

Analysis and Solution for the California 2014 Paid Sick Leave Policy

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Overview

The California Healthy Workplaces/Healthy Families Act of 2014 - Paid Sick Leave policy is representative of regulations worldwide. Their interpretation into practicable logic is a huge opportunity for rule platforms. This discussion highlights how that analysis and representation should be conducted.

A key feature of the solution is behavioral rules. Determining how much sick leave a person can/should be paid might be viewed as a decision, but that approach doesn't seem terribly helpful. No decision tables are evident. In our world-wide work with policy and regulation this situation is not unusual in the least.

The goals of our solution, as necessitated by the policy, are to:

- Interpret it into practicable logic (business rules).
- Identify points at which the policy is ambiguous and what questions should be asked to resolve the ambiguity.
- Permit the exercise of discretion (by employers) that it seems to allow (or at least does not seem to forbid). These are supported by appropriate specifications of enforcement level for relevant rules.

As always, our solution involves a concept model, to capture the semantics of the problem.

General Observations

This problem offers a good example for event-based invocation of rule evaluation. Relevant invocation points include 'upon creation of time report' and 'upon January 1'. These events can be model-independent. There is no need for these event-based invocations to occur (be specified) within a BPMN or CMM model.

The problem is also a good example for where and how real-time discretion can be exercised using behavioral rules. This is demonstrated below by appropriate specification of enforcement levels.

As currently framed, the problem is not necessarily a good example of flash-point evaluation of behavioral rules. The basic reason is that time worked by an employee is reported after-the-fact, not real-time. The most gripping examples for flash points are ones where actual business activity (in this case, the real-time work of an employee) could be shaped or even prohibited as it actually happens.

Specific Observations

1. A work day for any given employer might not consist of 8 hours. The policy does not explicitly say that a work day has to. In fact, by including such phrases as “48 hours or 6 days” the policy subtly suggests a work day does not.
2. Even though the policy talks about ‘employment year’, it is not exactly clear how a ‘year’ is determined for the purpose of sick leave accrual.

Caveat

This is intended as a first-cut solution for the purpose of illustration and discussion. We have had no prior contact with this policy or opportunity for clarification from its author(s).

Division of Labor Standards Enforcement

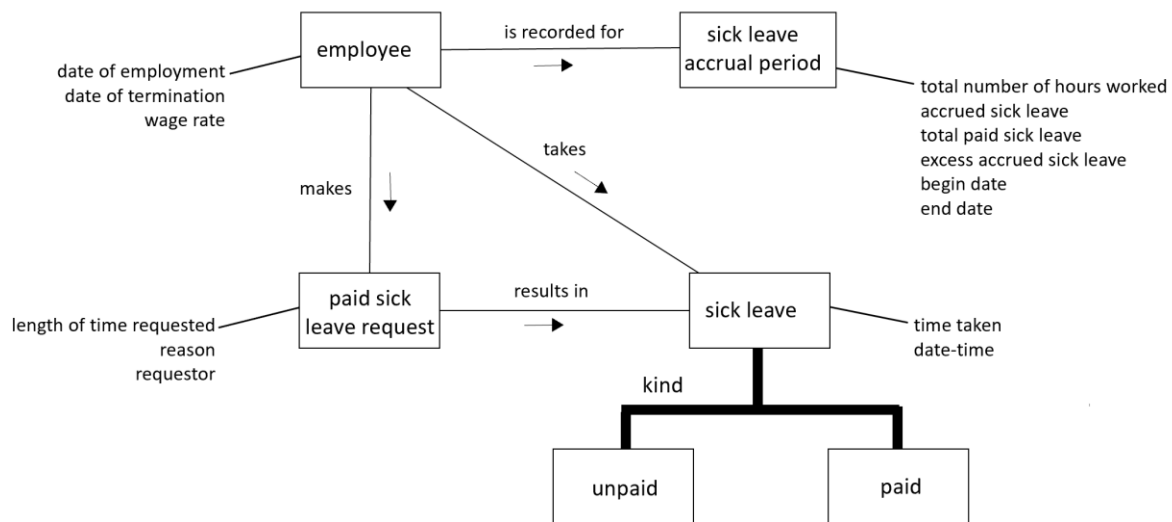
Office of the Labor Commissioner

THIS POSTER MUST BE DISPLAYED WHERE EMPLOYEES CAN EASILY READ IT

(Poster may be printed on 8 ½" x 11" letter size paper)

HEALTHY WORKPLACES/HEALTHY FAMILIES ACT OF 2014
PAID SICK LEAVE

Figure 1. Concept Model Diagram



Entitlement:

- An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the beginning of employment is entitled to paid sick leave.

