



PLADS

LEGISLATIVE ADVISORY

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



JUNE 2022

We are pleased to share the June 2022 **PLADS Legislative Advisory**, information related to paid and unpaid leave legislation as well as other regulatory updates.

This month's edition highlights where to find our recent webinar and the latest leave legislation.

TOP NEWS INSIDE

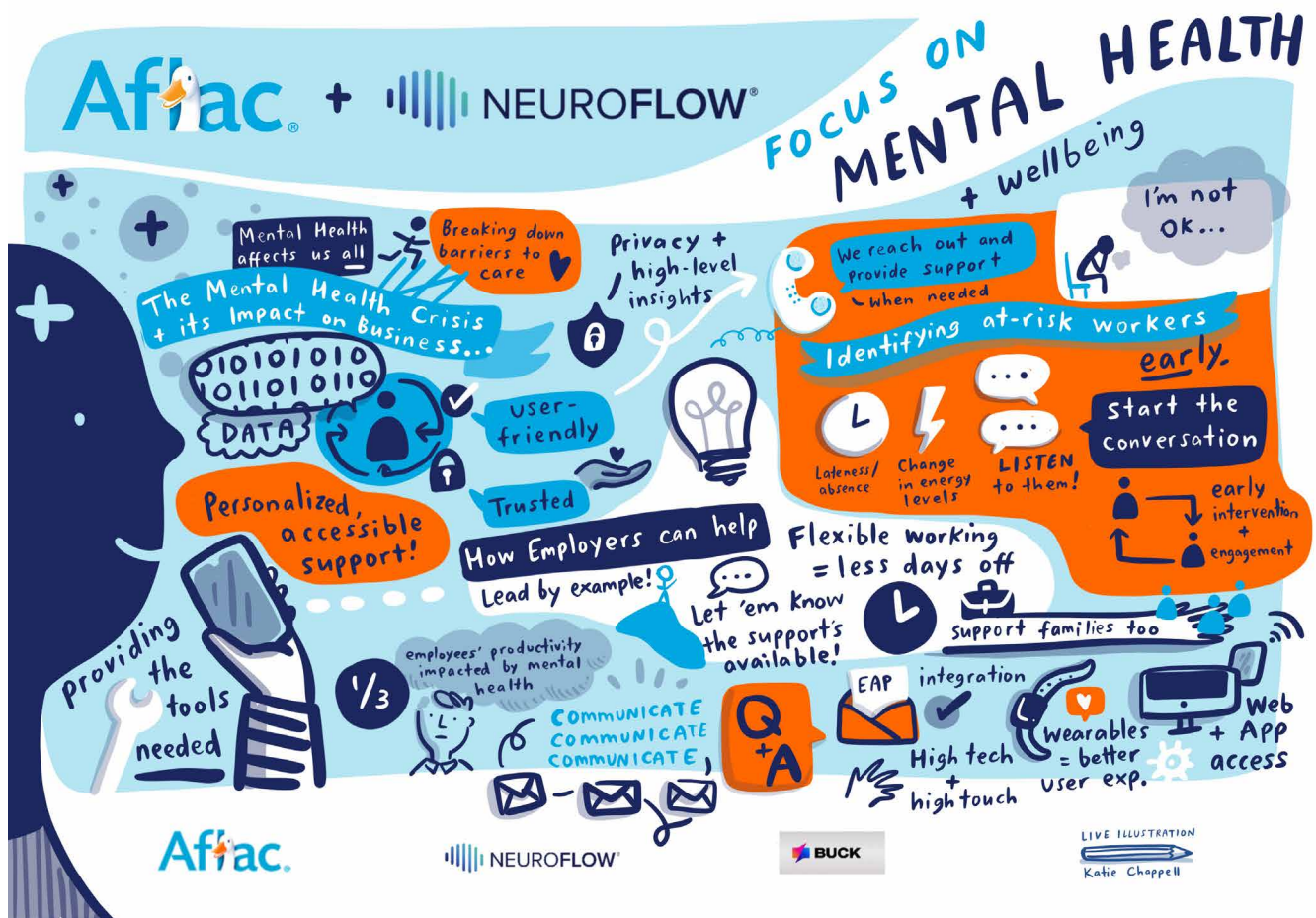
- Mental health webinar replay now available.
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- State paid leave legislation: Colorado, Connecticut, Oregon.
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- State/other leave legislation: New Mexico, New York.
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AFLAC AND NEUROFLOW'S MENTAL HEALTH WEBINAR REPLAY IS NOW AVAILABLE

On June 7, we hosted a webinar focusing on the mental health crisis and its impact to employers with Jenny Merrithew, vice president of Product and Solutions, who was joined by two executives from Neuroflow: Chris Molaro, CEO and co-founder, and Faith Best, licensed clinical social worker. This interesting discussion was moderated by Mary Armstrong-Flippo, CLMS principal/national absence and productivity practice leader from Buck Global, LLC.

