# JOINT ECONOMIC COMMITTEE CONGRESSMAN DON BEYER, VICE CHAIR



# Universal Paid Sick Leave is Essential for Combating the Pandemic and Protecting the Economy

"If we work sick, then you get sick."
-New York City service workers<sup>1</sup>

The COVID-19 outbreak has exacerbated the dangers of the extremely unequal health care system in the United States, in which some Americans have access to the best health care and benefits in the world and others suffer from a lifetime of inadequate benefits and health services. One glaring example is that one-in-four working Americans – approximately 36 million people – do not have any paid sick leave.<sup>2</sup> They are not only deprived of an essential benefit but are forced to decide between staying home and losing a paycheck or going to work and exposing others—even during a global pandemic.

The United States is the only high-income country in the world that does not offer or mandate universal paid sick leave. As a result, Americans' access to paid sick leave varies widely, correlating with industry, company size, income and other factors. While almost all employees of large U.S. corporations have paid sick leave, less than two-thirds at companies with fewer than 50 employees have access to it. More than 90 percent of the top quarter of income earners have paid sick leave, while only 30 percent of the poorest workers do. Ironically, workers in some service sector industries who are at greatest risk of contracting the coronavirus have the least access to paid sick leave; in the foodservice industry, for example, only 45 percent can get it.

Research shows that workers will go to work sick even during an outbreak of a serious, contagious disease. During the 2009 H1N1 epidemic, almost 20 million workers went to work sick, infecting at least 7 million co-workers.<sup>3</sup> Approximately one-third of private sector employees who contracted the virus went to work anyway, while nine-in-10 public sector employees with the virus—who are far more likely to have paid sick leave—stayed home. Another study found that the absence of paid sick leave may have been responsible for an additional five million cases of H1N1.<sup>4</sup>

Contrary to some claims, providing paid sick leave is cost-effective for many employers — reducing "presenteeism" and preventing illness-based lost productivity. In several cities where employers are mandated to provide paid sick leave, a majority of companies polled report that implementing paid sick leave was worthwhile. Studies also have shown that paid sick leave does not depress wages.

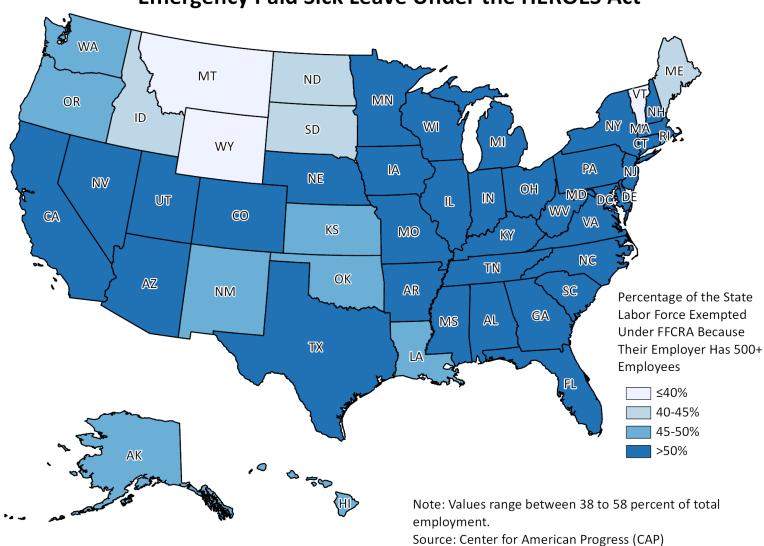
On May 15, 2020, the House of Representatives passed the HEROES Act, extending paid sick leave to millions of additional workers and filling gaps left by long-term federal policies and the emergency provisions included in the Families First Coronavirus Response Act (FFCRA).<sup>5</sup> The new legislation would protect all workers regardless of the size of their employer or their job description. These positive steps lay the groundwork for additional legislation to provide paid sick leave to American workers and help protect the public in this pandemic and the next one.