Comment: This statement does not express a rule per se. It simply says that the rules (below) must not abridged (must be enforced). Any behavioral business rule is always to be strictly enforced – unless its enforcement level specifies otherwise.

- Paid sick leave accrues at the rate of one hour per every 30 hours worked, paid at the employee's regular wage rate. Accrual shall begin on the first day of employment or July 1, 2015, whichever is later.

Comment: The policy is unclear whether the first sick leave accrual period for an employee who is already working on July 1, 2015 is meant to be a short year or a full year for accrual purposes. (We assumed the former.)

Behavioral Business Rule: The paid sick leave time taken by an employee must be paid at the wage rate of that employee.

Definitional Rule: The number of hours of accrued sick leave to be awarded to an employee during a sick leave accrual period must be computed as the total number of hours worked divided by 30.

Definitional Rule: All the following must be true for each sick leave accrual period of an employee:

- It must begin on the most recent of the following:
 - The employee's date of employment.
 - The most recent anniversary of the employee's date of employment.
 - July 1, 2015.
- It must end on the earliest of the following:
 - The employee's date of termination.
 - The day before the most recent anniversary of the employee's date of employment.
- **Accrued paid sick leave shall carry over to the following year of employment and may be capped at 48 hours or 6 days.**

Comment: The policy is ambiguous.

- What is being capped? Is it the accrued paid sick leave in a given period, or the amount of sick leave that may be carried forward? (We assumed the former.)
- What is meant by "may be"? *Must* be? *Can be but need not* be? (We assumed the latter.)

Behavioral Business Rule: The total paid sick leave for an employee during a sick leave accrual period must not exceed the greatest of the following:

- 48 hours
- 6 days

Enforcement Level: override by authorized actor

Definitional Rule: Excess accrued sick leave for an employee during a sick leave accrual period must be computed as the largest of the following:

- zero
- Accrued sick leave minus the greatest of the following:
 - 48 hours
 - 6 days

However, subject to specified conditions, if an employer has a paid sick leave, paid leave or paid time off policy (PTO) that provides no less than 24 hours or three days of paid leave or paid time off, no accrual or carry over is required if the full amount of leave is received at the beginning of each year in accordance with the policy.

Comments:

- It is unclear what “specified conditions” refers to, if anything special.
- It is unclear whether “PTO” refers to all of paid sick leave, paid leave, and paid time off policy, or just to the latter item(s). (We assumed the former.)
- The PTO is a policy – i.e., a set of rules. Rules per se should not be addressed by the concept model.

Behavioral Business Rule: Excess accrued sick leave for an employee during a sick leave accrual period must be added to the accrued sick leave for the subsequent sick leave accrual period if none of the following are true:

- The employee is subject to a PTO.
- The PTO provides at least 24 hours or 3 days of paid leave or paid time off for an employee in a sick leave accrual period.
- The employee receives the full amount of the PTO-provided leave or paid time off at the beginning of the next sick leave accrual period.

Usage:

- An employee may use accrued paid sick days beginning on the 90th day of employment.

Behavioral Business Rule: An employee may take paid sick leave time only after the employee’s date of employment plus 90 days.

- An employer shall provide paid sick days upon the oral or written request of an employee for themselves or a family member

Behavioral Business Rule: A paid sick leave for an employee may be requested only by one of the following:

- The employee themselves.
- A family member of the employee.

for the diagnosis, care or treatment of an existing health condition or preventive care, or specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking.

Comment: It is unclear what “specified purposes” refers to, if anything special.

Behavioral Business Rule: A paid sick leave must be for one of the following:

- diagnosis, care or treatment of an existing health condition or preventive care of the employee
 - an employee who is a victim of domestic violence, sexual assault, or stalking
- An employer may limit the use of paid sick days to 24 hours or three days in each year of employment.

Behavioral Business Rule: The sum of paid sick leave time taken for an employee in a given sick leave accrual period must not exceed the smallest of the following:

- 24 hours
- 3 days

Enforcement level: Override by authorized actor

Retaliation or discrimination against an employee who requests paid sick days or uses paid sick days or both is prohibited. An employee can file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against the employee.

Comment: We assume the filing of complaints with the Labor Commissioner is outside the scope of this problem. A determination of whether retaliation or discrimination has occurred can only be made based on evaluation of individual complaints. No criteria are given for such evaluations.

For additional information you may contact your employer or the local office of the Labor Commissioner. Locate the office by looking at the list of offices on our website <http://www.dir.ca.gov/dlse/DistrictOffices.htm> using the alphabetical listing of cities, locations, and communities. Staff is available in person and by telephone.

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