The replay is now available, and you can access it by visiting: https://players.brightcove.net/2112711598001/default_index.html?videoId=6307597898112.

Aflac also invited special guest Katie Chappell, katiechappell.com, who illustrated the conversation.



Please reach out to your Aflac account representative with any questions.

STATE/OTHER PAID LEAVE LEGISLATION

COLORADO

Colorado Family and Medical Leave insurance

Before you know it, CO FAML I will be here! Are you getting ready?

Effective Jan. 1, 2023, contributions for CO FAML I will commence. Employers are working now to determine if they will participate in the public plan or enroll in a private plan. As employers are weighing the pros and cons of each option, they are evaluating their companies' current health and disability benefits against the state's new insurance. CO FAML I has published an HR fact sheet on their website to aid employers: [HRfactsheet_1.pdf \(colorado.gov\)](#).

State contributions

State contributions are set at .9% of the employee's wage (to the Social Security cap). The premiums are shared between the employer and employee – 50/50 – so that each is contributing .45%. Employers may choose to absorb a larger portion or the full amount as an added benefit for their employees. Employers with nine or less employees are not required to contribute to the program but do need to remit their employee's share (.45%) each quarter.

CO FAML I's next webinar is focused on calculating premiums and will feature a live Q&A session. It is scheduled for June 30 at [Employer Webinars | Family and Medical Leave Insurance \(colorado.gov\)](#).

Benefits

- How much?
 - Depending on income, the worker may receive between 37% and 90% of their normal weekly wages, capped at \$1,100 per week.
- How long?
 - Most workers are eligible for up to 12 weeks. Those who experience pregnancy or childbirth complications may receive an additional four weeks.
- Is there job protection?
 - Once a worker has been employed for at least 180 days, their job is protected if they are eligible and qualify.

Reasons for leave

- Care for a child during the first year after birth, adoption or foster care placement.
- Care for a family member who has a serious health condition.
- Take medical leave for an employee's own serious health condition.
- Take leave for a qualifying military exigency.
- Address the immediate safety needs and impact of domestic violence, stalking and/or sexual assault.

Qualifying family members

- Employee/self (for own condition).
- Employee's child — including adoptive, a foster child or a legal ward.
- Spouse, domestic partner and the family members of a spouse or domestic partner.
- Parent including adoptive, foster or legal guardian.
- Grandchild.
- Grandparent.
- Sibling.
- Any other individual with whom the covered individual has a significant personal bond that is or is like a family relationship.

In addition, the definition extends to an individual who is acting as a parent or to care for an adult who acted as a parent. ("Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the covered individual stands in loco parentis or a person to whom the covered individual stood in loco parentis when the person was a minor..." C.R.S. 8-13.3-5-03(11)(a).)

Be sure to register for the CO FAML I monthly newsletter at [FAML I Newsletters | Family and Medical Leave Insurance \(colorado.gov\)](#).

CONNECTICUT

Connecticut Paid Leave publishes prototype of Employee Rights form

Starting in July, employers will be required to provide employees with written notice describing employee rights and benefits under the Connecticut Paid Leave (CT PL) program. On May 31, the Connecticut Department of Labor (CT DOL) published a prototype of the Employer's Written Notice to Employees of Rights Under CT FMLA and CT PL.

The prototype can be found at <https://portal.ct.gov/-/media/DOLUI/NEW-53122-Prototype-of-Employers-Written-Notice-to-Employees-of-Rights-under-CTFMLA-and-CTPL.pdf>. According to the CT DOL website, use of the form is optional as employers may create their own forms. However, if an employer creates their own form, it must contain the information as required under the regulations. (CT Sec. 31-49q. Family and Medical Leave Insurance Program; Notice of Entitlement. [Effective July 1, 2022]).

OREGON

Oregon PFML I announces contribution rate set for 2023

Oregon PFML I has set the contribution rate for employers and employees at 1% when contributions begin in 2023. Workers will pay 60% and employers will pay 40% of the combined contribution rate of 1%. For example, if an employee earns \$1,000 in wages, the employee will pay \$6, and the employer will pay \$4 per paycheck. Employers may choose to pay the employee portion as a benefit for their employees.

Paid leave contributions will go into a trust fund, which in turn will provide the revenue for workers' paid leave benefits starting Sept. 3, 2023. Oregon law says the Oregon Employment Department director will set the paid leave contribution rate annually, which cannot exceed 1%. The law also requires the trust fund to have enough funds to pay benefits for up six months.

