

WCIRB Bulletin

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Coronavirus Disease 2019 (COVID-19) Payroll Reporting Rules

This notice is to inform you of a change to payroll reporting rules in light of Governor Newsom's Executive Order N-07-21 (attached). As a result of Governor Newsom's Executive Order, certain Coronavirus Disease 2019 Payroll Reporting Rules will soon terminate. Effective July 1, 2020, the Insurance Commissioner adopted the following rule to address issues that arose as a result of the COVID-19 statewide stay-at-home order issued by the Governor on March 19, 2020 (Executive Order N-33-20).

7. Coronavirus Disease 2019 (COVID-19)

a. Effective as of the date of a California statewide stay-at-home order and concluding sixty (60) days after the order is lifted, the payroll of an employee who meets the definition of a Clerical Office Employee, as detailed in Rule 4a, *Classifications 8810, Clerical Office Employees, and 8871, Clerical Telecommuter Employees*, and whose payroll for the balance of the policy period is not assignable to a standard classification that specifically includes Clerical Office Employees, shall be assigned to Classification 8810, *Clerical Office Employees*.

A single employee's payroll may be divided between Classification 8810 and another classification only once during this time period. Once the employee's duties are no longer exclusively clerical in nature, Classification 8810 shall not be assigned.

b. Effective as of the date of a California statewide stay-at-home order and concluding thirty (30) days after the order is lifted, payments made to an employee, including but not limited to sick or family leave payments, while the employee is performing no duties of any kind in service of the employer shall be excluded from remuneration; however, the excluded amounts shall be no greater than the employee's regular rate of pay.

c. Employers must maintain records that document the change in duties and that segregate such payments during the timeframes specified above.

See Part 3, *Standard Classification System*, Section III, *General Classification Procedures*, Rule 7 of the *California Workers' Compensation Uniform Statistical Reporting Plan—1995* (emphasis added.)

On June 11, 2021, the Governor issued Executive Order Number N-07-21 rescinding the March 19, 2020 stay-at-home order. The WCIRB has confirmed with the Insurance Commissioner that the Governor's Executive Order Number N-07-21 constitutes a lifting of the stay-at-home order as contemplated under the above-referenced rule. Therefore, subsection a will sunset on August 10, 2021 and subsection b will sunset on July 11, 2021.

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EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-07-21

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS since March 2020, the State has taken decisive and meaningful actions to reduce the spread, and mitigate the impacts, of COVID-19, saving an untold number of lives, and to protect the ability of the State's health care system to deliver health care to all people in California who require it; and

WHEREAS the effective actions of Californians over the past fifteen months have successfully curbed the spread of COVID-19, resulting in dramatically lower disease prevalence and death, in the State; and

WHEREAS as of June 9, 2021, 54.3% of eligible Californians have received a full course of COVID-19 vaccination, raising the level of overall immunity in the State; and

WHEREAS the State continues to promote and facilitate vaccination of all eligible Californians; and

WHEREAS given the current outlook, it is appropriate to reevaluate existing public health directives to allow for a full reopening of California while maintaining caution and vigilance as California continues to increase vaccination rates and monitor COVID-19 variants; and

WHEREAS the California Department of Public Health and State Health Officer are empowered to issue mandatory public health directives to protect the public health in response to a contagious disease under existing State law, including, but not necessarily limited to, Health and Safety Code sections 120125, 120130(c), 120135, 120140, 120145, 120175, 120195 and 131080; and

WHEREAS to preserve the flexibility to modify public health directives and respond to changing conditions and to new and changing health guidance issued by the Centers for Disease Control, and under the provisions of Government Code section 8571, I find that strict compliance with the Administrative Procedure Act, Government Code section 11340 et seq., would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) Executive Order N-33-20, issued on March 19, 2020, setting forth the Stay-at-Home Order is hereby rescinded.
- 2) Executive Order N-60-20, issued on May 4, 2020, directing the State Public Health Officer to issue a risk-based framework for reopening the economy, and all restrictions on businesses and activities deriving from that framework, including all aspects of the Blueprint for a Safer Economy, is hereby rescinded.
- 3) Nothing related to the issuance of any Orders, guidance, or directives of the State Public Health Officer relating to COVID-19 shall be subject to the Administrative Procedure Act, Government Code section 11340 et seq.
- 4) Nothing in this Order shall be construed to limit the existing authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than, or that otherwise exist in addition to, the public health measures imposed on a statewide basis pursuant to the statewide directives of the State Public Health Officer.

IT IS FURTHER ORDERED that, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 11th day of June 2021.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State