

**MINUTES OF THE SPECIAL MEETING OF THE
COAST LABOR RELATIONS COMMITTEE**

Meeting No. 57-21

Date: August 4, 2021

Place: Via Teleconference

Present: For the Union

W. Adams
R. Olvera, Jr.
C. Williams
F. Ponce De Leon

For the Employers

J. McKenna
S. Hennessey
W. Bartelson
M. McKenna

Also Present: K. Donovan

COVID-19 Related Leave

The Committee met to discuss CLRC Mtg. Nos. 29-20 and 35-20, the American Rescue Plan Act (ARPA), California Senate Bill 95, the Families First Coronavirus Response Act (FFCRA), and related state and local laws and government orders which require the Employers to provide paid COVID-19 related leave.

In an effort to provide all ILWU longshore and clerk employees on a coastwise, equal, and nondiscriminatory basis paid sick leave, paid family and medical leave, and leave to obtain the COVID-19 vaccination, the Committee agreed to the following:

(1) All Member Companies

All PMA member companies will provide this paid leave.

(2) Eligible Workers

All registered longshore and clerk workers as well as identified and unidentified casuals will be covered by this Agreement.

(3) Reasons to be Eligible for Leave

Eligible Workers may take leave for any of the following reasons:

- i. Seeking or waiting for a COVID-19 test result or COVID-19 diagnosis, including testing positive for COVID-19, with supporting documentation;
- ii. Being quarantined or advised by a health care provider to self-quarantine due to concerns that you have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19, with supporting documentation;
- iii. Caring for a family member with COVID-19 or who is particularly vulnerable to COVID-19, with supporting documentation;

- iv. Experiencing symptoms of COVID-19, and seeking supporting documentation;
- v. Caring for someone quarantined due to diagnosis of COVID-19, or someone who was advised by a health care provider to self-quarantine due to concerns that they have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19;
- vi. Caring for child if school or place of care is closed for COVID-19 related reasons;
- vii. Being excluded from the workplace consistent with CLRC Mtg. No. 01-21, with supporting documentation;
- viii. Obtaining COVID-19 testing consistent with CLRC Mtg. No. 01-21, with supporting documentation;
- ix. Attending one's own COVID-19 vaccination appointment, with supporting documentation; or,
- x. Suffering from symptoms due to receipt of the COVID-19 vaccine, where the symptoms occur one to three days following the date of one's vaccination appointment, with supporting documentation

(4) Amount and Duration of Benefits to be Paid to the Eligible Worker

Eligible Workers will be provided benefits as described in the ARPA based on all PMA payroll hours worked in the review period.

This means an Eligible Worker may receive the following benefits:

- A. For reasons (i), (ii), (iii), (iv), (v), (vi) and (x) in Section 3: an amount equal to his or her regular rate, up to \$511 per day and \$2,555 per week (up to two weeks), for an aggregate total of \$5,110.

These calculations will be based on all payroll hours worked and will be the same for all bargaining unit workers using the methodology described in the ARPA. Thus, the caps (\$511 per day and \$2,555 per week up to two weeks) will be prorated and reduced in the manner provided by the ARPA (for those working less than five days a week) based on the average hours worked during the six months review period.

- B. For reasons (vii) and (viii) in Section 3, workplace exclusion pay and COVID-19 testing pay will be provided as per the Committee's agreement in CLRC Mtg. No. 01-21;
- C. For reason (ix) in Section 3, the worker will be paid per the Committee's agreement in CLRC Mtg. No. 55-21.

Eligible Workers will not be eligible to receive ILWU-PMA Welfare Plan Weekly Indemnity (WI) or Weekly Supplemental benefits to the extent they are eligible to receive COVID-19 leave benefits under this Agreement.

- (5) With the exception of workplace exclusion pay, COVID-19 testing pay, and vaccine pay, which are available and expire according to the agreement in CLRC Mtg. No. 01-21, and CLRC Mtg. No. 55-21, the benefits provided above will be effective retroactive to January 1, 2021, and will terminate on September 30, 2021.

Workers who have already gone out on leave for one of the reasons above in Section 3 any time on or after January 1, 2021, and who have not received the maximum benefit of \$5,110 as of the date this Agreement is signed, may apply through the Paid Leave Portal for any payments they would have received under this Agreement had it then been operative at the time (i.e., make whole payments).

