



ABSENCE ADVISORY

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



AUGUST 2023

We are pleased to share the August 2023 Absence Advisory, along with information related to state and other paid leave legislation.

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- [2023 DMEC Employer Leave Management Survey deadline extended.](#)

- [State/other paid leave legislation.](#)

- State/other leave legislation:
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2023 DMEC EMPLOYER LEAVE MANAGEMENT SURVEY DEADLINE EXTENDED

The Disability Management Employer Coalition (DMEC) provides education and networking for more than 18,000 absence and disability management professionals. As part of its responsibilities, DMEC surveys employers of all sizes regarding leave types required by law (e.g., FMLA), company-specific leaves and paid leaves, and also explores the coordination with other types of time away from work benefits.

The deadline to complete the latest DMEC Employer Leave Management survey has been extended through Sept. 29, 2023. The approximate duration to complete the survey varies however; your responses are saved so you do not need to complete the survey all at once.

As one of our absence/disability customers, Aflac, a National Sponsor of DMEC, is sharing this opportunity with you to participate.¹ To take the survey, [click here](#). All responses are confidential and will be aggregated for analysis and research. Regardless of the coverage that you have with Aflac, we highly encourage you to participate. If you have any questions, please reach out to your Aflac representative.

¹We are providing this survey as a convenience only. We do not endorse, nor are we responsible for the content, accuracy or accessibility of the content of this survey. Please review DMEC's terms of use and privacy policy located here, www.dmec.org.

STATE/OTHER PAID LEAVE LEGISLATION

Oregon Paid Leave

Oregon Employment Department, the department that oversees the Oregon Paid Leave benefit, announced on July 18, 2023, employees who need to take time off for eligible leave reasons can begin to apply for benefits on Aug. 14, 2023. The department can assist applicants with information including:

- Type of leave being taken.
- Duration of leaves.
- Approval rates.
- Amount of benefits paid.

According to their press release, “Based on current trust fund data and projections, Employment Department leaders have decided the trust fund is ready to launch benefits the week of Sept. 3, as planned. This will be the first week employees can take paid leave, with payments going out within two weeks.”

It continues, “Detailed information for employees, including eligibility requirements, tutorial videos, a benefits calculator and much more, will be available on the Paid Leave website on Aug. 14. Employees can now go to the employee overview page and find many resources, including a guidebook.”

For more information, please [click here](#).

Maine Paid Family Medical Leave (ME PFML)

On July 11, 2023, Maine Governor Janet Mills signed into legislation paid family medical leave making Maine the 13th state to require paid medical leave.

The program will be funded by a 1% payroll tax split equally between employers and employees beginning Jan. 1, 2025, with claims administration beginning on Jan. 1, 2026. The program will provide up to 12 weeks of paid family and medical leave for employees to take leave for a wide variety of reasons including:

- An employee’s own serious health condition.
- To care for a family member with a serious health condition.
- The birth of the employee’s child.
- To bond with a child during the first 12 months after the child’s birth, adoption or foster care placement.
- Military exigency.
- Safe leave.
- To care for a military service member with a serious health condition.
- Organ donation.

The definition of family member has been expanded to also include, “a significant personal bond that is or is like a family relationship regardless of biological or legal relationship.”

Most employers in Maine will be a covered employer with very few exceptions, and employees who have earned at least six times the state average weekly wage in the first four calendar quarters immediately preceding the first day of an individual’s benefit year are eligible. This means employees who have earned at least \$6,216 in the year prior before the leave will be covered. Additionally, ME PFML benefits are “portable,” meaning that income earned across all covered Maine employers in the base period counts toward eligibility.

Employees could receive up to a 90% wage replacement benefit; although, the max benefit will equal the state’s average weekly wage, which is reviewed annually. ME PFML benefits are not subject to state income tax.

For more information, please [click here](#).



STATE/OTHER LEAVE LEGISLATION

COLORADO

Healthy Families and Workplaces Act amendment to Senate Bill 23-017

It's time! Effective Aug. 7, 2023, an amendment to Colorado's Healthy Families and Workplaces Act (HFWA) took effect. The amendment provides additional reasons for when an eligible employee may use accrued paid sick leave. They include:

- To grieve, attend funeral services or a memorial, or take time to address financial and legal matters that arise after the death of a family member.
- To care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water or other unexpected occurrence or event that results in the closure of the family member's school or place of care.
- To evacuate the employee's place of residence due to inclement weather, loss of power, loss of heating, loss of water or other unexpected occurrence or event that results in the need to evacuate the employee's residence.

For more information:

- [Additional Uses Paid Sick Leave | Colorado General Assembly.](#)
- [2023a_017_signed.pdf](#) (colorado.gov).
- [Paid Sick Leave under the Colorado Healthy Families and Workplaces Act \(HFWA\) | Department of Labor & Employment.](#)

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

Victims' Economic Security and Safety Act Amendment – House Bill 2493

The Victims' Economic Security and Safety Act (VESSA) provides unpaid leave to employees who are victims, or when their family and household members are victims, of domestic violence, sexual violence, gender violence or crimes of violence. The permitted reasons for unpaid leave are to:

- Seek medical attention for, or recover from, physical or psychological injuries.
- Obtain services from a victim services organization.
- Obtain psychological or other counseling.
- Participate in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety for themselves or their family or household member from future violence or to ensure economic security.
- Seek legal assistance or remedies to ensure the health and safety for themselves or their family or household member, including preparing for or participating in any civil, criminal or military legal proceeding related to or derived from domestic violence, sexual violence, gender violence or any other crime of violence.

The leave entitlement, which can be taken in a manner that is continuous, intermittent or on a reduced schedule, is dependent on the size of the employer.

- Employers with at least 50 employees: 12 work weeks of leave in any 12-month period.
- Employers with 15 to 49 employees: 8 work weeks of leave in any 12-month period.
- Employers with up to 14 employees: 4 workweeks of leave in any 12-month period.

On July 28, 2023, Governor Pritzker signed and made effective immediately, HB2493 that amends VESSA to provide additional reasons in which the employee may take unpaid leave.

Effective immediately, employees may now take unpaid leave to:

- Attend the funeral or alternative to a funeral or wake of a family or household member who is killed in a crime of violence.
- Make arrangements necessitated by the death of a family or household member who is killed in a violent crime.
- Grieve the death of a family or household member who is killed in a violent crime.

The leave entitlement for the new leave reasons provides for up to a cumulative total of two work weeks (10 workdays) of unpaid leave. The time is to be taken and completed within 60 days after the date the employee receives notice of the death of the victim.

- If an employee is entitled to the Illinois Family Bereavement Leave Act, the amended VESSA does not create a right for the employee to take bereavement leave that exceeds or is in addition to leave to which the employee is entitled under FBLA.
- If an employee is not entitled to Family Bereavement Leave, leave taken for the three new reasons will be

deducted from, and is not in addition to, the total amount of leave time to which an employee is entitled. Leave taken for the new reasons described above or leave taken under the Family Bereavement Leave Act will not otherwise limit or diminish the total amount of leave time to which an employee is entitled.

Documentation

If an employee requires unpaid leave for the new reasons, the employer may require the employee to provide a death certificate, published obituary or written verification of death, burial, memorial services from a mortuary, funeral home, burial society, crematorium, religious institution or government agency, documenting that their family or household member was killed in a crime.

Aflac administers VESSA on behalf of clients, and we are reviewing for systemic and process impacts. We also encourage employers to review and update their internal policies and procedures, and provide appropriate updates/training to their management.

For more information: [Illinois General Assembly - Full Text of HB2493](#) (ilga.gov).



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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. 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.

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