



# ABSENCE ADVISORY

REGULATORY UPDATES FROM  
AFLAC'S LIFE, ABSENCE AND  
DISABILITY SOLUTIONS DIVISION



MARCH 2024

We are pleased to share the March 2024 Absence Advisory, along with information related to paid and unpaid leave legislation.

## TOP NEWS INSIDE

- [Statutory disability and paid leave.](#)
- Leave (unpaid) and other laws: [Pregnant Worker's Fairness Act](#) and [New York.](#)

# STATUTORY DISABILITY AND PAID LEAVE

## Hawaii Temporary Disability Insurance (HI TDI) 2023 annual reporting

The state of Hawaii has been actively building their new electronic TDI-21 form and anticipates rolling out the form and instructions to TDI insurance carriers by April 1, 2024. In anticipation of the electronic form, Hawaii delayed the filing deadline for the 2023 annual reporting to July 1, 2024, to allow the submission of the 2023.

If you are an Aflac client, we have been actively engaging our clients to gather the information necessary for the completion of the TDI-21 electronic form if we administered a HI TDI plan in 2023. If you have any questions, please contact your Aflac representative.

## Oregon equivalent plan reports and private plan reapprovals

The first equivalent plan reporting is due on Jan. 31, 2025. Report information will include data from Sept. 3, 2023, through Dec. 31, 2024. More information will be provided closer to the due date.

Also, employers must apply for reapproval of their equivalent plans annually for the first three years that they offer benefits to their employees. Employers need to apply for reapproval 30 days before the anniversary of the effective date of their approved plan. For example, the first equivalent plans for paid leave began Sept. 3, 2023, so these employers should send their applications for reapproval by Aug. 3, 2024. More information is in the [Oregon Paid Leave Equivalent Plan Guidebook](#).

## Maine Paid Family Medical Leave frequently asked questions

The Maine Department of Labor (ME DOL) has posted responses to some frequently asked questions based on feedback and questions they received regarding the Maine Paid Family and Medical Leave program. The ME DOL also noted that the answers in the FAQs are based on the best information available prior to the adoption of rules for the ME PFML program. You can find the FAQs at <https://www.maine.gov/labor/pfml/>.

## Washington Paid Family Medical Leave Employer Toolkit and benefit notifications

Washington Paid Family Medical Leave (WA PFML) has published two newly updated toolkits for employers. They are available for download at [WA PFML Employer Toolkit](#).

About the toolkits:

- The Employer Paid Leave Benefits Toolkit — Helps anyone with employees in Washington learn about WA PFML benefits.
- The Employer Wage Reporting and Premiums Toolkit — Provides more information about employer responsibilities for Washington Paid Family Medical Leave and Washington Cares Fund.

Additionally, to better protect employee data, WA PFML has updated their mailed notifications to employers. The notifications will no longer include the last four digits of an employee's Social Security number. WA PFML has also updated their employer portal to include additional information about employees' use of WA PFML benefits. Additional information can be found here: [What information is shared with me while my employee is on leave?](#)

## New Mexico defeats paid family medical leave

On Feb. 14, 2024, the New Mexico House of Representatives defeated Senate Bill 3 that called for a mandatory paid family medical leave program for employees across the state. The House voted 34-36 on the bill. Eleven Democrats joined with every Republican to vote against the bill that passed the Senate chamber 25-15 on Feb. 9, 2024. While PFML did not pass this legislative session, it will likely be seen again next year in a very similar form. For more information, visit <https://sourcencm.com/2024/02/14/house-narrowly-rejects-paid-family-and-medical-leave-program/>.



## LEAVE (UNPAID) AND OTHER LAWS

### Pregnant Worker's Fairness Act

The Pregnant Workers Fairness Act (PWFA), enacted in Dec. 2022, took effect June 27, 2023. It requires employers with at least 15 employees to provide reasonable accommodations, unless there is undue hardship, to qualified employees and applicants with known limitations related to, affected by, or arising out of pregnancy, childbirth or related medical conditions.

The Act required the Equal Employment Opportunity Commission (EEOC) to issue regulations by Dec. 29, 2023. Although proposed regulations were published for public comment in the Federal Register on Aug. 11, 2023, the new year started without the EEOC's final regulations being issued. The EEOC released an interim final rule on Feb. 14, 2024, to amend some existing procedural regulations including the PWFA.<sup>1</sup> This interim final rule became effective upon publication, however, it could change based on public comments received during the 60-day comment period ending April 15, 2024.<sup>2</sup>

We will continue to monitor regulatory updates and will advise when the final regulations are published as well as any consequent legal interpretations or guidelines.

<sup>1</sup> Awaiting PWFA EEOC's Final Regulations (natlawreview.com), 01/03/24. [Accessed 02/02/24.](#)

<sup>2</sup> Federal Register: Amendment of Procedural and Administrative Regulations To Include the Pregnant Workers Fairness Act (PWFA), 02/14/24. [Accessed 03/01/24.](#)

## NEW YORK

### New York City Int. 563-A

On Jan. 20, 2024, New York City enacted an amendment to the Earned Sick and Safe Time Act (ESSTA). ESSTA requires covered employers to provide their New York City employees with paid sick and safe leave in an amount that is dependent on the size of the employer and/or net income. Employees may take the paid time for reasons that include but are not limited to the employee's own medical care, their covered family member's medical care, domestic violence, stalking, sex offences or human trafficking.

Effective March 20, 2024, the amendment allows an individual to start civil action. Civil action would need to commence within two years of the date the individual knew or should have known about the violation and may seek damages and other relief for violations of ESSTA. If civil action is taken, the individual who alleges their ESSTA rights were violated may seek:

- Compensatory damages.
- Injunctive and declaratory relief.
- Attorney's fees and costs.
- Other relief as the court deems appropriate.

To review more details of NYC Int. 563-A, visit: [The New York City Council - File #: Int 0563-2022 \(nyc.gov\)](#). For additional information about NYC ESSTA, visit: [DCWP - NYC's Paid Safe and Sick Leave Law](#).

Employers should continue to review and update their internal policies and provide timely and appropriate updates/training to management for New York City's ESSTA, as it applies to your company.



These are educational materials only. Employers should consult their own counsel for obligations for state-mandated leave and disability programs. Products and services are provided by Continental American Insurance Company. In New York, products and services are provided by American Family Life Assurance Company of New York. In California, coverage is offered by Continental American Life Insurance Company. Products may not be available in all states and may vary depending on state law.

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