## **Key Facts**

- The United States is the only high-income country in the world that does not offer or mandate universal paid sick or family leave.
- One-in-four working Americans approximately 36 million people do not have any paid sick leave.
- While almost all employees of large U.S. corporations have paid sick leave, less than two-thirds at companies with fewer than 50 employees have access to it.
- More than 90 percent of the highest-wage earners have paid sick leave, while only 30 percent of the lowest-wage workers do.
- Approximately 83 percent of full-time, private-sector workers have access to paid sick leave, almost twice the share of part-time, private-sector workers that have it (43 percent).
- Only 58 percent of service sector workers and only 45 percent of workers in the hotel and foodservice industries have access to paid sick leave.
- Workers who do not have access to paid sick leave are three times more likely to go to work sick, delay seeking medical attention or forgo medical care altogether.
- In the past, even a contagious disease outbreak did not impact these trends. During the 2009 H1N1 epidemic, almost 20 million workers went to work sick, infecting at least 7 million co-workers.
- In states that implemented paid sick leave mandates, the prevalence of flu-like illness decreased by 11 percent the first year after the mandate was implemented.
- Paid sick leave costs employers on average only \$0.34 per hour per worker—about one percent of all employee compensation.
- Research shows that paid sick leave does not depress wages. In fact, a majority of companies report that implementing paid sick leave was worthwhile.

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## Most Workers in Most States Would Be Eligible for Emergency Paid Sick Leave Under the HEROES Act



Source. Center for American Progress (CA

### THE COST TO THE PUBLIC

## Workers without paid sick leave are more likely to go to work sick

The lack of universal paid sick leave in the United States creates perverse economic incentives for millions of American workers. They are forced to make difficult choices every time they or their children become ill – to go to work while sick or stay at home without pay. One study revealed that those who do not have access to paid sick leave are three times more likely to go to work sick, delay seeking medical attention or forgo medical care altogether. Their family members are almost two times more likely to skip medical treatment.<sup>6</sup>

Research shows that workers will go to work sick even during an outbreak of a serious, contagious disease. During the 2009 H1N1 epidemic, almost 20 million workers went to work sick, infecting at least 7 million co-workers. During the same outbreak, only 66 percent of private-sector employees – who are less likely than public-sector workers to have paid sick leave – took leave off from work when infected, compared to nine-in-10 public-sector workers. But the context of the context

## Paid sick leave can help slow the spread of contagious diseases

Paid sick leave is an essential policy for public health because it keeps people from spreading illness to their colleagues at work. It can be especially beneficial in helping contain highly contagious diseases, such as COVID-19. For example, researchers found that in states that implemented paid sick leave mandates the prevalence of an influenza-like illness decreased by 11 percent the first year after the mandate was implemented.<sup>9</sup>

During the 2009 H1NI outbreak, the absence of paid sick leave may have been responsible for an additional five million cases of the virus, with 1.2 million of those cases isolated to the Hispanic community. The coronavirus which causes COVID-19 is characteristically different from these viruses: it is more than twice as contagious as the influenza virus which causes H1N1 and many who contract the virus are asymptomatic and can spread the virus unknowingly. For these reasons, a lack of paid sick leave can have consequences that are potentially much more disastrous than those of H1N1. 12

## Businesses that do not offer paid sick leave put their customers at risk

Businesses that do not provide their employees with paid sick leave also put their customers and clients at risk, especially in high-traffic establishments like restaurants and grocery stores. Viruses can spread easily in enclosed spaces because employees and customers share air and physical contact with surfaces.

When a customer's illness is traced to a business, the business can end up paying a price. In 2011, an employee at Olive Garden with Hepatitis A exposed thousands of customers to the disease, costing Darden Restaurants (Olive Garden's parent company) \$375,000 in compensation as part of a class-action suit.<sup>13</sup>

## Some businesses have restricted paid sick leave to employees who test positive for COVID-19

This limitation adds to the existing perverse incentive for symptomatic individuals to continue working or forgo medical care. For those seeking emergency paid sick leave under the recently passed Families First Coronavirus Response Act, they may be forced to travel to already overtaxed testing and health centers to ask for a test that medical caregivers may not be able to provide them, either because they don't have sufficient tests or because the individual does not meet the criteria of their state or local health department. This is despite advice from the Center for Disease Control (CDC) that "most people have mild illness and are able to recover at home... [that] not everyone needs to be tested for COVID-19... [and that] decisions about testing are at the discretion of state and local health departments." If the symptomatic individual lives in a dense, urban area and must take public transportation to the nearest hospital, they may expose dozens of people and public surfaces only to prove that they are sick to get access to paid sick leave. Is

## A few days of paid sick leave is not enough for the present crisis

While the average American only takes between three and four sick days a year, that is simply not enough time even in normal conditions, but it is even less adequate for those who have or suspect that they have COVID-19. Given the CDC's social distancing directives and the weekslong duration of serious symptoms of COVID-19, three to five paid sick days are clearly insufficient. Without additional paid sick days, individuals suffering from this life threatening illness could face substantial financial hardship while they are still sick. Because it may take up to 14 days for COVID-19 symptoms to materialize, it is possible that an individual could use up all their paid sick leave and return to work before they have begun to show symptoms.

