



March 27, 2020

Governor Gavin Newsom
State of California
State Capitol
Sacramento, CA 95814

President pro Tempore Toni Atkins
California State Senate
State Capitol, Room 205
Sacramento, CA 95814

Speaker Anthony Rendon
California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

RE: **COVID-19 Relief for Workers**

Dear Governor Newsom, President pro Tempore Atkins, and Speaker Rendon:

The California Labor Federation thanks you for the actions the Governor and Legislature have taken to protect and support Californians during the COVID-19 pandemic.

COVID-19 poses a grave threat to public health, worker safety, and to the economy of the state. We are facing an economic downturn that could be more devastating and cause more human suffering than even the Great Recession. For those reasons, the Labor Movement urges that the Administration, Senate, and Assembly work together to take swift and decisive measures to protect and support working people in California. We recommend the following:

Appropriate, Adequate, and Accessible Personal Protective Equipment (PPE) and Breaks

Health care workers, firefighters, EMS and rescue personnel, front line law enforcement officers, grocery and pharmacy clerks, transportation workers, classified school employees, and other “essential critical infrastructure” (ECI) workers are on the frontlines of fighting COVID-19. Health care workers treating COVID-19 patients are especially in dire need of appropriate PPE to protect their health and to stop the spread. The state must ensure that workers have personal protective equipment that is appropriate to their workplaces and to protecting against this novel virus. Workers need adequate, accessible supplies of equipment that they can access as needed, and not only with the approval of management, which may have an incentive to limit or ration supplies.

Workers also need protected time for sanitation breaks to wash their hands, sanitize workstations, and get PPE and supplies. The state should mandate that employers of essential critical infrastructure (ECI) workers, (as defined in California Executive Order N-33-20 and as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>) that come into contact with the public and have a risk of exposure, provide adequate sanitation supplies, as well as regular time to use them. Employers should also be required to provide sanitary and stocked bathrooms and hand-washing stations for employees. These requirements can be promulgated and enforced through Cal/OSHA to protect the health of all ECI workers, whether in health care or food service.

The emergency rulemaking process must begin immediately to have any hope of achieving these standards in time to save ECI workers' lives. If ever there was a worker safety crisis calling for urgent emergency rulemaking, this is it. In the meantime, Cal/OSHA should also begin drafting and quickly releasing whatever guidance documents are necessary to ensure that employers have all the information they need to keep workers safe.

ECI workers on the frontlines of the COVID-19 crisis face unprecedented issues at work. Concerns about health and safety, PPE, sanitation, potential exposure, serving a frightened and agitated public, and heightened stress and anxiety make everyone's jobs more difficult. Employees in these difficult situations sometimes need advocacy so that they can address their full attention to their role of public service in an emergency. Union representatives that are versed in worksite protections and health, safety training, and some limited distribution of needed materials to ensure protection of the workforce, play an important role in the maintenance of focus and effort during any crisis. They also have knowledge of quickly evolving state and federal orders, which can assist workers, their supervisors, and other emergency personnel to manage any misunderstanding or grievances and return to the important tasks at hand. For those reasons it is important that union representatives be deemed ECI workers.

Workers' Compensation Presumption related to COVID-19

Workers on the frontlines of the COVID-19 pandemic put their lives at risk just doing their jobs. If they are infected with COVID-19, the workers' compensation system must quickly provide medical and indemnity benefits – such workers should not have to fight denials and delays while fighting for their lives. The state should mandate a presumption that contracting COVID-19 or exposure to and physician ordered quarantine due to COVID-19 is conclusively determined to arise out of and in the course of employment for all health care workers, firefighters, EMS and rescue personnel, front line law enforcement officers, and ECI workers for the period of this crisis.

Health care workers especially not only face potential exposure to disease, but the added stress and trauma of hospital shortages, overcrowding, and triage measures used in countries like China, Spain, and Italy. The state should mandate a presumption for workers' compensation that a post-traumatic stress disorder diagnosis is conclusively determined to arise out of and in the course of employment for workers providing direct patient care. The COVID-19 pandemic is not just a health care crisis, it is a mental health crisis and we need to take post-traumatic stress in our health care workers seriously. We cannot expect workers to risk their own lives and still deny them the compensation and care they need when they get sick.

