



PLADS

LEGISLATIVE ADVISORY

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



MAY 2022

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

This month's edition highlights our upcoming webinar, the latest leave legislation and more.

TOP NEWS INSIDE

- [Webinar registration now open!](#)
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- State paid leave legislation: [Delaware](#), [Federal](#), [Virginia](#), [Washington](#).
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- State/other leave legislation: [Alabama](#), [Oregon](#).
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WEBINAR REGISTRATION NOW OPEN!

Keys to Increase Utilization of Mental Health Solutions

Date: Tuesday, June 7, 2022

Time: 1 p.m.-2 p.m. ET

[Register now*](#)

Our webinar will feature an expert panel discussion on today's mental health crisis and its impact to employers, with a focus on:

- What employers can do to identify at-risk workers earlier.
- How employers can drive engagement in their programs to better support employee mental health and well-being.
- What Aflac and NeuroFlow are doing to support our clients. (You can learn more in advance by watching [this short video.](#))

Connect with your sales or account executive with any questions.

*You will receive a link for the webcast after you complete your registration. The link is unique to each registrant and only one registrant will be admitted in.



Featured panelists:



JENNY MERRITHEW

VP, Product/Solutions
Aflac Premier Life, Absence and Disability.



CHRISTOPHER MOLARO

CEO and Co-Founder,
NeuroFlow.



FAITH BEST

LCSW, NeuroFlow.

Moderator:



MARY ARMSTRONG - FLIPPO

CLMS, Principal,
National Absence and Productivity Practice Leader,
Buck Global, LLC.

STATE/OTHER PAID LEAVE LEGISLATION

DELAWARE

Delaware passes paid family and medical leave

On May 10, 2022, Governor John Carney signed the Healthy Delaware Families Act, making Delaware the 11th state to create a paid family and medical leave program.

Claims administration will begin on Jan. 1, 2026, and the program will provide 12 weeks of paid family and medical leave and be funded by less than 1% of an employee's weekly pay, split evenly by the employee and employer.

A covered employee will be allowed 12 weeks of paid leave as a new parent, and six weeks every two years to address their own serious health conditions, caring for a family member with such a condition or if affected by a family member's military deployment.

No employee will be able to take more than 12 weeks of total paid leave in a single year. The benefit is capped at 80% of an employee's salary or \$900 a week, whichever is lower.

Workers at companies with at least 25 employees will be eligible for benefits, while those at companies with 10 to 24 employees will only be eligible for parental leave. Companies with fewer than 10 employees will not be required to participate but could choose to opt into the plan.

In each year after 2027, the maximum weekly benefit must increase in proportion to the annual average increase. The maximum weekly benefit for 2026 and 2027 is capped at \$900. For more information, please see <https://legis.delaware.gov/BillDetail?LegislationId=79186>.

FEDERAL

Federal paid bereavement leave

Adopted under Section 1111 as part of the 2022 National Defense Authorization Act, Title 5 federal workers are eligible to take up to two weeks of paid bereavement leave following the death of a child for a one-year period. The law, which went into effect on Dec. 27, 2021, also includes adopted, foster or stepchildren, and an adult child with a mental or physical disability. The Office of Personnel Management provided additional guidance on how this benefit should be implemented.

The paid leave cannot be taken intermittently unless the agency provides approval. This leave does not impact employees' accrual of other paid leave or paid time off. For more information, please see the Parental Bereavement Leave memo that was issued out to the agency head here: <https://www.chcoc.gov/content/parental-bereavement-leave>.

Virginia passes voluntary private paid family and medical leave policy legislation

On April 7, 2022, Virginia established paid family medical leave insurance as a class of insurance. Essentially, the new legislation allows for carriers to provide a private voluntary PFML product to employers that will provide benefits to an employee to pay for the employee's income loss due to:

- the birth or adoption of a child by the employee.
- placement of a child with the employee for foster care.
- care of a family member of the employee who has a serious health condition.
- circumstances arising out of the fact that the employee's family member who is a service member is on active duty or has been notified of an impending call or order to active duty.

Under the bill, PFML insurance may be written as an amendment or rider to a group disability income policy, included in a group disability income policy or written as a separate group insurance policy purchased by an employer. The bill prohibits delivery or issue for delivery of a PFML insurance policy unless a copy of the form and the rate manual showing rates, rules and classification of risks have been filed with the State Corporation Commission.

The bill prohibits an individual certificate and enrollment form from being used in connection with a group family leave insurance policy unless the form for the certificate and enrollment form have been filed with the Commission. The bill also provides that "life and annuities insurance agent" means an agent licensed in the Commonwealth to sell, solicit or negotiate, among other types of insurance, family leave insurance on behalf of insurers licensed in the Commonwealth. The law goes into effect on July 1, 2022. For more information, please see <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB1156>.