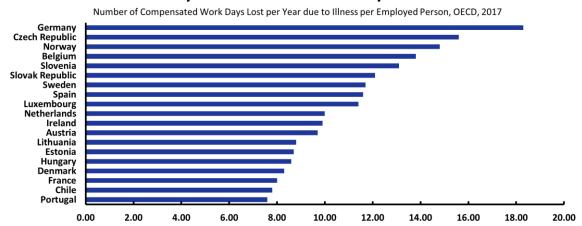
More time is required for paid sick leave to provide protective public health benefits. This is particularly true if both the working individual and their child contract the virus or are required to quarantine after exposure at two different times. To ensure public health, individuals must have access to the sick pay they need to care for both themselves and members of their family through the course of this illness. While the Families First Coronavirus Response Act included sufficient time to self-quarantine once, it is not a permanent solution to this problem for working families.

## PAID SICK LEAVE IN THE UNITED STATES

## The United States is the only high-income country without universal paid sick leave

There is currently no permanent federal mandate in the United States for paid sick leave. In contrast, 22 of the highest income countries guaranteed an average of 10 days of paid sick leave in 2017.<sup>17</sup> Other countries pay for these programs in a variety of ways. While some—such as Germany, New Zealand and the United Kingdom—rely on a mandate to require employers to pay employees sick leave, others—including Canada, France and Japan—leverage preexisting social insurance for long-term leave to pay for short-term leave as well.<sup>18</sup> Countries with the strongest collective bargaining agreements have some of the most generous paid sick leave guarantees.<sup>19</sup>

## Most OECD Countries' Employed People Receive More than Six Days of Paid Sick Leave Every Year



Source: OECD Health Stats 2017, "Absense from work due to illness"

Note: Data collection variable between countries; Data excludes maternity leave; Data not available in 2017 for United Kingdom, Mexico, and Greece; No data available for the
Linited States

## Almost 36 million Americans lack access to paid sick leave

One-in-four workers, more than the population of California, do not have access to paid sick leave as a benefit voluntarily provided by their employer.<sup>20</sup> Unless policy changes, one-in-four workers are presented with difficult choices regarding their jobs, incomes and the health of their families.

Americans on average take three to almost four sick days each year.<sup>21</sup> However, if someone falls ill with COVID-19, they need at least two workweeks to recover, more than twice the number of days required for seasonal influenza and more than three times the number of sick days taken by the average American in a normal year.<sup>22</sup> While the number of sick days needed during the present outbreak may be higher, paid sick leave employer mandates are generally more affordable than government-funded paid sick leave programs.

## Workers at small companies are far less likely to have paid sick leave

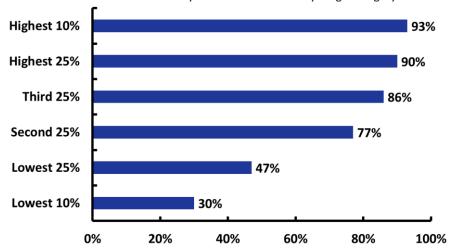
In the private sector, access to paid sick leave varies greatly by company size. For example, workers employed by companies with more than 500 employees are three times more likely to have paid sick leave than those employed by firms with fewer than 50 employees. This partly reflects the pattern of state- and city-level mandates, many of which include carve-outs for smaller businesses that are less financially able to provide their employees with paid sick leave.<sup>23</sup>

## Workers with the lowest incomes are 10 times less likely to have paid sick leave than those with the highest incomes

Seventy percent of workers in the bottom 10 percent of wage earners (making around \$22,000/year), lack access to paid sick leave. In the top 10 percent of wage earners (those making approximately \$109,000/year), only seven percent lack access to paid sick leave.

## Low-Income Workers Are Least Likely to Have Access to Paid Sick Leave

Percent of Private Industry Workers with Access by Wage Category



Source: Employee Benefits in the United States - March 2019. Bureau of Labor Statistics.