Oregon PFMLI used actuarial data to forecast that a 1% contribution rate would make sure the program has enough funds to both meet the legal requirement and pay benefits to Oregon workers. The state expects the contribution rate to decrease in the future as the fund becomes solvent. Oregon PFML will allow workers to take paid time off for the birth or adoption of a child, for serious illness or injury, for taking care of a seriously ill family member and to support survivors of sexual assault, domestic violence, harassment or stalking.

For more information, please see <https://www.oregon.gov/employ/PFMLI/Pages/default.aspx>.

STATE/OTHER LEAVE LEGISLATION

NEW MEXICO

New Mexico Healthy Workplaces Act (HB20)

Effective July 1, 2022, the state of New Mexico enacted the Healthy Workplaces Act (HWA), which requires all private employers to provide paid leave to employees. Employees are entitled to accrue at least one hour of paid leave for every 30 hours worked.

Covered employees: All private employees except those subject to Title II of the federal Railway Labor Act or the federal Railroad Unemployment Insurance Act. Independent contractors are also not covered.

Family members:

- Spouse, domestic partner.
 - A domestic partner is an individual with whom the employee maintains a household and a mutual committed relationship. A domestic partner does not need not be “registered.”
- Child, grandchild, grandparent, parents and siblings of the spouse or domestic partner.
- An individual whose close association with the employee, spouse or domestic partner is the equivalent of a family relationship.

Usage: Employees may use accrued paid time for the following reasons:

- Mental or physical illness, injury or health condition of employee or family member.
- Medical diagnosis, care or treatment of a mental or physical illness, injury or health condition of an employee or family member.
- Preventive medical care for employee or family member.
- Meetings at a child's school or place of care related to the child's health or disability.
- Absences due to domestic abuse, sexual assault or stalking suffered by the employee or family member.
 - To obtain medical or psychological treatment or other counseling.
 - To relocate.
 - To prepare for, or participate in, legal proceedings.
 - To obtain services.

Notices

Employers are required to give written or electronic notice to employees when employment begins. The notice must include:

- the right to paid leave.
- the method in which leave accrues and is calculated.
- the terms of leave use under the Act.
- the Act's anti-retaliation provisions.
- the right to file a complaint with the state labor department if the employer denies leave or retaliates against an employee.
- all means of enforcing violations of the law.

In addition, employers must display a poster that contains information in the mandatory notice in a visible and accessible place in each establishment where employees are employed.

Posters are available for employers at [New Mexico Department of Workforce Solutions > Labor Relations > Labor Information > New Mexico Paid Sick Leave \(state.nm.us\)](#).

HWA Compliance Checklist: https://www.dws.state.nm.us/Portals/0/DM/LaborRelations/HWA_Policy_Compliance_Checklist.pdf?ver=2022-04-25-100759-297.

Internal policies must meet or exceed the same terms and conditions as the law requires. For example, generally, existing paid time policies do not include per diem employees. Under HWA, per diem employees should accrue paid time.

In addition to the multiple resources the state has created, New Mexico is hosting informational webinars that will discuss HWA and how to prepare. The available dates and times are listed on the right-hand side of the following page: [New Mexico Department of Workforce Solutions > Labor Relations > Labor Information > New Mexico Paid Sick Leave \(state.nm.us\)](#).

While Aflac PLADS does not administer paid time programs based on accruals on behalf of clients, we encourage employers to review and update their internal policies and provide appropriate updates/training to management.



Victims of Domestic Violence (S8417B)

In 2019, New York amended its Human Rights Law to prohibit employers from discriminating against employees who are victims of or impacted by domestic violence. Unless the employer can demonstrate that the employee's absence would constitute undue hardship, the employer is required to provide reasonable accommodation for any of the following reasons:

- Seeking medical attention for injuries caused by domestic violence, including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child.
- Obtaining services from a domestic violence shelter, program or rape crisis center as the result of domestic violence.
- Obtaining psychological counseling related to incident(s) of domestic violence, including for a child who is a victim of domestic violence, provided that the employee is not the perpetrator of the domestic violence against the child.
- Participating in safety planning or taking other actions to increase safety from future incidents of domestic violence, including temporary or permanent relocation.
- Obtaining legal services, assisting in the prosecution of the offense or appearing in court in relation to the domestic violence incident(s).

The term "victim of domestic violence" for purposes of this law has the same meaning as defined here, [Legislation | NY State Senate \(nysenate.gov\) \(Section 459a of the New York Social Services Law\)](#).

The amendment:

Enacted and effective as of May 13, 2022. New York expanded the protection and has added "status as a victim of domestic violence" to the list of protected classes throughout the Human Rights law. For example, employment agencies, labor organizations and licensing agencies are among the institutions that are prohibited from discriminating based on the status as a victim of domestic violence. For more information, visit [NY State Senate Bill S8417B \(nysenate.gov\)](#).



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. Products may not be available in all states and may vary depending on state law.

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