



Michigan's Revised Earned Sick Time and Minimum Wage Laws: What You Need to Know

Compliance Date for Small Businesses is October 1, 2025

Immediate Steps You Should Take Now!

Current Through 8/22/25

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Immediate Questions to Ask / Action Steps for Small Business Employers

On February 21, 2025, Michigan Governor Gretchen Whitmer signed into law revised minimum wage and paid sick time statutes, effective immediately. **Under the new earned sick time legislation, small businesses – defined as those with 10 or fewer employees – do not have to comply until at least October 1, 2025. Larger employers are required to comply immediately.**

In light of this, the MAC Legal Affairs team urges all chiropractors with even one employee to review and, if needed, be prepared to amend their paid leave policies and/or wage scales, with an eye toward the following questions:

- What paid leave policy/wage scale do I currently have in place? Will I need to change them when compliance with my business is required (October 1, 2025, for small businesses)?
 - Will I have to raise employee salaries to comply with the new minimum wage?
 - Should time off policies be revised / increased?
- How will these new laws affect my bottom line and staffing requirements? Will labor costs increase? Will attendance policies and discipline be administered differently moving forward?
- What is my benefit year for purposes of vacation, paid time off, etc? Calendar, fiscal, other?
- Will I need to combine ESTA paid time off with vacation time to move to a PTO-type policy?

While it is necessary to be ready for these changes, legal experts and business organizations caution against rolling out any new policies until we get closer to the implementation date and the picture moving forward becomes clearer. Stay tuned for additional information as we get closer to the small business compliance date.

PLEASE NOTE: Employers were required to have provided written notice to each employee about their paid sick time by March 23, 2025, or at the time of hiring, whichever is later. See below for more information, including what must be included in the notice. If you did not already provide this notice, you will want to do so asap.

Public Act 2 of 2025 (House Bill 4002 – The Earned Sick Time Act)

Public Act 2 of 2025 amends the Earned Sick Time Act (ESTA) to modify the terms under which employers are required to provide paid sick time to employees.

Unfortunately for most Michigan chiropractic practice owners, there is ***no small employer exception***. All businesses with even one employee must provide earned sick time. The bill took effect at 12:02am on February 21, 2025. Small businesses (defined as businesses with 10 or fewer employees) have until October 1, 2025, to comply.

See below for answers to Frequently Asked Questions about Michigan's revised Earned Sick Time Act.

Public Act 1 of 2025 (Senate Bill 8 – The Minimum Wage Law)

Public Act 1 of 2025 amends the Improved Workforce Opportunity Act to make changes to Michigan's minimum wage, as follows:

Date	Minimum Hourly Wage
February 21, 2025	\$12.48
January 1, 2026	\$13.73
January 1, 2027	\$15.00

Beginning October 2027, the state treasurer must adjust the minimum wage for inflation, based on the Consumer Price Index for urban wage earners and clerical workers for the Midwest region, unless the Michigan unemployment rate is 8.5% or above for the preceding year. The adjusted rate is then effective beginning January 1st of the year following the adjustment.

With the high inflation of the previous few years, linking future increases to the rate of inflation could have a huge effect on the minimum wage. Accordingly, a sharp rise in the minimum wage beginning January 1, 2028, could be expected.

Exceptions

- The special minimum wage for minors ages 16-17 is 85% of the standard minimum wage.

- The new law retains a \$4.25/hour training wage for the first 90 days of employment for employees under 20; thereafter, employees under 18 must be paid 85% of otherwise applicable minimum wage.

It should also be noted that IWOWA requires employers to “keep a copy of this act and regulations and orders promulgated under this act posted in a conspicuous place in the workplace that is accessible to employees.” Employers who post Department of Labor and Economic Opportunity [WHD 9904 Required Poster, General Requirements - Minimum Wage and Overtime](#) ([Spanish](#), [Arabic](#)), will be considered in compliance with this posting requirement.

Please note: One Fair Wage, a nationwide group that advocates raising minimum wages and who initially began the effort to raise Michigan’s minimum wage in 2018, announced plans to gather Michigan voter signatures to hold a statewide referendum on the new minimum wage law. To be on the ballot, more than 223,000 valid signatures would be required. Stay tuned.

Answers to Frequently Asked Questions Regarding Michigan’s Earned Sick Time Law

What Michigan Employers Are Covered Under the New Law?

The new law applies to “any person, firm, business, educational institution, corporation, limited liability company, government entity, or other entity that employs 1 or more individuals,” except the United States government. So, basically, every Michigan employer, except the federal government.