- (6) How Workers Apply

PMA will activate a Paid Leave Portal on the existing worker online pay system. The worker will answer a series of questions on the portal that are designed to determine if the worker meets the eligibility requirements, and a decision on the leave request will be rendered promptly. Issues regarding the benefits under this Agreement will be subject to the expedited grievance procedure developed by the Parties. The associated Q&A Document will be updated with the above changes, and all other aspects of the Q&A Document remain in effect.

- (7) Waiver of Provisions of other Paid COVID-19 Related Leave Laws

PMA and ILWU agree to a clear and unambiguous waiver of all state and local laws and government orders currently applicable to PMA and/or any of its member companies or which become applicable during the term of this Agreement, which purport to require PMA and/or any of its member companies to provide paid COVID-19 related leave. PMA and ILWU also agree that the collective bargaining exemptions in those laws and orders are applicable to this Agreement, which is retroactive to January 1, 2021, and to defend the collective bargaining exemptions if challenged. This waiver only pertains to leave laws and orders to the extent that they are COVID-19 related.

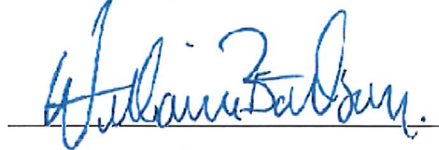
Date Signed: 08/10/21

Date Signed: 08/10/21

For the Union:

A handwritten signature in blue ink, appearing to be "C. W.", written over a horizontal line.A handwritten signature in blue ink, appearing to be "J. P. ...", written over a horizontal line.

For the Employers:

A handwritten signature in blue ink, appearing to be "William B. ...", written over a horizontal line.A handwritten signature in blue ink, appearing to be "M. J. ...", written over a horizontal line.

ILWU-PMA JOINT COAST LABOR RELATIONS COMMITTEE

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August 4, 2021

QUESTIONS AND ANSWERS REGARDING APPLICATION OF COASTWISE COVID-19 PAID SICK AND FAMILY AND MEDICAL LEAVE AGREEMENT

These updated questions and answers are designed to address questions we anticipate workers will have regarding the coastwise COVID-19 related leave program agreed to by the Coast Labor Relations Committee (CLRC) in CLRC Mtg. No. 57-21.

1) How does a worker apply for paid sick and family and medical leave benefits?

The worker applies online using their phone or computer at Pacific Maritime Association's (PMA) Web Portal at: <https://selfservice.pmanet.org>. The worker will complete the application for paid leave on-line and then select "submit" to process the application.

2) If a worker has any questions regarding how to apply for paid sick and family and medical leave benefits, who does he/she contact?

A worker may call his/her union representative or the PMA Payroll number, (888) PMA-1234 (888-762-1234), with questions. The PMA representative cannot complete the application on behalf of the worker but can assist in answering questions regarding the application process. The worker may also contact the local PMA representatives in Southern California at (562) 495-7661, in Northern California at (510) 891-4631, and in the Pacific Northwest (PNW) at (503) 827-4040.

3) For what period of time may a worker receive paid sick and family and medical leave benefits?

Benefits are available retroactively to January 1, 2021 and will terminate on September 30, 2021.

4) Is any worker prohibited from submitting an application?

No worker is prohibited from filing an application through PMA's Web Portal.

5) **How long will it take for the worker to receive an answer on the request for leave?**

A worker will have access through the PMA Web Portal to view the status of his/her request. In most circumstances, the status of the request will be updated within a week from the date of the application. Delays in the application review process may occur based upon the volume of applications received. Applications will be processed in priority order based on date submitted.

6) **Will a worker be able to track progress on his/her application for review?**

Yes, the worker will be able to log onto the PMA Web Portal and check their own request history. A worker will be able to check his/her request history in order to determine the application's status as in process, approved, or denied.

7) **Will workers receive sick and family and medical leave benefits based upon any hours and wages earned working for companies that are not members of PMA?**

No, the CLRC agreement in CLRC Mtg. No. 57-21 does not apply to companies that are not members of PMA.

