

LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Private employer sector | October 2022

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District of Columbia

B 1013 (emergency measure re: Universal Paid Leave Program Amendment Act)

Enacted Oct. 25, 2022

Effective Oct 25, 2022

The District of Columbia has amended the Universal Paid Leave Act regarding the Act's effect on insurance benefits. Under the law, an insurer that provides temporary or short-term disability insurance policies may not reduce or offset the benefits it provides to an individual based on the paid leave benefits that the individual may receive under the Act, subject to certain exceptions. [The amended law](#) clarifies that this provision applies regardless of the jurisdiction in which a policy was issued, executed, written or delivered.

District of Columbia

B 916 (temporary measure re: Universal Paid Leave Program Amendment Act)

Enacted Oct. 17, 2022

Effective following approval by the mayor, a 30-day period of Congressional review and publication in the DC Register.

The District of Columbia has amended the Universal Paid Leave Act regarding the Act's effect on insurance benefits. Under the law, an insurer that provides temporary or short-term disability insurance policies may not reduce or offset the benefits it provides to an individual based on the paid leave benefits that the individual may receive under the Act, subject to certain exceptions. The [amended law](#) clarifies that this provision applies regardless of the jurisdiction in which a policy was issued, executed, written or delivered.

District of Columbia

7 DCMR ch. 34 & 35 (emergency rule re: Universal Paid Leave Program amendments)

Enacted Oct. 7, 2022

Effective Oct. 7, 2022

The District of Columbia has amended its regulations regarding the Universal Paid Leave Act on an emergency basis. These [amended regulations](#) expire on Feb. 4, 2023. In order to fund the Universal Paid Leave program, both employers and employees contribute to the District-run fund from which leave benefits are administered. The amended regulations clarify that before July 1, 2022, the employer contribution rate is 0.62% and beginning on July 1, 2022, the rate is the lesser of 0.62% or a special contribution rate set by the district.

Though there was previously a one-week waiting period before users could receive benefits under the program, the regulations specify that claims for benefits filed between Oct. 1, 2021, and July 25, 2022, are not subject to the waiting period. The amended regulations state that claims filed on or after July 25, 2022, are similarly not subject to the waiting period.

The amended regulations state the maximum amount of leave available to employees for a variety of purposes. For claims submitted on or after Oct. 1, 2022, with requested leave dates beginning Sept. 25, 2022, a user may receive the following leaves within a 52-calendar-week period:

- 12 workweeks of medical leave
- 12 workweeks of family leave
- 12 workweeks of parental leave
- Two workweeks of prenatal leave

Finally, the amended regulations also add a definition to the law for “in-person treatment.” Under the definition, in-person treatment includes in-person and telehealth visits.

Oregon

OAR Ch. 471 (final rule re: paid FMLA contributions)

Enacted Oct. 6, 2022

Effective Oct 6, 2022

Oregon has enacted new rules related to its Paid Leave Oregon (PLO) program. The state sets the rate for employer and employee contributions under the PLO law. Employers contribute 40% of the state-set amount and deduct the additional 60% from the wages of their employees. The [new rules](#) clarify that employers may not deduct more than 60% of the amount from their employee wages. If an employer does not deduct the full 60%, they are liable for any additional amounts needed to satisfy the full amount required by the state. Employers may deduct any amounts they failed to deduct from employee wages during the same quarter.

Employers that choose to pay part or the full amount of their employees' contributions must inform employees with a written notice, policy or procedure. The notice must specify that the employer is paying the employee's contribution and will be liable for it. The employer may not later deduct the amount from an employee's future paycheck. If the employer later chooses to reduce its contribution, it must give written notice to employees at least one pay period before the reduction.

The new rules define various terms, including agricultural labor and domestic service, and help clarify when an employee's wages are subject to the PFMLI laws. Wages will be subject to the PLO laws if they were earned for service performed entirely within the state or performed both within and outside of the state, if the outside services are incidental to services performed inside Oregon. The state will consider service performed outside Oregon to be incidental to service performed within the state in the following situations, subject to exceptions:

1. If the majority of the employee's service is performed within the state and out-of-state service is temporary or transitory;
2. If the employee's base of operations is within the state and their out-of-state service is not covered by any other jurisdiction's paid leave program;
3. If the employee's service is directed or controlled within the state and their out-of-state service is not covered by any other jurisdiction's paid leave program; or
4. If the employee's residence is in Oregon and their out-of-state service is not covered by any other jurisdiction's paid leave program.

The new rules state that if an employer fails to make its payroll contributions to the PLO program, any successor in interest of that employer's business is liable for the contributions. Under the new rules, employers that do not file all reports within the required time period may be penalized 0.02% of their employees' total PFMLI wages for the late report, rounded to the nearest \$100.

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.

800.625.6588

Sedgwick@sedgwick.com

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