Low-income workers are less likely to work in full-time jobs, which offer higher rates of paid sick leave coverage. In April 2019, there were 27.5 million part-time workers.<sup>24</sup> Only 43 percent of part-time, private-sector workers had access to paid sick leave, compared to 83 percent of full-time, private-sector workers.<sup>25</sup>

About one-in-five workers who do not take leave when needed report they could not afford the loss of income or feared a negative employment consequence. Workers with lower incomes are more likely to fear job loss or financial instability if they take more than a week off from work. This income imbalance in paid sick leave is particularly alarming during the present crisis because essential stores – including groceries, pharmacies, liquor stores, etc. – are industries that rely heavily on part-time work. These industries within the service sector include retail, food service and accommodation.

### Workers in industries with the highest risk of exposure are least likely to have paid sick leave

In March 2019, only 58 percent of service sector workers had access to paid sick leave. In March 2020, over 130 million jobs were in service-producing industries, making up almost 90 percent of the civilian employment.<sup>28</sup> However, that number includes occupations like stockbrokers and computer programmers who can social distance and have some of the highest rates of paid sick leave coverage. For this reason, the availability of paid sick leave among lower-wage service sector workers is much lower. For example, only 45 percent of workers in the hotel and foodservice industries have access to paid sick leave. <sup>29</sup>

Workers in the industries of the service sector that have high human contact jobs that put them at higher risk of exposure to COVID-19 are also the least likely to have access to paid sick leave. Widespread outrage over outbreaks traced to the food supply chain, including multiple rural outbreaks at meatpacking plants across the Southeast and Midwest, has been widely covered by

the media.<sup>30</sup> Farmworkers report insufficient workplace protections, including being required to provide their own personal protective equipment, lacking language accessible safety education and being forced to violate social distancing recommendations.

Home health care workers are in a particularly difficult position during the COVID-19 pandemic. Their jobs are inherently hazardous to both themselves and their patients, the majority of whom are high risk.<sup>31</sup> Although most already have access to paid sick leave, only about 35 percent were able to use it between 2012 and 2017.<sup>32</sup> Pressures to continue to work may be especially high among employees of for-profit home health aide businesses that did not already have paid sick leave, have very few employees or that do not have the funds to pay their employees under the new national paid sick leave mandate from the Families First Coronavirus Response Act.<sup>33</sup>

## Even some businesses that offer paid sick leave discourage workers from using it

Some workers fear using their paid sick leave because of the risk of backlash from their employer. In some cases, employees receive disciplinary action for calling in sick, even after their corporate employers changed company-level policy in response to the COVID-19 emergency. For example, while Chipotle provides its employees three days of paid sick leave, the company recently faced a highly public complaint from an employee that was fired for calling in sick. The company was forced to rehire the employee after New York City, one of the few municipalities in the United States with a paid sick leave mandate, defeated them in court. The company was forced to rehire the employee after New York City, one of the few municipalities in the United States with a paid sick leave mandate, defeated them in court.

In a study of San Francisco's paid sick leave mandate, which explicitly forbids retaliation by employers, almost 20 percent of employees in educational and health services reported that their employer retaliated against them for using their sick leave.<sup>36</sup>

## WILL PROVIDING PAID SICK LEAVE HURT BUSINESSES?

## Paid sick leave is cost-effective for many employers

Paid sick days cost employers on average \$0.34 per hour per worker—about one percent of all employee compensation.<sup>37</sup> When a new paid sick leave mandate was implemented in Seattle, 70 percent of employers were supportive of the new policy.<sup>38</sup> In New York and San Francisco, employers supported new programs and did not complain of significant economic hardship. Eighty-five percent of employers in New York City did not experience a difference in costs due to the paid sick leave law.<sup>39</sup>

Even in sectors that have previously reported concerns about paid sick leave, employers have come around on the policy. In San Francisco, more than 60 percent of employers in accommodation and food services, retail and wholesale trade reported being supportive of the policy change. High levels of support from businesses in these industries is especially notable because these were the main sectors that reported concerns about profitability due to the program. Under the program of th

## Paid sick leave reduces absenteeism and "presenteeism," increasing worker productivity

Under normal circumstances, paid sick leave can benefit overall work productivity by encouraging workers to stay home and recover from their illness. First, research shows that paid sick leave can improve the welfare of workers. <sup>42</sup> Further, it could also boost morale and inspire them to work harder to make up for lost time after returning from paid sick leave. <sup>43</sup>

Providing paid sick leave would have saved employers up to \$1.88 billion per year in influenzalike illness absenteeism between 2007 and 2014, according to research published in the Journal of Occupational and Environmental Medicine.<sup>44</sup> Workers with paid sick leave are 28 percent less likely to be injured at work than those without paid sick leave.<sup>45</sup>

"Presenteeism," when workers go to work even though they are sick, is thought to make them between 20 and 25 percent less productive. A variety of studies looking at both acute (allergies, flu, COVID-19, etc.) and chronic (cancer, irritable bowel, etc.) illnesses found that, in the case of acute illnesses, the cost of lost productivity from presenteeism was greater than the cost of direct health services (primarily pharmaceuticals). Paid sick leave reduces transmission to fellow employees by making it easier for very sick workers to stay home. In a normal week, about two percent of employees engage in presenteeism while sick, contributing significant losses in productivity.

