens the ability of workers to use sick days, particularly at the first sign of symptoms.

Before COVID-19, nearly half of Canadians were living paycheck to paycheck.<sup>154</sup> Sickness, particularly something like COVID-19, but also the flu, heart attacks, or mental health crises, comes unexpectedly. Workers need to know how to remain financially stable as soon as illness strikes. It is essential that workers know they will be paid because for many lost income means the difference between paying rent and getting food. Sound public health policy cannot rely on individuals performing risk assessments of how likely they are to infect others and how likely they may be to receive pay in the midst of a health crisis. Any gap in income during an emergency financially punishes workers for taking time to address their or their family's crisis or pushes workers back into the workplace with a potentially transmissible infection.

There should be no bureaucratic barriers to protecting public health. Across Canada, experience of employers requiring sick notes has clearly demonstrated that creating barriers to sick days undermines their use and threatens public health. Therefore, effective paid sick leave legislation cannot require workers to fulfill any additional administrative tasks to access income replacement. Requiring workers to apply for income support when illness or a family emergency strikes creates uncertainty about adequate income replacement and an undue administrative burden. Application processes in place for longer term income supports, such as EI or CERB, are not appropriate and would undermine the effectiveness of workers taking sick days for short-term illness at the first sign of symptoms. These barriers would also disincentivize taking time off for illness, thereby creating a risk of infection transmission.

To encourage workers to use sick days as required by public health directives, they must be seamlessly accessible. The proven and effective mechanism for ensuring workers face no income disruption or unnecessary administrative barriers when they take a sick day is legislating employer-provided paid sick days. This is the approach that has been taken in legislating the minimal existing paid sick days in Canada. It ensures employers provide payment for lost wages when workers take a

sick day, benefiting workers and public health. Consequently, expanding paid sick days must be legislated in employment standards to ensure workers receive full pay for sick days with their next paycheck.

### ***c. Patient-centred to reflect the reality of workers' lives***

Patient-centred paid sick leave should be flexible enough to be used for the type of care a worker needs, whether for personal injury or illness, a family emergency, or to fulfill caretaking responsibilities. This practice has been adopted in Canada and its provincial and territorial jurisdictions for COVID-19 emergency leaves. For example, Ontario's Infectious Disease Emergency Leave (IDEL) requires employers to provide employees with job-protected leave for the duration of the emergency, for an employee's own individual illness (quarantine or other measures required for COVID-19) and for employees providing care or support for their families related to COVID-19, including caring for children impacted by school and child care closures. The definition of family members, types of care and support, and length of job-protected leave are quite expansive, reflecting the realities of healthcare needs during the pandemic.<sup>155</sup>

*When my mother was diagnosed with cancer and going through her treatment, having the flexible days [Personal Emergency Leave] meant that I had the opportunity to take her to appointments, take care of her, and provide my dad with relief from being a caregiver. It provided me with a huge sense of relief.*

— CLARA, COLLEGE PROFESSOR

Even outside of the pandemic, most jurisdictions in Canada provide unpaid, job-protected leave for both personal sickness and family responsibility, although how it is provided varies, with some jurisdictions providing flexible leave and other jurisdictions prescribing a set number of days for each purpose. For example, the BC government provides 3 unpaid days for sick leave and 5 unpaid days for family leave. In contrast, the Saskatchewan government provides

12 unpaid days for sick leave or the care of family members. In Ontario, for 15 years, workers had access to 10 days of job-protected personal emergency leave (PEL) that could be used for a wide range of emergencies and health reasons.<sup>vi</sup> In 2019, these 10 PEL days were replaced with 3 specific unpaid leaves: 3 days for sickness, 3 days for family emergencies, and 2 days for bereavement. This change contradicted recommendations from the *Changing Workplaces Review*,<sup>vii</sup> a comprehensive review of labour law concluded in 2017:

When the policy of the law is to permit these leaves, it should not matter to the employer whether the employee is away for reasons of illness or family emergency, but it may matter deeply to the employee if the law artificially and arbitrarily restricts her/ his ability to respond effectively to family emergencies or to personal illness. In this case, the employee's needs far outweigh the employer concerns ... It is the very need of the modern employee to respond to family emergencies as well as to personal illness that led to the creation of the Personal Emergency Leave entitlements in the first place.<sup>156</sup>

Overall, 6 jurisdictions in Canada provide flexible unpaid leave that can be used for either sickness or family responsibility. Everywhere else, unpaid leave is either delineated according to purpose or only available for sickness.<sup>viii</sup> These restricted leaves, contrary to good public policy, fail to consider the dynamics of care that exist for many households and place a substantial burden on marginalized workers and their families.