Ensure Unemployment Insurance and All Benefit Programs are Accessible to All Workers

The unions of California are standing up for gig workers. Gig workers and independent contractors who are misclassified by their employers are entitled to Unemployment benefits under existing law. We urge the state to immediately presume these workers eligible for UI benefits upon their documentation of income from those companies. Many of those companies are worth billions, yet illegally withheld crucial protections from their workers. Now they are putting the state's UI fund at risk of insolvency and should be billed retroactively for back payments into the fund for workers.

Similarly, the entertainment industry workers have "gig-like" jobs in that they work sporadically for different companies, though they are employees. The traditional benefit and paid leave programs like SDI and UI do not account for the unique work arrangements of the industry. For those reasons, we urge that any changes to state benefit programs account for non-standard work arrangements such as a look-back at wages and different ways to combine and calculate eligible wages from multiple sources for purposes of benefit determination.

In-Home Supportive Services (IHSS) workers do not receive the same benefits as traditional workers, yet they take great risk caring for the most vulnerable to COVID-19 in many cases. We urge the state to ensure all home care providers, including parent and spouse providers, qualify for all protections afforded to traditional workers – including paid family leave, unemployment insurance, workers' compensation, and short-term disability, as well as implementing a blanket expansion of paid sick leave to allow workers to self-quarantine when necessary.

Construction, especially of infrastructure, is one of the best ways to reboot an ailing economy. Another way to ensure the solvency of the UI fund and keep the economy afloat is to ensure that construction workers are declared essential workers statewide and in local jurisdictions. Construction workers are in work sites where social distancing is possible and are already trained in health and safety procedures. Some construction is deemed essential, yet as the state faces a looming economic recession, all construction should be essential to keep workers on the job and to build much-needed housing, infrastructure, hospitals, and other critical needs.

Due to the increase in demand for UI the state should significantly increase staffing at EDD. The state can also direct EDD to streamline benefit issuance to speed up the time between filing and receiving a check, as was done during the last Recession. Lastly, the state should consider creating a special fund for undocumented immigrants who are likely ineligible for the UI program yet need benefits when laid off from their jobs.

Job-Protected and Paid Leave to Cover All Workers

We urge a guarantee of job-protected leave for all workers under the California Family Rights Act (CFRA), regardless of employer size, hours worked, or tenure. That includes expanding the definition of serious health conditions to include an individual quarantined due to a public health emergency. All ECI workers should be given up to 14 paid sick days for the duration of the pandemic so they may take paid time to care for themselves or family. Employers should also permit workers to self-certify if they need medical or caregiving leave due to a public health emergency like coronavirus to ease the burden on the health system and adhere to public health guidance to avoid medical settings.

Backfill Employee Funded Leave Programs

As proposals to expand California's Paid Family Leave (PFL) and State Disability Insurance (SDI) Programs move forward, the Administration must consider the long-term stability of these funds, which are completely worker funded. To prevent potential tax increases on working families during this health emergency and the likely economic upheaval afterward, the Administration should use one-time budget allocations to backfill the SDI and PFL funds to ensure their solvency through this crisis and prevent workers from bearing all the burden.

No Waivers for Meet and Confer Requirements

During this emergency it is important to maintain clear lines of communication between Labor and management to adequately address the needs of the public. California's public sector collective bargaining statutes currently have adequate flexibility allowing employers to take the actions they deem necessary during emergencies while also meeting and conferring on the impacts those decisions could have on the workforce. Waivers of meet and confer requirements undermine the morale and rights of public servants on the front lines of this crisis.

No Suspension of Worker Protection Laws for Private and Public Sector Workers

Now more than ever, workers need the full protections of Labor, collective bargaining, and health and safety laws. The state should protect public sector collective bargaining and not allow employers to use this crisis to weaken worker rights and protections. Maintaining essential services should not mean an abandonment of reasonable worker protections and engagement through the collective bargaining process. A crisis is not an excuse to suspend important worker protections that are critical to preventing injuries, wage theft, or exploitation by employers. Staffing ratios, scope of practice, meal and rest breaks, overtime, job protected leave, public sector bargaining laws, and other protections are critical to ensure that workers can continue to do their jobs efficiently and safely. In addition, hourly school employees should be paid while staying home like every other school employee per Executive Order N-26-20 of March 13, 2020.