## Paid sick leave mandates do not adversely affect wages

In 2018, a study found no evidence that employment or wages were impacted, either negatively or positively, by paid sick leave mandates.<sup>50</sup> Neither employment nor wage decreases were significantly impacted. The transition to paid sick leave can be relatively painless for employers if done correctly. Less than one-third of employers in Seattle complained of temporary difficulties in reorganizing payroll while rolling out a new paid sick leave mandate.<sup>51</sup>

## Companies that don't provide sick leave "free ride" off those that do

Establishments that do not provide paid sick leave effectively take unfair advantage of employers that do. For example, if some but not all restaurant chains offer paid sick leave and implement other protections against the spread of COVID-19, patrons may assume that this is standard practice. However, other restaurant chains may not provide the same safeguards or disclose that fact, putting their customers at risk without their knowledge. Implementing a paid sick leave mandate and/or requiring businesses to publicly disclose whether or not they provide paid sick leave to their employees limits free-riding by penny-pinching companies.

## THE FEDERAL LEGISLATIVE RESPONSE TO THE COVID-19 PANDEMIC

## Economists widely consider emergency universal paid sick leave to be essential

To reassure the public as states move to reopen, economists have emphasized the importance of paid sick leave for 100 percent of workers until the end of this crisis. Nobel Prize-winning economist Joseph Stiglitz and leading think tanks, including the Washington Center for Equitable Growth and the Center on Budget and Policy Priorities, have proposed expanding paid

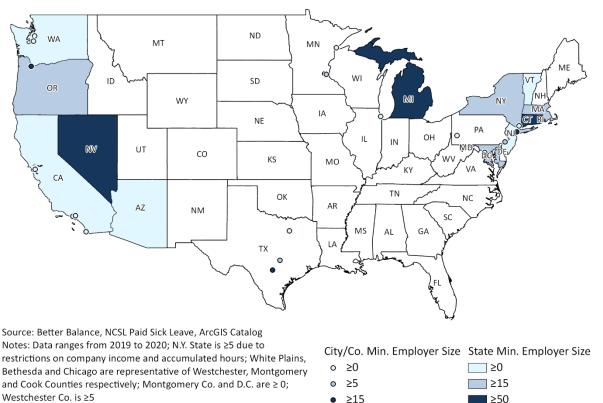
sick leave to all workers, emphasizing the economic need to keep income flowing to all workers, including those who are sick. $^{52}$ 

## The most efficient way to pay for paid sick leave is through an employer mandate

Under non-pandemic conditions, research has shown that employers most effectively carry the costs of tracking and paying for paid sick leave. On average, paid sick leave costs employers \$0.34/hour worked, significantly less than the cost of paid vacation.<sup>53</sup> In the states that have paid sick leave mandates (including California, Massachusetts, Nevada, Washington and the District of Columbia), employers are expected to pay the costs.<sup>54</sup> In cities such as Seattle, New York City and San Francisco, employers have been overwhelmingly supportive of paid sick leave mandates.<sup>55</sup> In the long run, paid sick leave is affordable particularly because Americans, on average, take only three to four sick days each year.<sup>56</sup>

## Most States Do Not Have Mandated Paid Sick Leave

Minimum Number of Employees for the Paid Sick Leave Mandate to Apply



In other OECD countries, where paid sick leave is universally provided and is often treated as part of paid family and medical leave, there have been alternative models of paying for sick leave. In the United Kingdom, the Czech Republic and Hungary, employers are expected to pay for employees' sick time. In Austria, Ireland, Lithuania, Denmark and Estonia, social insurance either pays for sick time or shares costs with employers. As an example, the Danish system requires companies to pay for the sick leave of full-time equivalent employees but takes special steps to fill gaps that include hourly and part-time employees.<sup>57</sup> A similar system of cost-sharing

could work in the U.S. economy for gig workers, part-time workers and those with multiple employers.