An expansive leave for illness and family emergency makes medical sense. Canadian emergency physicians recommend an average of 4 days at home in the case of seasonal influenza, but restricting leave for personal illness risks workers being left without adequate time off to recover from even one bout of influenza. Restricting leave also disproportionately affects certain workers. Studies on paid sick days have found that workers with chronic health conditions require more days.<sup>157</sup> Injured workers' organizations have long advocated for legislated paid sick days as an essential workplace accommodation.<sup>158</sup> Limiting the number of days that can be used for personal health reasons negatively affects people with disabilities and chronic health conditions. Similarly, because women are more likely to provide child care, studies on paid sick leave have found that women are more likely to spend their sick days caring for children.<sup>159</sup> Restricting PEL days undermines the ability of workers to balance care for themselves and their families, disproportionately impacting women.

*Medical appointment times are usually during business hours, which makes it very hard to book an appointment outside of my regular work schedule. I have to go to all sorts of appointments: physical checkups, visits to eye and foot specialists, and have my blood sugar checked. Plus, the nature of my job means that I'm constantly getting sick because I work with small kids who are always sick themselves.*

— ALEXANDRA, EARLY CHILDHOOD EDUCATOR

vi Until 2019, Ontario's Personal Emergency Leave included an appropriately expansive definition of when a worker could access this leave: "An employee who is entitled to personal emergency leave can take up to 10 days of leave each calendar year due to: personal illness, injury or medical emergency or death, illness, injury, medical emergency or urgent matter relating to the following family members: spouse (includes both married and unmarried couples, of the same or opposite genders); parent, step-parent, foster parent, child, step-child, foster child, grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse; spouse of the employee's child; brother or sister of the employee; and relative of the employee who is dependent on the employee for care or assistance." It should be noted that 1.7 million workers in Ontario in workplaces with less than 50 employees did not have access to PEL until 2018, when it was extended to these workplaces and the first 2 days became paid.

vii The Changing Workplaces Review was a comprehensive review of labour law conducted by appointed Special Advisors C. Michael Mitchell and John C. Murray between 2015 and 2017. The review's first phase of public consultation involved 12 sessions held across Ontario that heard over 200 presentations and received over 300 written submissions, which was followed with publication of an Interim Report and Final Report.

viii See Appendix A for more information about paid and unpaid sick days across Canada.

# **SECTION 4**

# **RECOMMENDATIONS TO CLOSE THE PAID SICK DAYS GAP**

## RECOMMENDATIONS TO CLOSE THE PAID SICK DAYS GAP

In sum, gaps in access to paid sick days have multiple negative impacts on individual workers and their families, public health, and the economy. Failing to close the gap by legislating employer-provided paid sick days will continue to deny paid sick days to over half of the workforce. Moreover, those being denied paid sick days need them most — workers in low-wage, precarious jobs who are disproportionately women, migrants, racialized workers, and workers with disabilities. Paid sick days legislation is a public health imperative and a matter of racial, gender, disability, and economic justice. The COVID-19 pandemic has exposed glaring workplace inequities that pose grave public health risks. It is now clearer than ever that precarious work and lack of paid sick days is a chronic health hazard and an acute public health crisis.

This report outlines key principles that must be considered by governments and policy-makers when implementing paid sick days. These principles draw on lessons from previous epidemics, public health and medical evidence, best practices from other jurisdictions, health provider expertise, and workers' experience. Paid sick leave legislation that is guided by these principles will ensure workers have the financial means to stay home when they or a family member is sick, imperative for our collective well-being.

