

# Absence Management

A newsletter from New York Life Group Benefit Solutions

In this issue we're examining employer impacts from the President's American Rescue Plan, CA COVID-19 supplemental paid sick leave, updates from WA and UT, COVID-19 FAQs, pending legislation and more.



## Washington PFML updated Employer Notice to Employee.

Employers are required to notify employees that they may qualify for paid family and medical leave. The employer must send employees the "Employer Notice to Employee/Statement of Employee Rights" within five business days of learning that an employee may be taking leave for a qualifying event. The Statement of Rights outlines notice and eligibility requirements, leave reasons, and how to report a claim that falls under WA PFML.

The Washington EDD updated the Employer Notice to Employee/Statement of Employee Rights as of March 1, 2021.

[Read the full notice »](#)



## Update on Utah's lapse notice requirements.

In our last newsletter issue, we published an article about Utah Senate Bill 79. Since then, Senate Bill 79 was passed on March 16, 2021, and will go into effect on May 5, 2021. It requires insurers issuing Individual Life policies to send written notice of a lapse in coverage or policy termination to a policyholder's last known address and a third party designee with proof of delivery at least 30 days prior to the day on which the policyholder's coverage lapses or the policy terminates due to nonpayment of premium. The designation of the third party may occur at the time of policy application, or any time while the policy is in effect, by submitting the name and address of the third party designee.

NYL GBS has reviewed the bill and will be addressing any required changes.

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## What employees really want.

Traditional benefits offered in the workplace remain quite valuable among employees. Our Employee Benefit<sup>1</sup> survey highlighted that nearly 80% of employees consider these benefits to be a very important factor when leaving an employer or deciding to join a new one. And, the more an employee is concerned about their finances, the more they are concerned about their benefit options. Offering high-quality benefits is one of the top reasons why an employee chooses their current company – mentioned by 39% – behind only pay and work/life balance. Conversely, not having good benefits is one of the primary reasons why employees decide to leave their employer. Benefit programs remain a powerful tool in attracting and retaining talent.

The type of benefits employees want continues to evolve. In July 2020, Fractl republished their survey, The Cost of Happiness<sup>2</sup> which surveyed 2,000 employees to determine the benefits they're interested in and how significantly it impacts job selection decisions. Their survey showed that employees are looking for:

- › **Better foundational benefits** – i.e., health, dental, and vision insurance
- › **More flexibility** – work hours, work-from-home options, etc.
- › **More time away from work** – additional vacation time
- › **Financial support** – student loan assistance, tuition assistance, etc.
- › **Caregiver support** – paid parental leave, day care services, etc.

Attractive benefit packages also build employee loyalty. As a result, employers have been increasing the strength of their programs.

In its 2020 Employer Survey, Spring Consulting found that employers are offering all leave types, including paid parental and paid family caregiver leaves, at a higher rate than they were in 2018.

When changing benefit programs, employers must consider the short and long term impacts. In June of 2019, IBI conducted a study called [Impacts of Co-Workers' Leaves](#)<sup>3</sup>, which notes the impact on employees when their co-worker(s) have an extended absence. Nearly half noted they had experienced at least one personal or business consequence, the most common being increased stress and difficulty completing one's own work. One reason for that is that one in three employees reported the need to spend more time at work and put in more overtime.



Employers need to balance rich benefit programs with running their businesses while considering the needs of all their employees.

# American Rescue Plan and FFCRA updates.

The following impacts private employers with less than 500 employees and public agency employers.

On March 11, 2021, President Biden signed the American Rescue Plan which addresses the Coronavirus health and economic crisis. Within the bill is an extension to the payroll tax credit for employers created by the Families First Coronavirus Response Act (FFCRA) and additional changes to paid leave provisions that impact employers with fewer than 500 employees and public agencies as defined in the FMLA.



