

Swine flu -- and no paid sick leave

Almost half of America's workers can't take paid sick leave. With swine flu cases on the rise, that problem could hasten the pandemic's spread.

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NEW YORK (CNNMoney.com) -- As the H1N1 swine flu virus starts its second major sweep through the U.S., business owners are bracing for the impact of a worse-than-usual flu season on their workforces. That's reviving debate on a contentious issue: What kind of sick leave should companies offer employees -- and should it be mandated by law?

"On the one hand, you have all of our top officials saying, 'Do the responsible thing. If you're sick, stay home,'" says Debra Ness, president of the National Partnership for Women and Families, a Washington, D.C.-based advocacy group that is pushing for paid sick leave laws. "You have advice from the Centers for Disease Control on exactly how many days you should stay home, and how many days we need to keep kids at home. And at the same time, we have a country where almost half the workforce doesn't have a single paid sick day."

Currently, 48% of the U.S. private-sector workforce can't take paid leave without advance notice, according to the National Partnership. In response, unions and worker advocates have intensified their campaign for local laws requiring businesses to offer paid sick leave. San Francisco voters passed a law requiring paid sick leave for all workers, full- or part-time, by referendum in 2006, and Washington, D.C., followed with its own law last year, though it exempted new hires and restaurant staff who earn part of their pay in tips.

Now 15 states and cities have paid sick leave bills in the works. Earlier this year, Connecticut narrowly missed becoming the first state to mandate paid sick time, when the state legislature fell one vote short of passing a bill that would have required businesses with 50 employees or more to provide up to six and a half paid sick days per year.

With swine flu panic beginning to build -- reports of flu-like illness are already up sharply three months before the traditional start of flu season -- some elected officials are taking the opportunity to press for new legislation.

"This is definitely pressing because of all the projections of how the swine flu and the regular flu season will be affecting people," says Shula Warren, chief of staff for New York City council member Gale Brewer.

Mandated leave

In May, Brewer introduced a sick-leave law modeled on San Francisco's: nine days a year of paid time off for workers at businesses with 10 or more employees, five days for those at smaller businesses. The legislation, which already has 38 of the city's 51 council members as sponsors, would also allow workers to use sick time to care not only for ill children, but also for kids whose schools are closed because of swine flu fears.

"A child can't stay home without a parent staying with them," Warren says. "So if the parent doesn't have paid sick time, the child mostly likely goes to school, and the parent goes to work."

In response, the chambers of commerce from each of New York's five boroughs have banded together to form the 5 Boro Chamber Alliance to fight the paid-leave bill.

Their main concern is what they see as an excessive number of days required, and the inflexibility it would impose on small business owners.

"Government is trying to do something that's well-intentioned, but they have no idea what the effect is on a small business owner," says Jack Friedman, executive vice-president of the Queens Chamber of Commerce. "So our business owners are coming back to us and saying, 'We already offer our employees some sick days -- five sick days, six sick days. And the difference between what we're offering and what the government is requiring us to offer could cost our business tens of thousands of dollars.'"

For many workers, though, even five sick days is an unheard-of benefit. As part of its soon-to-be-released annual Unheard Third survey of 1,212 New Yorkers, the Manhattan-based Community Service Society is estimating that 39% of all workers -- amounting to 1.3 million people citywide -- have no paid leave of any kind. In the leisure and hospitality industries, which include restaurants and food service, only 23% are allotted paid sick leave.

Nationwide, the same trend holds: The proportions of workers without paid leave are higher in lower-wage industries, including food service, nursing care, and retail workers.

"Oftentimes, the folks who are most in contact with the public are the ones who are least likely to have paid sick days and be able to stay home when they're sick," says the National Partnership's Ness.

Preparing for an outbreak

The federal government has already stepped up its warnings to business owners: The Department of Homeland Security recently released a guide for small businesses on how to handle the onset of flu season. Included are recommendations to reduce the spread of infection in the workplace, such as providing no-touch trash cans and hand sanitizer and assigning a "workplace coordinator" for flu issues. The federal guidelines also call for encouraging employees to work from home if necessary, and for "flexible, non-punitive, and well-communicated" leave policies.

Yet advocates of mandatory paid leave argue that without a guarantee that they'll be paid for time off, employees may just show up for work regardless of their health or the effect on their fellow workers.

Organizations that work with restaurant workers report that when members try to call in sick, "Either they're told, 'Just don't bother coming in at all ever again,' or they're told, 'okay, that's fine, but you're going to lose your Friday and Saturday shift,'" Warren says. In response, some workers may choose going to work infectious rather than risking their livelihood.

Friedman acknowledges that leave time at restaurants and other businesses with no paid leave "needs to be something addressed." Yet he worries that the terms of the New York bill are unnecessarily broad.

Gil Cygler, whose All Car Rent A Car employs about 60 people in locations across New York City, says he already provides his workers with five sick days, two weeks vacation, and personal and bereavement

leave. "I do believe people should be entitled to some sick time," Cygler says. "But it's very difficult when you have the government coming in and telling you how many days you have to give."

If nothing else, he suggests, there should be lower requirements for businesses with fewer workers per site -- "We have some offices with one or two people in them" -- or tax credits to help ease the costs of providing paid sick time.

Spencer Rothschild is the operator of Barrio Foods, which runs three restaurants in Brooklyn as well as the cafe at the Brooklyn Public Library. He's well aware of the flu warnings: He's already posted timers in his kitchens that go off every 30 minutes, reminding everyone to wash their hands. Like virtually all other restaurateurs, though, he doesn't offer paid sick leave to his roughly 50 employees, and doesn't plan to.

"I think it's a little hefty for small businesses to have to consider," he says. "Obviously, we feel for everybody, and we wish we could afford to do it."

He also worries that guaranteed sick time would lead to employees calling in sick when healthy just to use up their paid time: "Isn't that the way corporate America has proven it to be? If you know anyone who works there, they're counting their days and going on extra vacations."

Rothschild says he's "a firm believer" in parental leave policies, in part because they can't be abused. But for sick leave, he'd rather continue dealing with it on an ad-hoc basis. "If you have one employee that every so often you have to say, 'Hey, I think your coughing won't work in this environment,' it is very different than granting carte blanche to everyone," he says.

Council member Gale Brewer's office says it intends to work with local business owners to modify the bill to avoid any "unintended consequences," and has already scheduled an early-October meeting with members of the 5-Boro Alliance. (Cygler says he plans to attend.)

Meanwhile, all the local battles could become moot if Congress ever takes up the Healthy Families Act, which would provide up to seven paid sick days a year at all companies with 15 or more employees. Initially spearheaded by the late Sen. Ted Kennedy and now taken up by Sen. Christopher Dodd, D-Conn., and Rep. Rose DeLauro, D-Conn., there's been no action on the bill since June. Legislators hope to introduce it as part of a family leave reform package when Congress finally moves on from health care reform.

If so, it could remove at least one complaint many business owners have about providing paid leave: That it puts them at a disadvantage to competitors who don't.

"I wish we lived in a world where we could count on everybody to do the right thing, but unfortunately we don't," says Ness. "And the employers that do the right thing often would tell you: They would like it to be a more level playing field."

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