The best way to close the gaps in access to paid sick days across Canadian jurisdictions is to expand the proven mechanism that already works for employers, workers, and public health: mandating employer-provided paid sick days. The following are recommendations for provincial, territorial, and federal governments across Canada to enact effective paid sick leave legislation.

**All provincial, territorial, and federal jurisdictions must update their employment standards to:**

- **Require employers to provide at least 7 days of paid emergency leave on a permanent basis.**
- **Require employers to automatically provide an additional 14 days of paid emergency leave during public health emergencies.**

**Any new paid sick leave legislation must:**

### 1. Ensure paid sick days are fully paid

For the public health recommendation “Stay home when sick” to be effective, sick days need to be **fully paid**. Unpaid sick days or paid sick days with less than full income replacement rates are ineffective. Workers should not be financially penalized for protecting public health or responding to a personal health crisis. We need to close the gap between public health recommendations and necessary financial security, with paid sick days.

### 2. Ensure paid sick days are adequate

As with any treatment, the dose matters. Paid sick days must be **adequate** to cover the duration of common illnesses and acknowledge the reality of workers' lives, including family and caregiving responsibilities. Health providers have been calling for 7 paid sick days for many years and COVID-19 requires 14 days of self-isolation. We need to close the gap between medical evidence and paid sick days policy — all workers need at least 7 paid sick days at all times and an additional 14 during public health emergencies.

### 3. Ensure paid sick days are permanent

The need to protect public health doesn't end after pandemics, and it is contrary to public health to restrict sick days to temporary measures related to COVID-19. The COVID-19 pandemic has highlighted the longstanding need for permanent paid sick days. To close the gap in paid sick days, they need to be **permanent**, available during COVID-19 and beyond.



**4. Ensure paid sick days are available to all workers, regardless of employment status, immigration status, or workplace size**

Pandemics reveal that infections anywhere are a threat to public health everywhere. Viruses don't discriminate, and neither should sick days. Paid sick days need to be **universal** – available to all workers regardless of workplace size, type of work (including temporary, part-time, and independent contracts), or immigration status of the worker. Closing the gap in access to paid sick days ensures those most in need are no longer denied this basic protection – women, racialized workers, migrant workers, and workers with disabilities in low-wage and precarious employment. Universal access to paid sick days will also require effective enforcement.

**5. Prohibit employers from requiring sick notes**

Prohibiting employers from requiring sick notes **removes an unnecessary barrier to staying home**, one which results in workers going to work sick. Physicians agree that patients can safely decide when to return to work without visiting their doctor for a sick note. Consequently, sick notes are an unnecessary burden on a healthcare system already under pressure.

**6. Prevent the introduction of any new barriers to accessing paid sick days**

Requiring workers to apply for income support or complete additional administrative tasks to access paid sick days will undermine their effectiveness. Such requirements create uncertainty about adequate income replacement and undue administrative burden. Application processes in place for longer term income supports are not appropriate and would undermine the effectiveness of workers taking sick days for short-term illness at the first sign of symptoms. Paid sick days should be employer-provided and workers should be paid with their next paycheck to ensure **no disruption to income**.

**7. Cover personal sickness, injury, or emergency, as well as family emergencies and responsibilities**

Workers need paid sick days that reflect the reality of their lives, healthcare needs, and caregiving responsibilities. That means **patient-centred, sufficiently flexible** leave that can be accessed for personal illness, injury, or emergencies, as well as family emergencies or responsibilities.



