



ABSENCE ADVISORY

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



MAY 2024

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

TOP NEWS INSIDE

- Paid leave: [Connecticut](#), [Maryland](#), [Washington](#)
- Leave: [New York](#), [The Pregnant Workers Fairness Act \(PWFA\) Final Rule](#)

PAID LEAVE

CONNECTICUT

Connecticut Paid Leave updates

Connecticut lawmakers are now offering Connecticut Paid Leave benefits to employees of Connecticut's federally recognized tribes, and extends paid leave to sexual assault victims as well. Governor Lamont recently signed a bill that was passed in the House and Senate. It allows the governor the ability to enter into an agreement with any of the state's recognized tribes to offer paid leave benefits to any employees of the tribe or tribally owned businesses. The legislation also adds requirements for employers to register with the Paid Leave Authority and will require health care providers to display information regarding Connecticut Paid leave. For more information, please see <https://legiscan.com/CT/bill/SB00222/2024>.

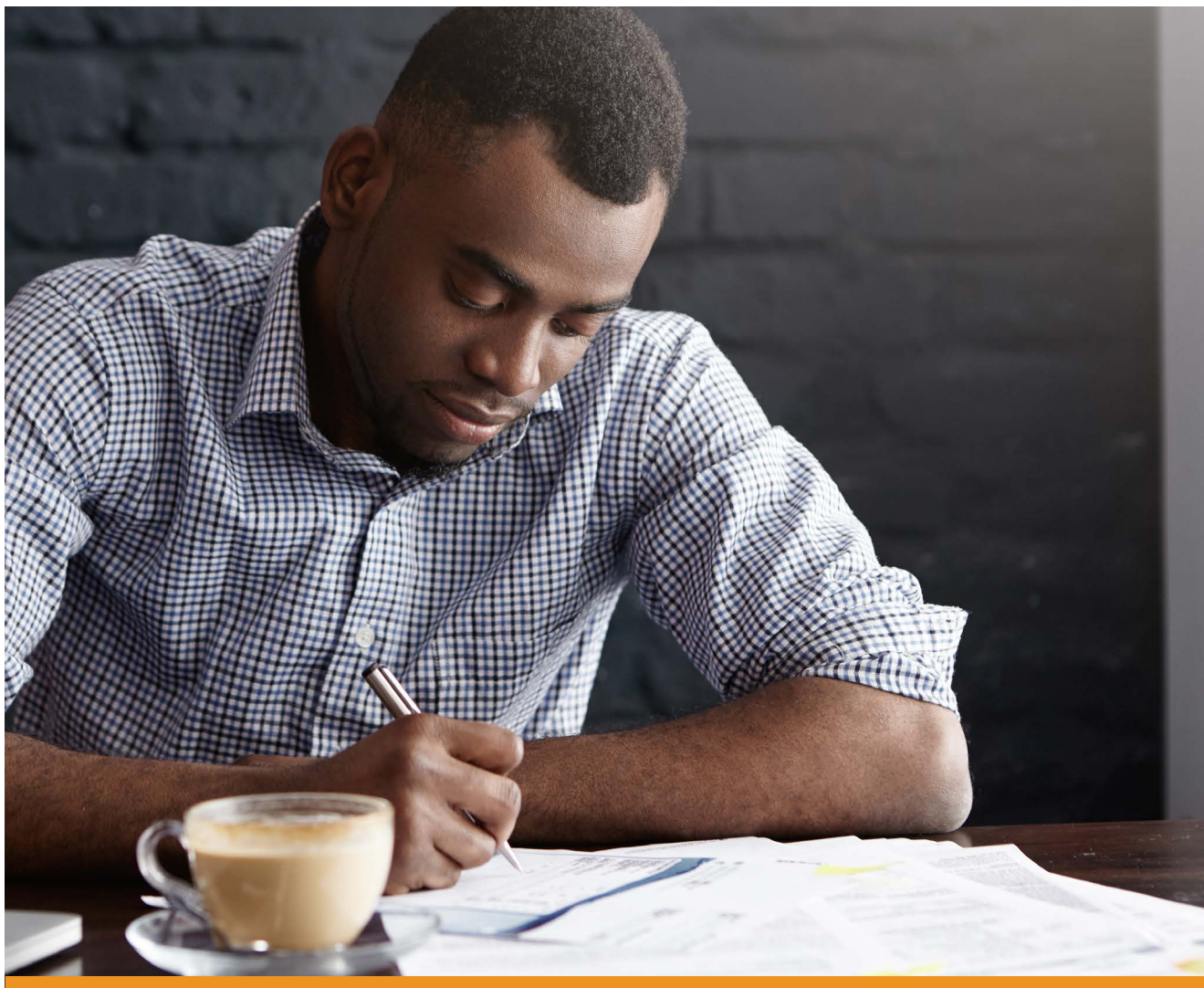
MARYLAND

Maryland Family and Medical Leave insurance delays

Recently, Governor Moore signed into law a delay in the Maryland Family and Medical Insurance (MD FMLI) benefit. Contributions will now begin on July 1, 2025, and benefits will start July 1, 2026. The contribution rate announcement is being moved to Feb. 1, 2025. The updated statute has additional changes:

