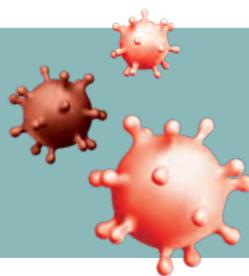


SME DIGEST

ADVICE FOR SMALL & MEDIUM SIZED ENTERPRISES



Edited by Adam Bernstein

STATUTORY SICK PAY

CLAIMING BACK STATUTORY SICK PAY UNDER CORONAVIRUS



No one is ever meant to get rich – officially at least – from a government support programme. And those that have been on Statutory Sick Pay (SSP) know from first-hand experience just what the government has been and is paying out when someone is signed off. And it's not much.

By Adam Bernstein

Just as coronavirus has changed the way the world and its economies are working, so it's changed how the SSP regime is administered and the level of coverage. Back in March the government was forced to change the rules so that instead of a four day wait before being able to claim, a sick employee suffering, self-isolating, or shielding as a result of coronavirus or its symptoms could claim from day one. The change was made for good reason too – the government clearly didn't want unwell people in the workplace unnecessarily because they were too hard up to take time out off.

The new rules required a new process - the Coronavirus Statutory Sick Pay Rebate Scheme – which permits small businesses to claim back up to two weeks of SSP paid per employee under coronavirus related circumstances. The scheme opened up to claims on 26 May and can be accessed via <https://www.gov.uk/guidance/claim-back-statutory-sick-pay-paid-to-your-employees-due-to-coronavirus-covid-19>. It's of note that it applies to both current and former employees and at this point, the scheme has no end date.

Eligibility

It shouldn't be a surprise that the scheme has eligibility requirements. In essence, employers can only use it if they are claiming for an employee who's eligible for sick pay due to coronavirus.

They must have an employment contract, have worked under the contract, have been off for four or more days – including non-working days, earned an average of £120 or more per week, have given the correct notice and have (somehow given the current situation) proven their illness if it extends for more than seven days.

Coronavirus also imposed date-related timing for employee eligibility so that workers could claim if they started self-isolating on or after 13 March 2020 because someone they live with had coronavirus, were shielding since 16 April 2020, or started self-isolating on or after 28 May 2020 because they were notified by the NHS or public health authorities that they've come into contact with someone with coronavirus.

It's important to understand that employee SSP doesn't apply if the employee has been put on furlough. However, if the employee comes off furlough and subsequently is off, they can be paid SSP which the employer can reclaim.

To make a claim, employers should also have had a PAYE payroll scheme that was created and started on or before 28 February 2020 and employed fewer than 250 employees on 28 February 2020 across all PAYE payroll schemes.

Coronavirus has clearly impacted how employees evidence their situation and so they do not have to give their employer a doctor's 'fit note' for them to be able to make a claim. That said, the employer can still ask them to provide either an isolation note from NHS 111 if they are self-isolating and cannot work because of coronavirus (see <https://111.nhs.uk/isolation-note>), or a letter from the NHS or their GP letter telling them to stay at home for at least 12 weeks because they're at high risk of severe illness from coronavirus.

It matters not how the employee works for the business: Full-time employees, part-time employees, those on agency contracts, employees on flexible or zero-hour contracts, and those on fixed term contracts (until the date their contract ends) are all eligible for SSP.

Also, connected companies (and charities) can also use the scheme if their total combined number of PAYE employees was fewer than 250 on 28 February 2020.

Procedural matters

It shouldn't be forgotten that the repayment covers up to two weeks of SSP starting from the first qualifying day of sickness if the criteria above is met. The system allows more

than one claim per employee, but so long as no more than two weeks in total is claimed for.

As to what is paid, it's not a king's ransom - from 6 April 2020 it's £95.85 a week. Further, employers can only claim up to this amount no matter how much sick pay they actually give the employee. HMRC has a handy calculator at <https://www.gov.uk/calculate-statutory-sick-pay> to help employers understand the amounts involved.

HMRC requires that employers keep proper records at all times and the claiming of SSP is no different. For SSP, records must be kept for three years after the date payment is received for the claim and must note the dates the employee was off sick, which dates were qualifying days, why the worker was off work (had symptoms, someone they live with had symptoms, or they were shielding), and their National Insurance number.

Employers can choose how they keep records of employees' sickness absence. HMRC may want to see these records if there's a dispute over payment of SSP.



How to claim

The claiming process is straightforward and is made via an HMRC portal (<https://www.gov.uk/guidance/claim-back-statutory-sick-pay-paid-to-your-employees-due-to-coronavirus-covid-19>). The SSP must be paid before it's claimed back. While an employer can run the process, their accountant or payroll provider can also undertake the task if they have PAYE authorisation. Authorisation can be granted, if it hasn't been already, via the Government Gateway at https://www.tax.service.gov.uk/bas-gateway/sign-in?continue_url=/business-account?utm_source=Gov&origin=&ga=2.12752304.669178670.1591001943-2141677673.1578301720 and selecting 'manage account'.

Employers must be enrolled in PAYE online for employers to do this and the accountant will need to provide their 'agent ID'

Those unable to use the online system should have received a letter to this effect from HMRC. However, if nothing has been received or the claim cannot be completed online employers can refer to: <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/get-help-with-the-statutory-sick-pay-rebate-scheme> for help.

Lastly, the bank details where a BACS payment can be paid into must be provided.

To conclude

The process isn't perfect and isn't going to go that far in helping workers that are off sick. However, it's better than nothing and employers need to follow the regime to be able to make a successful claim.