# APPENDIX A: PAID AND UNPAID SICK DAYS ACROSS CANADA

COVID-19 SPECIFIC			
Federal	<p>Personal leave: <b>5 days of leave</b> for sick leave or leave related to the health or care of family members</p> <p><i>Employer can request a medical note. Employee shall provide if reasonable and practicable.</i></p> <p>Medical leave: up to 17 weeks unpaid</p> <p><i>If 3 days or longer, medical note can be required by employer.</i></p>	<p>Personal leave: <b>3 paid days</b> (first 3 days of the 5 days are paid)</p> <p><i>Employer can request a medical note. Employee shall provide if reasonable and practicable.</i></p>	<p>Unpaid, job-protected leave for up to 16 weeks for reasons related to COVID-19. Ends on October 1, 2020 when it will be replaced by a permanent provision that allows for leave of absence for quarantine.</p> <p><i>Sick note not required.</i></p> <p>A temporary program to provide 10 days of income support for COVID-related leave for workers without paid sick days has been announced, but details and implementation are still forthcoming.</p>
Newfoundland	<p><b>7 unpaid days</b> for sick leave or family responsibility leave</p> <p><i>If absent for 3 or more consecutive days, must provide a medical note for sick leave or written statement outlining nature of leave for family responsibility leave.</i></p>	None	<p>Unpaid job-protected leave for reasons related to COVID-19.</p> <p><i>Sick note not required.</i></p>
PEI	<p>Sick leave: <b>3 unpaid days</b></p> <p><i>Employer can request a sick note if employee requests 3 consecutive days of leave.</i></p> <p>Family leave: <b>3 unpaid days</b></p> <p><i>Sick note rules not specified.</i></p>	<p>Sick leave: <b>1 paid day</b> after five continuous years of employment</p> <p><i>Employer can request a sick note if employee requests 3 consecutive days of leave.</i></p>	<p>Unpaid emergency leave in relation to COVID-19 for as long as an employee cannot perform their work-duties because of an emergency.</p> <p><i>Sick note not required.</i></p>

<p><b>Nova Scotia</b></p>	<p>Sick leave: <b>3 unpaid days</b></p> <p><i>Sick note rules not specified in legislation. Employers are prohibited from requiring sick notes during COVID-19 crisis.</i></p> <p>Emergency leave: Unpaid leave for government declared emergencies or public health directives or emergencies that prevent employee from performing work duties or if they need to care for someone due to emergency</p> <p><i>Guidelines suggest that sick notes may not be reasonable during a pandemic.</i></p>	<p>None</p>	<p>Unpaid emergency leave was already in place.</p> <p><i>In response to COVID-19, employers can no longer require a sick note if an employee must be off work.</i></p>
<p><b>New Brunswick</b></p>	<p>Sick leave: <b>5 unpaid days</b>, after 90 days of work</p> <p><i>If employee requests 4 consecutive days or more, employer can require a sick note.</i></p> <p>Family responsibility leave: <b>3 unpaid days</b></p> <p><i>Sick note rules not specified.</i></p>	<p>None</p>	<p>Unpaid leave for reasons related to COVID-19 until regulation is repealed.</p> <p><i>Employer not permitted to ask for sick note.</i></p>
<p><b>Quebec</b></p>	<p>Sickness or accident: Total absences must not exceed <b>26 weeks</b></p> <p><i>Employer can request a sick note.</i></p> <p>Family responsibilities: <b>10 days</b> to care for child or someone else for whom they are caregiver</p> <p><i>Employer can request a sick note.</i></p>	<p>The first <b>2 days paid</b> of either sickness or accident or family responsibilities leave</p> <p><i>Employer can request a sick note.</i></p>	<p>The Temporary Aid for Workers Program provided \$573 per week for workers who needed to stay home for COVID-19 related reasons from March 16 to April 10. It closed to avoid duplication with CERB.</p> <p>Existing unpaid leaves remain in place and apply for COVID-19 related reasons.</p>