There is NO SMALL BUSINESS EXCEPTION, but employers of small businesses do have different compliance requirements than larger employers. Under the law, small businesses are employers “for which 10 or fewer individuals work for compensation during a given week.” In determining the number of employees, all individuals performing work for compensation on a full-time, part-time, or temporary basis must be counted, including individuals made available to work through the services of a temporary services or staffing agency or similar entity.

An employer is not a small business if it maintained more than 10 employees on its payroll during any 20 or more calendar workweeks in either the current or immediately preceding calendar year.

What Workers Must Receive Paid Sick Time?

According to the law, an employee is defined as “an individual engaged in service to an employer in the business of the employer” and does not include the following:

- Individuals employed by the United States government

- Individuals who work in accordance with a policy of an employer if both of the following conditions are met:
 - The policy allows the individual to schedule the individual's own working hours, and
 - The policy prohibits the employer from taking adverse personnel action against the individual if the individual does not schedule a minimum number of working hours
- Unpaid trainees / interns
- Individuals employed in accordance with the Youth Employment Standards Act (MCL §409.101 to 409.124)

Independent Contractors and the Economic Reality Test: The language above regarding employees who schedule their own hours and cannot be penalized if they do not schedule a certain number of hours seems to be an effort by the Michigan Legislature to exempt independent contractors.

The Michigan Department of Labor and Economic Opportunity (LEO), in their FAQs, notes: "Michigan case law uses the economic reality test to determine whether an individual is an employee." More on the economic reality test can be found at the end of this article.

The LEO FAQs do state that "on-call, flexible scheduling, per diem employees, and similar are not covered by this exemption if the employer controls the schedule."

There are still many questions regarding exactly what kind of employee this is in reference to. Is it just a 1099 properly classified independent contractor, or something else?

At this time, all we have to really go on is what the Whitmer Administration, through Sean Egan, LEO Deputy Director of Labor, has said. In a webinar released shortly after passage of the law in February [relevant part on exempt employees starting at 12:01], Egan said of the exemption: "This in our read, is a very narrow exemption." Egan continues, saying, "In essence, when we heard from the legislature, what they were trying to accomplish here, they really were focused in on highly compensated individuals that while they are called employees, operate more like they're own employer. So, the employing entity is not paying too much attention to what they do, they're not worried about the hours that they work, they're not signing up for any kind of schedule, they don't control any schedule, so it gets very challenging..."

Egan singles out "folks that sign up on the schedule to work certain hours" as not being exempt, as the employer still controls the schedule.

The bottom line – at least according to the Wage and Hour Division as currently constructed – appears to be that most employees will not be exempt from ESTA.

Egan did also say that they are working with their legal counsel to “define more clearly” exactly what this exemption means. Unfortunately, as of this writing, that additional guidance has not been forthcoming.

When Do Michigan Businesses Need to Comply with the New Law?

For a small business, October 1, 2025 (or upon commencement of the employee’s employment, whichever is later). For all other employers, accrual began on February 21, 2025, or upon commencement of the employee's employment, whichever is later.

The law also specifies that if a small business did not employ an employee on or before February 21, 2022, the small employer is not required to comply with this act until three (3) years after the date that the employer first employs an employee.

Example: Dr. Michigander started her own practice in September 2024 and hired two employees. Those employees would not begin to accrue sick time until September 2027.

For contracted employees (not including an employer policy signed by the employee), and all the following requirements are satisfied, time begins to accrue beginning on the stated expiration date in the contract, notwithstanding any statement in the contract that the contract continues in force until a future date or event or the execution of a new contract:

1. The employer and employee signed the contract on or before December 31, 2024.
2. The contract is effective for not longer than three (3) years.
3. The contract conflicts with this act.
4. The employer notifies the department of the contract.

How Can Paid Sick Time Be Provided to an Eligible Employee?

