



PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 839

BUREAU OF LABOR AND INDUSTRIES

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ARCHIVES DIVISION
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& LEGISLATIVE COUNSEL

FILING CAPTION: To clarify sick time requirements on public works projects.

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ADOPT: 839-007-0033

RULE TITLE: Sick Time on Public Works Projects

NOTICE FILED DATE: 04/20/2023

RULE SUMMARY: Promulgating rule to clarify sick time requirements on public works projects relating to the regular rate of pay for workers.

RULE TEXT:

In addition to OAR 839-007-0000 through OAR 839-007-0120, the following applies to employees performing work on public works projects subject to ORS 279C.800-ORS 279C.870:

(1) An employer may not reduce an employee's benefits, including but not limited to health care benefits and/or fringe benefits as defined in OAR 839-025-004(9), because the employee uses accrued sick time to which the employee is entitled pursuant to ORS 653.601 to 653.661 and these rules.

(2) "Regular rate of pay" means the prevailing wage rate as defined in ORS 279C.800(4) that an employee earns for the workweek in which the employee uses paid sick time and which is no less than the applicable prevailing wage rate on a public works project. An employer must apply a consistent methodology when calculating the regular rates of pay to similarly situated employees. An employee's regular rate of pay shall be determined as follows:

(a) For employees paid on the basis of a single hourly rate, the regular rate of pay means the same hourly rate the employee would have earned for the period of time in which sick time is used.

(b) Where a worker performs work in one or more classifications which provide for one or more hourly rates of pay, the regular rate of pay means the wages the employee would have been paid for the period of time in which sick time is used.

STATUTORY/OTHER AUTHORITY: ORS 653.601-653.661, ORS 651

STATUTES/OTHER IMPLEMENTED: ORS 653.601-653.661, ORS 651