Ontario	<p>Sick leave: <b>3 unpaid days</b> for personal illness, injury or medical emergency</p> <p><i>Employer can require a sick note.</i></p> <p>Family responsibility leave: <b>3 unpaid days</b> for family members' illness, injury, medical emergency or urgent matter</p> <p><i>Employer cannot require a sick note for a family member's illness, injury or medical emergency, but may require evidence or proof.</i></p>	None	<p>Infectious disease emergency leave (IDEL) provides job-protected unpaid leave for reasons related to COVID-19.</p> <p><i>Employer cannot require a sick note.</i></p>
Manitoba	<p><b>3 unpaid days</b> of leave for sick leave or family care responsibilities</p> <p><i>Employers can require a medical note.</i></p>	None	<p>Public health emergency unpaid leave of unspecified length for reasons related to COVID-19.</p> <p><i>Employer not permitted to ask for sick note.</i></p>
Saskatchewan	<p><b>12 unpaid days</b> for sick leave or for the care of family members</p> <p><i>Employers can request a medical note, unless absence is a result of a public health emergency.</i></p>	None	<p>An unspecified number of unpaid days of leave for reasons related to COVID-19.</p> <p><i>No requirement for a sick note.</i></p>
Alberta	<p><b>5 unpaid days</b> for sick leave or for family care responsibilities</p> <p><i>Sick note rules not specified.</i></p>	None	<p>14 unpaid days of leave for reasons related to COVID-19.</p> <p><i>No requirement for a sick note.</i></p>
British Columbia	<p>Sick leave: <b>3 unpaid days</b> for personal illness or injury</p> <p>Family responsibility leave: <b>5 unpaid days</b> for the care and health of a child or immediate family, or the education of a child in the worker's care</p> <p><i>Employers can request a sick note.</i></p>	None	<p>Unpaid job-protected leave for reasons related to COVID-19 for an unlimited number of days</p> <p><i>Employer not permitted to ask for sick note.</i></p>
Nunavut	None	None	<p>None</p> <p><i>The government recommended that organizations in Nunavut waive the requirement for sick notes during the COVID-19 pandemic.</i></p>

<b>Northwest Territories</b>	<p><b>5 unpaid days</b> for sick leave or family responsibility leave</p> <p><i>Employer can request a sick note if leave exceeds or is expected to exceed 3 consecutive days.</i></p>	None	None
<b>Yukon</b>	<p>Sick leave: 1 unpaid day of sick leave for every month the employee has been employed by that employer, less the number of days on which the employee has previously been absent due to illness or injury, <b>up to a maximum of 12 unpaid days</b></p> <p><i>Employers can request a medical note.</i></p>	None	<p>Unpaid leave for a period of up to 14 days for reasons related to COVID-19. The leave must be taken all at once.</p> <p><i>A sick note is not required to access this leave.</i></p> <p>Program that reimburses employers who pay employees to take sick days or self-isolate for up to 10 days of COVID-19 related leave. Regular paid sick leave available to workers must be used first. It is also available for the self-employed.</p> <p><i>A sick note will not be required.</i></p>

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# APPENDIX B: METHODOLOGY FOR INTERVIEWS AND SURVEY

Two research approaches were used to anchor this report in worker and health provider perspectives. Worker experiences were captured in interviews, while health provider perspectives were captured in a survey.

## WORKER INTERVIEWS

The worker interviews involved one-on-one, in-depth, semi-structured interviews. Thirty workers from various sectors across Ontario were interviewed between October and December 2019 by one primary interviewer. The purpose of the interviews was to explore how paid sick days, sick notes, and personal emergency leave impacted their health and the health of their families and communities. Two additional workers were interviewed in June and July 2020, during the COVID-19 pandemic, to gain an understanding of their experience without paid sick days during a public health emergency. Interviewed workers were financially compensated for their participation.

The approach to worker interviews was determined in consultation with community leaders who have undertaken collaborative research with low-income workers in the past. Questions were developed with input from community partners, including Parkdale Community Legal Services, Workers' Action Centre, and the Ontario Employment Education and Research Centre. This community-based participatory research (CBPR) method used phenomenology to analyze the interviews. Interviews were recorded with the consent of participants and were transcribed using Descript. All participants were recruited through purposive sampling. The primary interviewer also coded and analyzed the interview transcripts with the community partners' assistance. Check-ins with community partners took place at regular intervals during the entire CBPR process.

## PHYSICIAN SURVEY

The Decent Work and Health Network research team surveyed Canadian Association of Emergency Physicians (CAEP) members to determine the impacts of sick notes on patients and the healthcare system, the duration of time off work recommended to patients by physicians, and training and policies in place for health providers regarding sick leave policies and prescribing practices for common illnesses.