There are two approved methods of awarding paid sick time under the act:

- Accrual method: 1 hour of paid sick time per every 30 hours worked, but the employee shall not be entitled to use more than 40 hours per year for a small business (see example below), and up to at least 72 hours for a larger employer. Salaried employees are assumed to work 40 hours per week, unless their normal workweek is less than 40 hours, in which case they accrue time based on their normal workweek.
 - Example: Johnny CA works 40 hours per week for a small practice that has two employees. By the end of the year, using the accrual method, Johnny can earn 69 hours of paid sick time. However, his employer can limit him to using only up to 40, unless the employer selects a higher limit.
- Frontloading method (according to the Michigan Department of Labor and Economic Opportunity’s FAQ document: “An employer may frontload at least 40 hours, for small business and 72 hours for other employers for earned sick time at the beginning of the benefit year or on the date that the individual becomes eligible

during the benefit year on a prorated basis.”). Employers that frontload paid sick time are not required to:

- Carry over unused sick time to the next benefit year
- Calculate and track employee’s accrual (only time used), or
- Pay out unused sick time

Employers using the accrual method can require new employees (hired on or after February 21, 2025) to wait until the 120th calendar day after employment begins before *using* accrued earned leave time, but the *accrual of time begins upon hire*. Employers that frontload paid sick time cannot require a 120-day waiting period for new hires.

Employers with part-time employees can use the frontloading method in accordance with these requirements:

1. The employer must provide the part-time employee with a written notice of how many hours the part-time employee is expected to work for a year at the time of hire.
2. The amount of earned sick time provided to the part-time employee at the beginning of the year is, at a minimum, proportional to the earned sick time that the part-time employee would accrue if the part-time employee worked all of the hours expected as provided in the written notice.
3. If the part-time employee works more hours than what is expected as provided in the written notice, the employer must provide the part-time employee with additional earned sick time in accordance with the accrual requirements under this section.

What Constitutes a “benefit year”?

Employers have flexibility in defining their benefit year. The law defines a year as “a regular and consecutive 12-month period, as determined by an employer.” The employer could decide to use a calendar year, fiscal year, hiring anniversary date, or any other 12-month time period the employer wishes.

Do I have to treat full-time and part-time employees the same?

No. Employers can use one method of paid sick time for one class of employees – for example, frontloading for full-time employees, accrual for part-time employees.

Also, employers are not bound to keep using the same method year after year and can switch methods after the current benefit year ends.

Some of My Employees Work on Commission. How Do I Determine Their Rate of Sick Pay?

Under the law, employers are required to pay each employee using paid earned sick time at a pay rate equal to the greater of either:

- The employee’s normal hourly wage or base wage for that employee, or

- Michigan's minimum wage

Things that are not included in determining the calculation of an employee's normal hourly wage or base wage include:

- Overtime pay
- Holiday pay
- Bonuses
- Commissions
- Supplemental pay
- Piece-rate pay
- Tips and other gratuities
- Gratuities in the calculation of an employee's normal hourly wage or base wage.

How Can Employees Use Their Leave Time (Qualifying Reasons)?

Employers are required to allow employees to use their paid sick time (either accrued or provided) for the following purposes:

- For medical diagnosis, care, or treatment of employee's or employee's family member's mental or physical illness, injury, or health condition
- Preventative medical care for the employee or employee's family member
- For medical care or psychological or other counseling for physical or psychological injury or disability, to obtain services from a victim services organization, to relocate due to domestic violence or sexual assault, to obtain legal services, or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault, if the employee or the employee's family member is a victim of domestic violence or sexual assault
- For meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child
- For closure of the employee's place of business by order of a public official due to a public health emergency, for an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or employee's family member's presence in the community would jeopardize the health of others because of exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

Sick time can be used in one-hour increments (or the smallest increment that the employer uses to account for absences of use of other time).

How Are Family Members Defined?

Under the new law, family member means all of the following:

- A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands *in loco parentis*
- A biological parent, foster parent, stepparent, or adoptive parent or a legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood *in loco parentis* when the employee was a minor child
- An individual to whom the employee is legally married under the laws of any state or a domestic partner
- Grandparent
- Grandchild
- Biological, Foster, or adopted sibling
- An individual related by blood to the employee
- An individual whose close association with the employee is the equivalent of a family relationship

Can I have one single paid time off (PTO) “bank,” or do I have to separate sick time from vacation or other time off?

According to LEO, employers do not have to create a separate “bank” of time for earned sick time, and can instead use an existing time off policy, as long as it provides at least the same benefits as provided under ESTA and may be used for the same purposes, under the same conditions, and accrued at a rate equal to or greater than the rate described in the law.

Can an Employer Require Supporting Documentation?

For earned sick time of more than three (3) consecutive days, an employer may require reasonable documentation that the earned sick time has been used for a purpose described above. Upon the employer's request, the employee must provide this documentation not more than 15 days after the request. Employers are not allowed to delay the beginning of sick time just because they have not received documentation. Reasonable documentation includes:

- Documentation signed by a health care professional (see more below) indicating that earned sick time is necessary.
- In cases of domestic violence or sexual assault, any of the following types of documentation:
 - Police report indicating that the employee or the employee's family member was a victim of domestic violence or sexual assault
 - Signed statement from a victim and witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization
 - Court document indicating that the employee or employee's family member is involved in legal action related to domestic violence or sexual assault

An employer cannot require the documentation to explain the nature of the illness or the details of the violence. The employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation, including, if the employee has health insurance, any costs charged to the employee by the health care provider for providing the specific documentation required by the employer.