- The definition of "covered employee" is revised to include anyone who has worked 680 hours in the state over the four most recently completed calendar quarters before leave.
- The definition of "wages" is updated to reference § 8-101, which is the unemployment section of the Labor and Employment statute. As defined in § 8-101, "wages" includes bonuses, commissions, tips and the cash value of all compensation in any medium other than cash.
- The average weekly wage calculation will be based on the highest of the previous four completed calendar quarters divided by 13.
- The benefit maximum may not exceed \$1,000 for the six-month period beginning July 1, 2026.
- For private plans, employers may: (1) only deduct up to 50% of the contribution rate from employees; (2) be charged administration fees; and (3) be subject to several criteria to determine whether the employer is eligible to have a private plan including:
 - o Number of employees.
 - o Capitalization.
 - o Bondedness.
 - o Status as a government employer.
 - o Requires the employer or insurer to bear the costs of an appeal if an employee prevails in an appeal of an adverse decision.

The Department of Labor will be drafting regulations in response to these statutory changes. For more information, visit <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0485?ys=2024RS>.



WASHINGTON

Washington Paid Family Medical Leave reporting for collective bargaining agreement

Washington Paid Family Medical Leave's CBA provision expired Dec. 31, 2023, so employers may need to file for some or all of their employees for the first time.

Starting with Q1 2024 reporting, employers need to include CBA-covered employees on their wage reports. These employees are now covered by WA PFML. However, if the CBA existed on or before Oct. 19, 2017, and has not since been reopened or renegotiated, these employees may still be excluded from WA Cares. For more information, please see <https://content.govdelivery.com/accounts/WAESD/bulletins/3959ebc#:~:text=Paid%20Leave:%20Reporting%20for%20CBA%20employees%20starts%20now&text=Starting%20with%20Q1%202024%20reporting,be%20excluded%20from%20WA%20Cares.&text=If%20an%20employee%20works%20in,Cares%20on%20the%20wage%20report>.

Employers in Puerto Rico should ensure they comply with the law as a result of the declared health emergency.

LEAVE

NEW YORK

NY SB S08305

On April 20, 2024, New York Governor Kathy Hochul signed an amendment that will require employers to provide up to 20 hours of paid leave in a 52-week period to pregnant workers in New York for prenatal care.

Effective Jan. 1, 2025, eligible pregnant workers will be able receive their regular rate of pay for up to 20 hours (or the applicable minimum wage, whichever is greater), when taking time to seek prenatal care.

Fast facts:

- Time is available immediately (no accruals).
- Time may be taken in hourly increments.
- Time may be taken during the pregnancy or related to the pregnancy including:
 - o Physical examinations.
 - o Medical procedures.
 - o Monitoring and testing.
 - o Discussions with a health care provider related to pregnancy.
- Unused time is not payable upon the worker's termination, resignation, retirement or other separation from employment.

To review more details of SB S08305, visit https://nyassembly.gov/leg/?default_fld=%0D%0A&leg_video=&bn=S08305&term=2023&Summary=Y&Actions=Y&Text=Y.

Employers should continue to review and update their HR systems and internal policies, and provide timely and appropriate updates/training to management as it applies to your company.

The Pregnant Workers Fairness Act final rule

The U.S. Equal Employment Opportunity Commission's (EEOC) final rule to implement the Pregnant Workers Fairness Act has arrived. It was published in the Federal Register on April 19, 2024, and goes into effect 60 days later, on June 18, 2024. In addition to a few material changes, the final regulations provide clarifications, minor language changes and additional examples. The EEOC identified notable differences between the proposed and final rule here: [Summary of Key Provisions of EEOC's Final Rule to Implement the Pregnant Workers Fairness Act \(PWFA\) | U.S. Equal Employment Opportunity Commission](#).

For example:

1. In the final rule, unlike in the proposed rule, whether the employee could perform the essential function(s) of their job "in the near future" in situations other than when the employee is pregnant is determined on a case-by-case basis.
2. The final rule has modified the definition of "reasonable documentation" so that it now means the minimum that is sufficient to: (A) confirm the physical or mental condition; (B) confirm that the physical or mental



condition is related to, affected by or arising out of pregnancy, childbirth or related medical conditions (together with paragraph (l)(2)(i)(A), “a limitation”); and (C) describe the adjustment or change at work that is needed due to the limitation.

Employers should review all the provisions of the final rule and provide training to management as it applies to your company. For more information, the final rule is available at [Federal Register: Implementation of the Pregnant Workers Fairness Act](#).

Aflac Group Life, Absence and Disability Solutions is reviewing the final rule provisions and will make any necessary adjustments to processes or communications within our accommodation product offerings in time for the June 18, 2024 effective date.



These are educational materials only. Employers should consult their own counsel for obligations for state-mandated leave and disability programs. Products and services are administered by Continental American Insurance Company. In New York, products and services are administered 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.