This study received approval from the University of Toronto Health Sciences research ethics board. Following a literature review, the survey was designed through 4 authors' consensus and revised following review by an additional physician and labour policy expert. The survey was distributed in English only via SurveyMonkey. CAEP administered the survey, distributing the survey 3 times in 2-week intervals between December 2019 and January 2020. The link was distributed by email to all CAEP physician members. Of the 1524 CAEP physician members reached, 182 participated. Ontario was reported as the practice location by 51.1% of respondents and 79% practiced emergency medicine exclusively, with the remainder practicing emergency medicine and family medicine, sports medicine, or other specialties. Survey participation was voluntary and all responses anonymous. No financial incentive was provided for participating.

The survey included multiple-choice demographic questions, as well multiple-choice

questions and open-ended, numeric responses to quantify variables, such as the duration of time physicians advise patients to stay home from work, the cost of a sick note, and the frequency with which patients require additional medical care. Participants were allowed to skip questions, and data from incomplete surveys was included. Data was analyzed in the R statistical programming language.<sup>160</sup>

# APPENDIX C: SUMMARY OF FINDINGS FROM WORKER INTERVIEWS

In total, 32 workers were interviewed between October 2019 and July 2020. Of those, 22 identified as women and 6 women had school-aged children, while 10 identified as men. Twelve women and 4 men were racialized workers. All resided in Ontario, with 6 residing in non-urban locations. Most workers interviewed were in low-wage and precarious jobs.

Several key themes emerged from the interviews:

- **Many workplaces have a culture of workers being expected to go into work sick.** This was present despite the reality that completing job duties while sick posed a risk to customers, clients and workers' own health. Fear of reprisals increased pressure to work while sick.
- **Many workers fear reprisals when they access sick days.** In fact, 60% of workers interviewed reported fears that they will be penalized or, in some cases, fired for using their unpaid sick or paid sick days.
- **Workers save paid sick days for when they really need them.** All workers interviewed talked about using paid sick days carefully to ensure they were available when they need them most. Workers use paid and unpaid sick days as a form of insurance, which gives them a sense of security that they will be able to cope in case of an emergency or personal or family illness.
- **Lack of access to adequate paid sick days had a disproportionate impact on women, who were more likely to be primary caregivers.** Five women interviewed chose not to use their sick days for personal illness, instead saving them for when they had caregiving duties (most commonly for when their children got sick). Four workers who were primary caregivers had been in situations where they had no option but to send sick children to school because they lacked paid sick days.
- **Access to paid sick days had a positive and protective impact on health and mental health, as well as giving workers a sense of dignity.** For 9 workers interviewed, paid sick days allowed workers to stay home for illness resulting in improved recovery time. Twenty-seven workers described that paid sick days provide a sense of protection or security with a positive impact on mental health (by reducing stress and anxiety, for example). This was related to many factors, including knowing you have time off available for sickness, medical appointments, caregiving, and emergencies. For half of workers interviewed, having paid sick days contributed to feelings of respect, dignity and value in the workplace.
- **Two paid sick days was not enough.** Many workers interviewed gained access to 2 paid sick days when they became legislated in employment standards in Ontario in 2018. Workers unanimously agreed that access to 2 paid sick days made a positive difference for them, but 2 days did not adequately reflect the realities of time off required to protect their health and deal with family responsibilities. This was particularly the case for workers who were women or who had chronic medical conditions.
- **Allowing employers to require sick notes results in workers going to work sick.** Five workers had chosen to go to work sick rather than get a sick note. Workers had paid up to \$50 for a sick note. Access to same day care from a family physician to obtain a sick note

was rare, which meant workers went to walk-in clinics and emergency rooms to obtain sick notes. Workers in rural areas of Ontario were more likely to go to the emergency room to get a sick note.

- **Required sick notes cause tension between patients and health providers.** Four workers interviewed cited having to obtain sick notes as a cause of tension with their health provider.
- **Patient-centred personal emergency leave with sufficient flexibility was important to workers.** Workers talked about how restrictions to emergency leave introduced in Ontario in 2019 compromised their or their families' health and wellbeing. For 10 workers that we spoke with, losing flexible personal emergency leave limited their ability to manage their health, provide care to their family, or grieve the loss of loved ones. Flexibility was particularly important for workers managing chronic conditions who relied more on personal emergency leave days to attend medical appointments and access preventive care.

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