8) **What are reasons for which a worker may be denied paid sick and family and medical leave?**

A worker will not receive leave if the worker has not worked for a PMA member company within the last six months preceding the date of the worker's application. A worker may also be denied leave if the worker was paid for work or received Clerk Work Opportunity Guarantee (CWOOG) benefits, or other guarantee on the same date that leave is requested, or received Pay Guarantee Plan (PGP) benefits in the same week that leave is requested, fails to provide requested supporting documentation, or if the requested information is not complete.

9) **How is eligibility determined for paid sick and family and medical leave based upon a worker's work history?**

For paid sick leave, PMA will look back to the worker's preceding six months of work history to determine how much sick leave for which the worker may be eligible. For example, if a worker submits an application for paid sick leave to begin on June 20, 2021, PMA will look back at the worker's work history from December 19, 2020 up to and including June 19, 2021.

10) **What are the reasons for which a worker may receive paid leave, and how do the reasons appear on PMA's Web Portal?**

The reasons are enumerated below with the corresponding reason as it will appear on PMA's Web Portal

Reason	CLRC Minutes ##-21	Reason As Displayed on the Web Portal
i	Seeking or waiting for a COVID-19 test result or COVID-19 diagnosis, including testing positive for COVID-19, with supporting documentation.	You tested positive for COVID-19 and are providing supporting documentation.
ii	Being quarantined or advised by a health care provider to self-quarantine due to concerns that you have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19, with supporting documentation.	You are/were quarantined due to COVID-19 - this means being quarantined or advised by a healthcare provider to self-quarantine due to concerns that you have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19, and are providing supporting documentation.
iii	Caring for a family member with COVID-19 or who is particularly vulnerable to COVID-19, with supporting documentation.	You are/were caring for a family member with COVID-19 - this means caring for a family member with COVID-19, or who is particularly vulnerable to COVID-19, and are providing supporting documentation.
iv	Experiencing symptoms of COVID-19, and seeking supporting documentation.	You are/were experiencing symptoms of COVID-19 and are seeking a healthcare provider's certificate.
v	Caring for someone quarantined due to diagnosis of COVID-19, or someone who was advised by a health care provider to self-quarantine due to concerns that they have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19.	You are/were caring for someone quarantined due to diagnosis of COVID-19 - this means caring for someone quarantined due to a diagnosis of COVID-19, or someone who was advised by a healthcare provider to self-quarantine due to concerns that they have COVID-19, may have COVID-19, or are particularly vulnerable to COVID-19.
vi	Caring for child if school or place of care is closed for COVID-19 related reasons.	You are/were caring for a child whose school or place of care is closed for COVID-19.
vii	Being excluded from the workplace consistent with CLRC Mtg. No. 01-21, with supporting documentation.	You received the "Notice to ILWU Worker 1 for COVID-19 Exposure" letter from the JPLRC.
viii	Obtaining COVID-19 testing consistent with CLRC Mtg. No. 01-21, with supporting documentation.	You received either the "Notice to ILWU Worker 2 - Multiple COVID-19 Exposures" letter or the "Notice to ILWU Worker 3 - Major Outbreak" letter from the JPLRC.
ix	Attending one's own COVID-19 vaccination appointment with supporting documentation.	You attended your own COVID-19 vaccination appointment and are providing supporting documentation.
x	Suffering from symptoms due to receipt of the COVID-19 vaccine, where the symptoms occur one to three days following the date of one's vaccination appointment, with supporting documentation.	You are/were suffering from symptoms due to receipt of the COVID-19 vaccine and are providing supporting documentation.

11) Does a worker need to provide any documentation to request paid leave?

Yes, workers will be required to submit documentation in order to qualify for paid leave.

12) How does a worker provide documentation to support an application on PMA's WebPortal?

A worker may upload a document in the following formats: PDF, GIF, JPEG, DOC, DOCX.

13) How much in sick and family and medical leave benefits may a worker receive?

For reasons (i), (ii), (iii), (iv), (v), (vi) and (x) a worker may receive an amount equal to his or her regular rate, up to \$511 per day and \$2,555 per week (up to two weeks), for an aggregate total of \$5,110.