Employers cannot require disclosure of details relating to domestic violence or sexual assault, or the details of an employee's or an employee's family member's medical condition, as a condition of providing earned sick time. Health information or information pertaining to domestic violence or sexual assault about an employee or employee's family member possessed by an employer shall be treated as confidential. Such information cannot be disclosed by the employer except to the affected employee or with the permission of the affected employee.

Please note: Under ESTA as revised, "health care professional" is defined as either:

- "A person licensed under federal law or the law of this state to provide health care services, including, but not limited to, nurses, doctors, and emergency room personnel." ***This includes chiropractors.***
- Certified midwives

Do Employees Have Any Obligations / Responsibilities Under the New Law?

The new law outlines employee notice responsibilities under two separate circumstances:

- Foreseeable events
- Unforeseeable events

If the need to use sick time is foreseeable, such as for a scheduled doctor's appointment, an employee may require advance notice of the intention to use the earned sick time, not to exceed seven (7) days before the date the earned sick time is to begin.

If the need for earned sick time is not foreseeable, such as an emergency medical event or procedure, an employer may require the employee to give notice of the intention to use earned sick time in either of the following manners:

1. As soon as practicable
2. In accordance with the employer's policy related to requesting or using sick time or leave, if both of the following are met:
 - a. On the date of the employee's hire, on February 21, 2025, or on the date that the employer's policy takes effect, whichever is latest, the employer provides the employee with a written copy of the policy that includes procedures for how the employee must provide notice
 - b. The employer's notice requirement allows the employee to provide notice after the employee is aware of the need for the earned sick time.

Employers that require notice for sick time that is not foreseeable cannot deny an employee's use of earned sick time that is not foreseeable if either of the following conditions apply:

- The employer did not provide a written policy to the employee as required under the law
- The employer made a change to the written policy and did not provide notice of the change to the employee within five (5) days after the change

What Recourse Does an Employee Have if an Employer Violates the Act?

The rights of employees are still protected in the new law, but there are two anti-employer provisions in ESTA as originally passed that have been removed: a "rebuttable presumption" of employer fault and the creation of a private right of action (the right to go straight to court) against the employer.

The law states: "An employer or any other person shall not interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this act." Nor shall an employer "take retaliatory personnel action or discriminate against an employee because the employee has exercised a right protected under this act." These rights include, but are not limited to:

- The right to use earned sick time
- The right to file a complaint or inform any person about an employer's alleged violation
- The right to cooperate with the State of Michigan's investigations of alleged violations
- The right to inform any person of the person's rights under the act

Also under the law, an employer's absence control policy must not treat earned sick time taken as an absence that may lead to or result in retaliatory personnel action.

It should be noted that the protections afforded in the law apply to any person that mistakenly but in good faith alleges a violation.

Enforcement Actions

If an employer violates the act, the affected employee may, no later than three years after the alleged violation, file a claim with the Michigan Department of Labor and Economic Opportunity (LEO), which will then investigate the claim.

The Director of LEO is charged with enforcing the provisions of the act, which include both of the following:

1. Establishing a system that uses multiple means of communication to receive complaints that are related to noncompliance, and
2. Investigating complaints received in a timely manner.

Mediation: Once the complaint is received and investigated by LEO, the law states they shall “attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means.” They are required to keep the complainant notified regarding the status of the complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation and the relief required of the offending person or entity. This notice must include any method of appealing the decision of the department.

LEO may impose penalties and grant the complainant appropriate relief, including (but not limited to):

- Payment of all earned sick time improperly withheld
- Any and all damages incurred by the complaint as the result of the violation
- Back pay
- Reinstatement, in the case of job loss

If the department is unable to obtain voluntary compliance by the employer within a reasonable time, the department shall bring a civil action on behalf of all employees of that employer who are similarly situated at the same worksite.

Additionally, employers who take retaliatory personnel action against an employee or former employee is subject to a civil fine of not more than \$1,000 for each violation.

An employer who fails to provide earned sick time to an employee in violation of the act is subject to a civil fine of not more than eight (8) times the employee's normal hourly wage.