Health Care Coverage for COVID-19

The cost of health care should not be an obstacle for ECI workers to get tested and treated for COVID-19. During the crisis, the state should provide free testing to all ECI workers, as available. The state should also mandate that health plans and insurers waive co-pays and deductibles for all COVID-19 related treatment for ECI workers, not just for testing and screening. We also urge the state to prohibit doctors, hospitals, and licensed laboratories from sending surprise medical bills to patients with COVID-19 or who go to the emergency room with COVID-19 symptoms.

As the economic crisis increases layoffs, workers will lose job-based coverage. The state should require employers to maintain benefits for workers who lose coverage because of layoffs, or hour reductions due to the public health emergency. COVID-19 treatment costs are already driving up premiums and estimates are for increases up to 40%. We urge the state to mandate a premium rate freeze for all fully-insured plans sold in the individual, small, and large group market for the duration of the crisis. This will allow consumers, employers, and workers to maintain coverage while under stay-at-home orders. We urge the state to ensure that Medi-Cal and Covered California call centers are adequately staffed with eligibility workers that also get the appropriate

PPE and protections for their health and safety. We also urge Covered California to market to both employers and workers about the availability of coverage and subsidies, including Medi-Cal. EDD should refer all applicants for UI and SDI to Medi-Cal and Covered California.

Provide Free or Subsidized Child and Elder Care for Health Care and ECI Workers

ECI workers go to work to provide the health care and other services Californians need to get through this crisis. With schools closed for an indefinite time and concern on the rise for elders, ECI workers need child and elder care so they can get to work. The state should create an emergency fund to provide free and or subsidized child and elder care to ensure that workers can take all the shifts necessary without worrying about how to care for dependents. More specifically, the state should implement strategies to connect health care workers needing child care to family child care providers who have the capacity, experience, and are the only child care professionals operating during this crisis. The state should also consider allowing ECI workers to designate a person for Paid Family Leave (PFL) in order to care for a child. Provide an inclusive definition of family, so that workers can care for seriously ill grandparents, grandchildren, adult children, parents-in-law, and siblings. A shortage of health care workers will only make this crisis more acute and it is imperative that the state eliminate all obstacles to keeping health care workers on the job.

Ensure State Leasing/Commandeering of Hotels Protects Workers' Rights

Pursuant to the Governor's Executive Order N-25-20, the Office of Emergency Services has been working to secure hotels for use as temporary housing for the homeless, quarantine facilities for COVID-19 patients, and other potential uses related to the crisis. While this allows hospitality workers to keep their jobs, it puts them on the frontlines of the pandemic and changes the nature of their work. We urge the state to ensure that hospitality workers' rights are protected in these situations. These include the right to work where it is possible to do so safely, maintenance of health care benefits in the event of layoffs, recall rights when the crisis is over, and worker participation in the bid process to ensure these rights are respected. This is an opportunity to protect public health and to prevent job loss in the hospitality industry – but it is critical that workers are protected.

Safe Housing for the Immunocompromised and the Elderly Who Live with ECI Workers Serving the Public

Health care workers, firefighters, EMS and rescue personnel, front line law enforcement officers, and other ECI are being exposed to this virus every day when they care for patients or serve the public and the risk is increased by a lack of PPE. When workers return home, they should not be worried about exposing anyone in their household who is immunocompromised or elderly. This vulnerable population should have access to safe housing so they can remain protected, while our workers continue to care for California's COVID-19 patients, without exposing and endangering their family.

Statewide Moratorium on Evictions, Foreclosures, and Utility Shutoffs

Millions of workers are having their hours cut or losing their jobs due to the COVID-19 crisis response. Many workers already live paycheck-to-paycheck and do not have the savings to buy food, let alone pay rent, mortgages, and bills. The Great Recession showed what happens when millions of people lose their homes and jobs and mass foreclosures empty out entire communities. To avoid that, the state should enact an emergency moratorium on all evictions for renters and small businesses for at least the next 60 days or for the duration of this crisis. This should also apply to foreclosures and any pending shutoff of utilities, such as electricity, water, or phone services.

We thank you for your quick response to the COVID-19 pandemic. We look forward to working with you to protect and support workers in all industries during this crisis and to rebuild the economy and state budget as the state recovers.

Sincerely,



Art Pulaski
Executive Secretary Treasurer

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