

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | October 2020

TABLE OF CONTENTS

Colorado 3
 Proposition 118 (Paid Family and Medical Leave Initiative) 3
Michigan 4
 HB 6032 (COVID-19-related work absences)..... 4
Federal 5
 HR 925 (COVID-19 emergency family leave) 5



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Colorado

Proposition 118 (Paid Family and Medical Leave Initiative)

Approved by Colorado voters Nov. 4, 2020

Effective Jan. 1, 2024

Colorado voters approved the [Paid Medical and Family Leave \(PMFL\) Initiative](#), Proposition 118, on Election Day. PMFL creates a state-run paid family and medical leave insurance program in Colorado that allows employees to take up to 12 weeks of leave and keep their job.

Beginning Jan. 1, 2024, Colorado will provide employees with up to 12 weeks of leave and job protection; however, up to four additional weeks of paid leave are available for a serious health condition related to pregnancy or childbirth complications. Employers with at least 10 employees are covered by PMFL.

PMFL leave can be taken in increments of one hour or shorter periods, if that is consistent with the increments the employer typically uses to measure employee leave taken. However, PMFL benefits are not payable until the employee accumulates at least eight hours of benefits.

Employees are eligible for benefits after they have earned \$2,500 in wages and have been employed by their employer for at least 180 days. Paid benefits are capped at \$1,100 per week for 2024. Employees will receive 90% of their average weekly wage for the portion of wages that are less than or equal to 50% of the state average weekly wage and 50% of the portion of their wages that exceed 50% of the state average weekly wage. For 2024, the state average weekly wage is estimated to be \$1,340. Employers can utilize the state plan or set up their own private plans through insurance or self-insurance.

Covered employees can take leave for these reasons:

- For their own serious health condition;
- To bond with a new child during the first year after the birth or adoption or for foster care of a new child;
- To care for a family member with a serious health condition;
- When a family member is on active duty military service or is called for active-duty military service; and
- When the individual or the individual's family member is a victim of domestic violence, stalking or sexual assault.

[Posting and notice requirements](#)

Each employer must post the PMFL program notice in writing in a prominent location in the workplace and notify its employees of the program in writing upon hiring and learning of an employee experiencing an event that triggers eligibility. The State will develop a notice detailing the requirements and benefits of the PMFL for employers to post.

Michigan

HB 6032 (COVID-19-related absences)

Enacted October 22, 2020

Effective October 22, 2020

Informational only—Sedgwick does not administer

Michigan has [enacted a law](#) regarding employee attendance related to the COVID-19 pandemic. Under the law, an employee that tests positive for COVID-19 or shows symptoms of COVID-19 not due to a known physical condition, may not report to work until:

- At least 24 hours have passed since any fever has stopped without medications.
- Ten days have passed since either of the following, whichever is later:
 - The date the employee’s symptoms first appeared.
 - The date the employee received the test that yielded a positive result for COVID-19.

Similarly, an employee that has had close contact with someone who has tested positive for COVID-19 or shows symptoms of COVID-19 may not report to work until either:

- At least 14 days have passed since the employee had close contact with the person; or
- The person in question receives a medical determination that they did not have COVID-19 when they were in close contact with the employee.

This “close contact” provision does not apply to the following employees: health care professionals; workers at a health care facility; first responders; child protective services employees; workers at a child care institution or adult foster care facility; or workers at a correctional facility.

Employers may not discharge, discipline or retaliate against an employee who complies with the absence provisions of the law, opposes a violation of the law or reports health violations related to COVID-19. However, if an employee displays a symptom of COVID-19 and does not report for work, they must make a reasonable effort to schedule a COVID-19 test within three days after an employer requests that they be tested.

An employee that alleges a violation of the new law can bring a civil suit against the employer. If successful, the court may award the employee injunctive relief, damages of at least \$5,000, or both.

The law is operative retroactive to March 1, 2020.

Federal

HR 925 (COVID-19 emergency family leave)

Passed House; Passed Senate October 1, 2020

If enacted, effective immediately

If enacted, [this bill](#) will extend emergency family leave expansion and emergency paid sick leave provisions passed in response to COVID-19 until February 28, 2021.

In April, the Families First Coronavirus Response Act was enacted. This law requires private-sector employers with fewer than 500 employees to provide up to 12 weeks of job-protected FMLA leave for “a qualifying need related to a public health emergency” to employees who have been on the payroll for 30 calendar days. This “qualifying need” is limited to circumstances where an employee is unable to work (or telework) due to a need to care for a minor child if the child’s school or place of child care has been closed or is unavailable due to a public health emergency.

The first segment of emergency FMLA leave (10 days) can be unpaid. An employee can opt to substitute accrued vacation, personal or sick leave during this time, but an employer may not require an employee to do so. The remaining 10 weeks of FMLA leave is required to be paid, generally at two-thirds of the employee’s regular rate, for the number of hours the employee would otherwise be scheduled to work. The new law limits the amount of required pay for leave to no more than \$200 per day and \$10,000 in the aggregate.

Emergency FMLA leave taken is generally job-protected, meaning the employer must restore employees to their prior positions (or an equivalent) upon the expiration of their need for leave. The new law includes an exception to this requirement for employers with fewer than 25 employees, if the employee’s position no longer exists following leave due to operational changes occasioned by a public health emergency (e.g., a dramatic downturn in business caused by the COVID-19 pandemic), subject to certain conditions.

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company’s attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

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