### The HEROES Act

On May 15, 2020, the U.S. House of Representatives passed the HEROES (Health and Economic Recovery Omnibus Emergency Solutions) Act, which would extend paid sick leave to fill in the gaps left by current long-term federal policies and emergency provisions included in the Families First Coronavirus Response Act. Most significantly, the HEROES Act closes carve-outs and exclusions that hurt new employees, some federal employees singled out by the Office of Management and Budget, health care workers and emergency responders (who were not included in original emergency provisions), while exempting large and small companies (of greater than 500 employees and less than 50 employees. <sup>59</sup>

This new legislation also addresses widely publicized concerns regarding Department of Labor and employer rules about who is and is not eligible for emergency paid sick leave. The HEROES Act allows individuals to use emergency paid sick leave to:

- self-isolate because they were diagnosed with COVID-19 (the original provision, made difficult by limited testing),
- obtain a medical diagnosis or care for symptoms of COVID-19,
- comply with a recommendation or order to self-isolate because the health of the employee, other employees, or a person in the employee's household would be put at significant risk if they were to continue coming to work (immunocompromised individuals),
- care for a family member who is self-isolating,
- look after a child whose school or child care provider has closed,
- and/or support a family member who is a senior citizen or who has a disability and whose place of care or direct care provider is unavailable.<sup>60</sup>

The HEROES Act also includes funding for Department of Labor (DOL) efforts to communicate the changing policy to employees, as well as funding for greater Occupational Safety and Health Administration (OSHA) enforcement and worker safety education. There had been reports that many workers were not aware of the paid sick leave available through Families First. The increased funding would give OSHA and DOL the resources to successfully communicate the new, essentially universal paid sick leave policy, an essential step to ensuring workers are protected and the pandemic is contained under the shifting landscape of reopening.

## **CONCLUSION**

When American workers get sick, they should not be forced to choose between staying at home and losing income and going to work and possibly infecting their coworkers. This is true at all times, but it is especially important today as the nation works to limit the spread of the highly

contagious COVID-19. Research has shown that workers will continue to work while sick, particularly when they have financial incentives to do so.

Access to paid sick leave is also a simple matter of fairness. The highest income earners almost universally have access to paid sick leave while few of the lowest paid can get it. Workers in some service sector industries that are more exposed to the coronavirus, yet they are much less likely to have paid sick leave. Those without paid sick leave are more likely to be exposed to coworkers without paid sick leave who go to work even with symptoms of coronavirus—they are both more vulnerable and more likely to put others at risk.

The COVID-19 outbreak has exposed the public health risks which come with an absence of universal paid sick leave in the United States. This pandemic has clearly demonstrated that the performance of the economy, economic institutions and businesses rely on the stability and public health of society. A permanent federal sick leave policy that provides all workers job and wage security when taking time off due to illness or a public health threat would better protect workers, businesses, families and the economy, not only during the present crisis but also in the future.

### **ADDENDA**

## Related JEC reports

- <u>The Impact of Coronavirus on the Working Poor and People of Color</u>, U.S. Congress Joint Economic Committee
- <u>Reopening Too Soon Will Have Steep Economic Costs</u>, U.S. Congress Joint Economic Committee

## Additional reading

- 'If We Work Sick, Then You Get Sick,' The New York Times, Editorial Board
- "Mandated Sick Pay: Coverage, Utilization and Welfare Effects," National Bureau of Economic Research, Johanna Catherine Maclean, Stefan Pichler and Nicolas R Ziebarth
- "Paid Sick Leave: Who Gets It during the COVID-19 Outbreak," The Washington Post, Heather Long
- "One Policy that Changes the Coronavirus Math," Vox, Liz Scheltens

<sup>&</sup>lt;sup>1</sup> NYT Editorial Board. (2020, March 11). "If we work sick, then you get sick". The New York Times. https://www.nytimes.com/2020/03/11/opinion/coronavirus-paid-sick-leave.html

<sup>&</sup>lt;sup>2</sup> In this report, paid sick leave is defined as short-term leave intended for short-term or limited periods of illness, which also is commonly described as paid sick time or paid sick days. Unless otherwise noted, the data included throughout this report do not describe long-term leave or family and medical leave.

<sup>&</sup>lt;sup>3</sup> Sick at work: Infected employees in the workplace during the H1N1 pandemic. (2010, November 22). Institute for Women's Policy Research. <a href="https://iwpr.org/publications/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic/">https://iwpr.org/publications/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic/</a>

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