Finally, an employer who willfully violates the law's notice or posting requirement (see below) is subject to a civil fine of not more than \$100 for each separate violation.

Under What Circumstances Can an Employer Take Adverse Personnel Action?

An employer may take adverse personnel action against an employee if:

- The employee uses earned sick time for a purpose other than a purpose described in the law, or
- The employee violates the notice requirements in the law

The name and other identifying information of the employee or person reporting the violation is to be kept confidential, to the maximum extent permitted by applicable laws, unless the person provides authorization.

What Are the Employer's Responsibilities Regarding Employee Notice?

Employers have two responsibilities regarding employee notice:

1. Written notice at time of employment (or by March 23, 2025, for existing employees)
2. Workplace poster

Written Notice: Employers must provide written notice to each employee at the time of hiring, or by March 23, 2025, whichever is later. This notice must include, but is not limited to, the following:

- The amount of sick time required to be provided to an employee
- The employer's choice of how to calculate a "year" (defined in the Act as a "regular and consecutive twelve-month period, as determined by an employer", e., calendar year, employment year, fiscal year, etc.)
- The terms under which sick time may be used
- That retaliatory personnel action taken by the employer against an employee for requesting or using earned sick time for which the employee is eligible is prohibited
- The employee's right to bring a civil action or file a complaint with the State for any violation of the Act

This notice shall be in English, Spanish, and "any language that is the first language spoken by at least 10% of the employer's workforce," if the State has translated the notice into that language.

Sample employee notification letters from Human Resource Management Services can be found online [here](#) (accrual system) and [here](#) (frontload system). Sample Employee Handbook Policy language can be found [here](#).

Posters: Under the new law, employers are required to display a poster at the employer's place of business "in a conspicuous place that is accessible to employees" containing the information in the required written notice (see above). Like the notice, this poster must be in English, Spanish, and "any language that is the first language spoken by at least 10% of the employer's workforce," as long as the State has translated the notice into that language. The State of Michigan is charged with creating and making available to employers sample notices and posters that contain the information required for the employer's use in complying with these notice provisions. These sample notices and posters will be in English, Spanish, and "any other language deemed appropriate" by the State.

The State of Michigan poster can be accessed [here](#) ([Spanish](#), [Arabic](#)).

Resources

- [Michigan Earned Sick Time Act](#) (ESTA)
- Michigan Department of Labor and Economic Opportunity (LEO)
 - Webinar with LEO Deputy Director of Labor Sean Egan ([Recording](#))([Slides](#))

- [LEO FAQs](#)
- [LEO Earned Sick Time Act website](#)
- Michigan Chamber of Commerce Paid Leave, Minimum Wage Toolkit [Downloads](#)
 - Overview & Highlights Summary
 - FAQs
 - Top Things Employers Need to Know
 - ESTA Compliance Worksheet
 - ESTA Resource List
 - Sample Handbook Policy and Notification Letter
 - Legal Resources

Employee Vs. Independent Contractor: The Economic Reality Test

Properly determining whether a worker is an employee or an independent contractor is critical for an employer's tax purposes, legal rights and obligations, and ensuring compliance and avoiding expensive legal disputes. Determination is a complex legal question often without a clear answer. As such, it often comes down to the court system hearing the case. In Michigan, the most frequently used common law tool courts use to make that determination is the economic reality test.

So... what is the economic reality test?

According to the U.S. Department of Labor, "The economic reality test uses multiple factors to see if an employment relationship exists ... The goal of the test is to decide if the worker is economically dependent on the employer for work or is instead in business for themselves. All factors should be considered. No single factor determines a worker's status, and no one factor or combination of factors are more important than the other factors. Instead, the totality of the circumstances of the working relationship should be considered."

The test primarily focuses on the level of control an employer has exercises over the work being done and asks whether the worker is economically dependent on the employer (which would make them an employee) or is in business for themselves (which would make them an independent contractor). The four factors commonly cited by Michigan courts are:

1. Control of a worker's duties
2. Payment of wages
3. Right to hire, fire, and discipline
4. Performance of the duties as an integral part of the employer's business toward the accomplishment of a common goal

However, this list is not exclusive, and other factors are also often considered, depending on the individual case and its circumstances.

Critically, just because the employer considers a worker an independent contractor, and the worker might consider themselves to be an independent contractor, and even if there is a contract between the two stating the same, that does not mean the worker is an independent contractor. Using the economic reality test, that worker should be classified as an employee.

If you have any questions regarding the status of a worker, contact an employment attorney.

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