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Coronavirus and the Restaurant Industry's Subminimum Wage:

How One Fair Wage Can Mitigate the Spread of Coronavirus Infections
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Staying home from work while sick is one of the main preventative measures to curb the spread of coronavirus as advised by the Center for Disease Control. This is particularly critical for workers around the country who prepare and serve our food. However, subminimum wages for tipped employees and lack of paid sick days force many restaurant workers to continue working while sick in order to make ends meet.

Over the past decade researchers and public health officials have documented the high prevalence of infectious disease outbreaks within the restaurant industry. For some diseases, as much as 70% of cases can be linked back to infected restaurant workers. Sick restaurant workers who feel they cannot stay home have been identified as the number one source for the spread of food borne illness, affecting millions of people across the U.S every year. If we truly want to stem the spread of the highly contagious coronavirus, and other infectious diseases, we must institute both paid sick days and one fair wage for all tipped restaurant workers.

The Scale of Tipped Restaurant Work

There are more than 13 million restaurant workers across the U.S, making up one of the largest and fastest growing industries - and also the worst paid.¹ Eight of the fifteen lowest paid occupations are restaurant jobs, seven of which are tipped.^{2 3} In 43 states, including New York,

¹ Bureau of Labor Statistics, February 2019. Employment Projections, 2016-2026.

² National Restaurant Association, (2019). Restaurant Industry Facts at a Glance. <https://restaurant.org/research/restaurant-statistics/restaurant-industry-facts-at-a-glance>

tipped restaurant workers are subject to a subminimum wage.⁴ Due to decades of lobbying by the National Restaurant Association the federal subminimum wage is trapped at only \$2.13 an hour for tipped workers. While more than 20 states have instituted state subminimum wages above this threshold, the majority still offer protections of less than \$5 an hour. As a result, tipped workers in subminimum wage states are over twice as likely to live in poverty and rely on Medicaid compared to the rest of the workforce.⁵ It is this reliance on tips to make a living wage that forces so many restaurant workers to come to work even while sneezing, coughing, vomiting or with diarrhea. Employers are supposed to ensure that tips make up the difference between the subminimum wage for tipped workers and the full minimum wage. Paid sick leave in New York and Massachusetts should ensure tipped workers earn a full minimum wage, not the subminimum wage, when they are sick. However, the US Department of Labor has reported an 84% violation rate with regard to restaurants complying with these rules⁶. Furthermore, the Restaurant Opportunities Center has reported that based on their members' experience, restaurant workers are more likely to use paid sick leave when they are accustomed to receiving a full minimum wage from their employers, rather than relying on tips as a portion of their base wage. Clearly, the best policy to enact in the face of a looming epidemic is to ensure these workers a full minimum wage with tips on top so that they may stay home when they are ill.

On top of the necessity to work for tips, the vast majority of food service workers survive without paid sick days. According to a report produced by the Restaurant Opportunities Centers United in which researchers surveyed 4323 workers from across the nation, nearly 90% of workers in the sample reported not receiving paid sick days.⁷ In this same survey, more than 63% of all restaurant workers reported cooking and serving food while sick. However, providing sick days alone will not necessarily keep workers from coming in.

A paper by the Women's Institute for Policy Research utilizing data from the National Health Interview Survey found that for food preparation and serving related occupations there was no significant difference in the number of sick days taken between those with paid or unpaid sick leave.⁸ Restaurant workers, whether they had paid sick time or not, took a median of zero days off for illness or injuries. The limited amount of days that restaurant workers stayed home while sick, regardless of whether they had paid time off or not, points to the potential urgency workers feel to make their full wages from tips. If subminimum wage workers do not come in, regardless of whether they have paid sick leave, they miss out on the full income they are forced to collect

³ National Restaurant Association, (2019). Restaurant Industry Facts at a Glance. <https://restaurant.org/research/restaurant-statistics/restaurant-industry-facts-at-a-glance>

⁴ "Better Wages, Better Tips: Restaurants Flourish with One Fair Wage." Restaurant Opportunities Centers United, February 13, 2018.

⁵ American Community Survey (ACS), 2012-2015. Calculations by the Restaurant Opportunities Centers United (ROC-United) of civilian employed tipped and general population demographics based on Ruggles et al., Integrated Public Use Microdata Series: Version 5.0 [Machine-readable database]. Minneapolis: Minnesota Population Center, 2010

⁶ Allegretto, S. 2013. Waiting for Change: Is it Time to Increase the \$2.13 Subminimum Wage? Working Paper No. 155-13 [online]. Institute for Research on Labor and Employment, U-C Berkeley. Available at: <http://www.irlle.berkeley.edu/files/2013/Waiting-forChange.pdf>

⁷ "Serving While Sick: High Risks and Low Benefits for the Nation's Restaurant Workforce and Their Impact on Consumer." The Restaurant Opportunities Centers United, September 30, 2010.