WASHINGTON

Washington PFML issues new rules for waiting period

On April 26, 2022, the state of Washington Employment Security Department (WA EST) filed a CR-103 and adopted rules to clarify that a waiting period does not reduce the maximum duration of an employee's available paid family or medical leave and that the waiting period does not apply to medical leave taken upon the birth of a child. The rules also clarify that proration of benefits and the calculation of typical work week hours do not apply to the waiting period. In addition, the rules allow petitions for review to be submitted by email and to make other technical changes. The adopted rules and supporting documentation can be found on the program's rulemaking page. The new rule becomes effective June 9, 2022. For more information, please see <https://paidleave.wa.gov/rulemaking/>.

Washington allows employers to choose not to offer the public program and instead offer their employees a private plan for Washington State PFML. The private plan must meet or exceed state plan requirements. At the end of fiscal year 2021, there were 277 active employers with approved private plans. Most employers (88%) choosing to use a private plan include both family and medical leave, with only 11% offering only a medical plan and 1% offering only a family plan.

Washington PFML provides bereavement

Washington Senate Bill 5649 passed both the Senate and the House and was signed into law on March 30, 2022. This bill will provide for paid family leave during the seven calendar days following the death of the family member for whom an employee would have qualified for either:

- medical leave for the birth of their child under the Washington Paid Family Medical Leave (WA PFML) benefit.
- family leave under subsection (b) (i.e., to bond with the employee's child during the first 12 months after the child's birth, or the first 12 months after the placement of a child under the age of 18 with the employee) under the WA PFML benefit.

The new law also includes a definition for "postnatal" to mean the first six weeks after birth. It also provides that any paid leave under WA PFML used in the postnatal period must be medical leave unless the employee chooses to use family leave during the postnatal period.

The new law goes into effect June 9, 2022. For more information, please see <https://app.leg.wa.gov/billsummary?BillNumber=5649&Year=2021&Initiative=false>.

STATE/OTHER LEAVE LEGISLATION

ALABAMA

Alabama Adoption Promotion Act-Senate Bill 31

On April 19, 2022, the state of Alabama enacted the Adoption Promotion Act to provide unpaid leave for birth and adoptive parents. The new law, effective July 1, 2022, requires employers who are subject to the federal Family and Medical Leave Act to provide up to 12 weeks of unpaid leave to eligible employees to be taken as a

continuous leave or intermittently (where the employer and employee agree) for either:

- the birth and care of the employee’s child(ren).
- for the care of an adopted child/children placed with the employee.
 - If the employee requests leave for the adopted child(ren) who is ill or has a disability, the employer is required to treat the request as though it is comparable to a request for leave due to complications that appear from the birth of an employee’s child.

Eligible employees are those who are eligible for leave under FMLA. Leave must be taken within one year of birth or the placement of the child(ren) and will run concurrently with other leave provided under federal law.

The leave is generally unpaid. However, if the employer provides paid leave for the birth and care of child born to the employee, the employer must also provide either the equivalent paid leave or two weeks of paid leave, whichever is less, for purposes of leave for the care and placement of an adopted child.

If two employees are eligible for paid leave for the same adopted child(ren), the employer is only required to pay benefits to one of the two employees. For more information, please visit: [SB31-enr.pdf](#).

OREGON

Oregon 47218 Use of Sick Time

Effective April 1, 2022, the state of Oregon amended the reasons for an employee’s use of sick time, as defined in ORS 653.616, to include emergency evacuations, air quality index or heat index exposure. The exception to these new provisions is that employees who are employed as a first responder cannot use sick leave for these reasons.

Emergency evacuations: Defined as “An emergency evacuation order of level 2 (SET) or level 3 (GO) issued by a public official with the authority to do so, if the affected area subject to the order includes either the location of the employer’s place of business or the employee’s home address.”

Air quality or heat index: Defined as “A determination by a public official with the authority to do so that the air quality index or heat index are at a level where continued exposure to such levels would jeopardize the health of the employee.”

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

For more information, please visit

https://www.oregonlegislature.gov/bills_laws/ors/ors653.html and <https://secure.sos.state.or.us/oard/>.

OTHER

FLORIDA

Florida Organ Donor Discrimination Law

Effective July 1, 2022, under Florida House Bill 1099, insurers are prohibited from declining or limiting coverage and discriminating against persons based solely on their status as a living organ donor. The bill will be applicable to life insurance, health insurance, disability 42 insurance and long-term care insurance.

There are no impacts to any Aflac PLADS Group Disability or Life policies.

For more information, please visit:

https://custom.statenet.com/public/resources.cgi?id=ID:bill:FL2022000H1099&ciq=urn:user:PA182748405&client_md=6537da317098e3792a8ebde20a66715b&mode=current_text/.

NEW JERSEY

New Jersey looking to increase maximum benefit for temporary disability and family leave

New Jersey Senate Bill 508 seeks to increase the maximum weekly benefit rate for temporary disability and family leave from 70% to 85% of the state-wide average weekly wage. With the current SAWW at \$1,418, the bill would increase the maximum weekly benefit from \$993 to \$1,206. The weekly benefit of a worker is calculated at 85% of the worker's own weekly wage, but not exceeding the indicated maximum weekly benefit. On March 7, 2022, the bill was referred to the Senate Budget and Appropriations Committee where it was approved. As additional information becomes available, this article will be updated. For more information, please see <https://www.njleg.state.nj.us/bill-search/2022/S508>.



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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