For reasons (vii) and (viii), workplace exclusion pay and COVID-19 testing pay will be provided as per the CLRC's agreement in CLRC Mtg. No. 01-21 and the corresponding Q&A Regarding Application of Coastwise Workplace Exclusion Pay, Corresponding Benefits, and COVID-19 Testing Pay.

For reason (ix), the worker will be paid per the CLRC's agreement in CLRC Mtg. No. 55-21.

14) How is a worker's average daily wage rate calculated in order to determine their regular rate of pay?

The daily average wage is calculated by dividing the gross wages by the number of calendar days in the preceding six months multiplied by five-sevenths (5/7), to represent five days in a seven-day payroll week.

The equation is:
$$\frac{\text{Gross Wages from last 6 months}}{\text{\# of calendar days in last 6 months} \times 5/7}$$

15) If a worker has previously taken leave for one of the reasons in Question 10 above, is the worker eligible to receive any paid leave benefits now under this agreement?

Yes, workers who took leave from work in 2021 prior to the agreement reached by the ILWU and PMA in CLRC Mtg. No. 57-21 on August 4, 2021 for reasons (iii), (iv), (v) and (vi) listed in Question 10 above, will have their claim reprocessed for any additional payment for which they would have been eligible under the ILWU and PMA's leave agreement had it then been operative. The additional payment, if any, will top up or bring the worker's benefits equal to their average daily wage up to the daily and total maximum amounts listed above.

- 16) **Can workers receive Weekly Indemnity benefits or Weekly Supplemental benefits and paid sick leave at the same time?**

No, workers will not be eligible to receive ILWU-PMA Welfare Plan Weekly Indemnity (WI) or Weekly Supplemental benefits at the same time they are receiving COVID-19 leave benefits under the agreement reached in CLRC Mtg. No. 57XX-21.

- 17) **Is a worker's paid leave impacted if they are receiving WI benefits?**

If a worker received WI benefits on or any time after January 1, 2021, then the worker will receive a "top off" or any additional monies that would make them whole up to the applicable daily maximum amount as referenced in the answer to Question 13 above.

- 18) **Are workers who are jointly employed by and paid through local Joint Port Labor Relations Committees (JPLRC), such as dispatchers, eligible for COVID-19 related leave benefits?**

Yes.

- 19) **Will paid sick leave hours count as qualifying hours for benefits purposes?**

Yes, paid sick leave hours will count as qualifying hours for benefits purposes for any leave taken under reason (vii) only, which is when a worker is excluded from the workplace consistent with CLRC Mtg. No. 01-21. At this time, there is no agreement to count paid sick leave hours for other reasons as qualifying hours for benefits purposes.

- 20) **Will paid sick leave hours count towards the accumulation of vacation hours?**

Yes, for reason (vii) only, being excluded from the workplace consistent with CLRC Mtg. No. 01-21.

- 21) **Do PGP, CWO, and training wages count in one's daily average wage?**

Yes, PGP, CWO, and training wages are counted in determining the daily average wage.

- 22) **Do steady guarantee payments count towards the calculation of one's hours?**

Yes.

23) **Are these paid leave benefits taxable?**

Yes, paid leave benefits are treated like normal wages in withholdings and deductions.

24) **If a worker does not agree with the denial of a leave application, does the worker have any ability to grieve the decision?**

Yes, a worker may file a pay claim for review through the contract grievance machinery. Upon receipt of the pay claim, the local parties will schedule a JPLRC meeting and such meeting will occur within 24 hours of the filing of the pay claim, or the very next business day if a claim is received on a weekend or holiday, to determine the basis of the denial. Should the parties disagree on the denial after review of the basis for the decision, then the pay claim may be submitted to an industry arbitrator assigned on a random basis for determination. The hearing of the pay claim will be scheduled by the arbitrator within 14 days.

25) **When will the worker receive the paid leave benefits after the application is approved?**

The worker will receive the paid leave benefits in the payroll period immediately following the application's approval. For example, payroll runs each Tuesday for the prior Saturday to Friday work week. Payroll will process all requests received and approved before Monday from the week prior (Sunday is the review cutoff day); approved payments then will be issued on Friday and the worker will see the paid leave benefits in the worker's paycheck. Paid leave requested for future dates will be paid during the payroll cycle under which they fall.