⁸ "Paid Sick Days Access and Usage Rates Vary by Race/Ethnicity, Occupation and Earnings." IWPR #B356. Institute For Women's Policy Research, n.d. <https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/B356.pdf>.

through tips. The consequences of a structure in which some of the lowest paid workers in the country - who also lack sick days and must work for tips - are serving our food has dire consequences for public health writ large. This could not be more true in the midst of a worldwide pandemic.

Disease Outbreaks in Restaurants

There are numerous studies linking the prevalence of serious infectious diseases to restaurant workers who feel they cannot not stay home while sick. The handling of food by a sick restaurant worker is the source of up to two thirds of all restaurant related food-borne outbreaks.⁹ Ill food workers have been implicated in 14 different types of food borne outbreaks, including norovirus, Salmonella, and the Hepatitis A virus.¹⁰

A 2014 study by the Center for Disease Control (CDC) analyzed data on the primary source of norovirus incidences nationwide. Norovirus is the leading cause of gastroenteritis and food borne disease in the U.S., affecting an estimated 1 in 15 U.S. residents each year, or about 20 million people.¹¹ Norovirus is spread through tiny particles that can travel airborne or through hand contact with prepared food and surfaces. Utilizing data from state and local health departments around the country, the CDC found that restaurants are the most common setting for norovirus infection, accounting for nearly 25% of outbreaks between 2009 and 2012. Of those outbreaks, more than 64% percent were connected to restaurants as the primary location of infection. Sick restaurant workers who were unable to stay home from work were responsible for more than 70% of food borne norovirus outbreaks. In order to prevent outbreaks the CDC recommends that the food industry establish policies that allow workers to remain home while sick, including paid sick leave.

A related study by the CDC's Environmental Health Specialists Network (EHS-Net), a network of health specialists and epidemiologists focused on investigating foodborne illness, conducted interviews with 491 food workers and 387 of their managers to determine what factors are associated with workers continuing to come in while sick, particularly while experiencing vomiting and diarrhea.¹² The study found that 12% of workers reported having worked two or more shifts while experiencing vomiting or diarrhea. The most significant factor associated with employees continuing to work despite symptoms was the volume of customers at the restaurant. Workers at restaurants with more customers were more likely to continue to work.

⁹ Hedberg, C. W., S. J. Smith, E. Kirkland, V. Radke, T. F. Jones, C. A. Selman, and the EHS-Net Working Group. 2006. Systematic environmental evaluations to identify food safety differences between outbreak and nonoutbreak restaurants. *J. Food Prot.* 69:2697–2702.

¹⁰ Greig, J. D., E. C. D. Todd, C. A. Bartleson, and B. S. Michaels. 2007. Outbreaks where food workers have been implicated in the spread of foodborne disease. Part 1. Description of the problem, methods, and agents involved. *J. Food Prot.* 70:1752–1761.

¹¹ Hall, Aron. "Vital Signs: Foodborne Norovirus Outbreaks — United States, 2009–2012." *Morbidity and Mortality Weekly Report*. Accessed March 2, 2020. https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6322a3.htm?s_cid=mm6322a3_w.

¹² Sumner, Steven, Laura Green Brown, Roberta Frick, Carmily Stone, L. Rand Carpenter, Lisa Bushnell, Dave Nicholas, et al. "Factors Associated with Food Workers Working While Experiencing Vomiting or Diarrhea." *Journal of Food Protection* 74, no. 2 (February 2011): 215–20. <https://doi.org/10.4315/0362-028X.JFP-10-108>.

One of the main explanations for this decision was that workers in high-volume restaurants have more to lose in tips if they don't come to work. In subminimum wage states the only way for workers to make their full potential wage is to continue to work despite the risk to themselves and customers. This same study found that workers with paid sick leave were half as likely to report working while sick as those without the benefit. The study specifically names the need for further research in the limitations of sick leave to compensate for the missed wages in tips that come when a worker remains at home.

Another EHS-net conducted study focused on the reasoning behind why food workers decided to work while sick.¹³ Nearly 60% of workers in the sample reported working while ill. Of those who made that decision, more than 50% reported that not getting paid if not working was of some or great influence in their decision to come to work while sick. While 43% of workers cited a lack of paid sick leave as the reason behind their working decision. An important finding from the study revealed that workers were much more likely to come to work with symptoms of a cough (38%) and sore throat (17%), compared with vomiting (2%). This could have serious ramifications given the early warning symptoms of the coronavirus are cough and fever.

Conclusion

The risk of foodborne disease outbreaks gives no indication of letting up. As we brace for the ongoing spread of coronavirus on top of numerous other contagions we must consider policy that gets to the root cause of prevention. Workers deserve a real choice, forgoing the wages they need to feed their families or infecting their customers and co-workers is not a position any worker should be in. We must declare one fair wage and paid sick days as a core intervention in the fight for public health.

¹³ Green, Alice & Norton, Dawn & Frick, Roberta & Tobin-D'Angelo, Melissa & Reimann, David & Blade, Henry & Nicholas, David & Egan, Jessica & Everstine, Karen & Brown, Laura & Le, Brenda. (2013). Food Worker Experiences with and Beliefs about Working While Ill. Journal of food protection. 76. 2146-54. 10.4315/0362-028X.JFP-13-128.