## What are the changes to FFCRA under the new bill?

1. Extends the Families First Coronavirus Response Act paid sick leave and paid family leave tax credits from March 31, 2021 through September 30, 2021. Employers may elect to voluntarily extend FFCRA paid sick and paid family leave and obtain the appropriate tax credits. It is not mandatory for employers to offer paid leave.
2. Expands the paid sick time and paid family leave tax credits to include the following reasons for leave: leave taken to obtain a COVID-19 immunization or to recover from an injury, disability, illness, or condition related to the immunization, leave related to seeking or awaiting results of a diagnostic test for, or a medical diagnosis of COVID-19 when such employee has been exposed to COVID-19 or the employer has requested such test or diagnosis.
3. Increases the amount of wages for which an employer may claim the paid family credit in a year from \$10,000 to \$12,000 per employee, removes the two week unpaid waiting period and increases the number of days for which self-employed individuals can claim the credit from 50 to 60.
4. Expands the paid family leave credit to allow employers to claim the credit for leave provided for reasons included under the previous employer mandate for paid sick time. All qualifying reasons for employees are listed below:
  - a.) Subject to a federal, state or local quarantine order;
  - b.) Advised by a health care provider to quarantine;
  - c.) Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
  - d.) Is caring for an individual subject to an order described in (a) or self-quarantine in (b);
  - e.) Is caring for a child whose school or place of care is closed for reasons related to COVID-19;
  - f.) Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services;
  - g.) **And, the newly added reasons listed in paragraph two; obtaining a COVID-19 immunization, recovering from an immunization, and awaiting results of a diagnostic test or a diagnosis of COVID-19.**
5. Prevents employers from claiming the credit if they make leave available in a manner that discriminates in favor of highly compensated employees, full time employees, or based on employment tenure with the employer.

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6. Resets the ten-day (80 hour) limitation on the maximum number of days for which an employer can claim the paid sick leave credit with respect to wages paid to an employee. The current ten-day limitation runs from the start of the credits in 2020 through March 31, 2021. The new ten-day limitation applies to sick days taken as of April 1, 2021. For self-employed individuals, the ten-day limitation resets on January 1, 2021.

- a.) The resetting of the clock applies only to the 80 hours of paid sick leave.
- b.) EFMLA, made available originally under FFCRA counts towards an employee's 12 workweeks of FMLA entitlement in a 12 month period. Therefore, employees have and will begin gaining time back in accordance with their employer's calculation method.

7. Allows state and local governments as well as Federal governmental entities that are tax-exempt 501(c)(1) organizations to access the paid sick time and paid family leave credits.

8. The provisions relating to the payroll tax credits included in the American Rescue Plan become effective for amounts paid with respect to leave taken as of April 1, 2021.

#### For NYL GBS Leave Solutions under 500 and public agency clients:

If you wish to voluntarily extend FFCRA leave, please reach out to your NYL GBS Account Manager so we can ensure that the expanded rules apply to your company and that your leaves are managed accordingly.

As a reminder, NYL GBS does not manage the paid sick or paid family leave.

## CA COVID supplemental paid sick leave.



California Senate Bill 95 was signed by Governor Newsom on March 19, 2021, and addresses COVID-19 supplemental paid sick leave for workers who are unable to work or telework due to reasons related to COVID-19.

The requirements of this bill are retroactive to January 1, 2021 and expire on September 30, 2021. The retroactive provision requires payment on or before the payday for the next full pay period after the employee makes an oral or written request for leave. There is a 10 day grace period (through March 29, 2021) for employers to start providing paid sick leave.

#### Here are some additional highlights:

› **Coverage:** Employers with over 25 employees, including those with over 500 employees, food sector workers and persons employed as certain types of health care providers or emergency responders by public or private entities. Employers cannot require an employee to use other paid or unpaid time off, or vacation time for a COVID-19 related reason.

#### › Covered leave reasons:

1. Employee is subject to quarantine or isolation period due to COVID-19;
2. Employee has been advised by a healthcare provider to self-quarantine due to COVID-19;
3. Employee is attending an appointment to receive a COVID-19 vaccine;
4. Employee is experiencing symptoms related to a COVID-19 vaccine;
5. Employee is experiencing symptoms related to COVID-19 and is seeking a diagnosis;
6. Employee is caring for a family member who is subject to a quarantine order or who has been advised to self-quarantine;
7. Employee is caring for a child whose place of school or care is closed or unavailable due to COVID-19.

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› **Eligibility:** Covered employee means an employee who is unable to work or telework. Specific types of first responders and healthcare providers are defined within the bill.

› **Leave entitlement/period:** 80 hours of sick pay for full-time employees (at least 40 hours per week in the two weeks preceding the date of leave requested). For employees who work less than 40 hours per week, the amount of hours the employee is normally scheduled to work for the employer over two weeks.

For covered firefighters who work more than 80 hours in two weeks, the entitlement of sick pay is equal to the total number of hours that the covered employee was scheduled to work in the two preceding weeks.

For covered providers of in-home supportive services, 80 hours for full time employees. For less than full time employees, the equivalent of two weeks. If variable hours, 14 times the average number of hours over the six months preceding the leave.

› **Pay/benefit during leave:** Benefits are paid at the "regular rate" but subject to a cap of \$511 per day, \$5110 in the aggregate.

› **Concurrency with other laws:** COVID-19 Supplemental Paid Sick Leave is paid separately from CA Paid Sick Leave. There are other localized COVID-19 Paid Sick Leaves in place in CA localities.

› **Notification requirements:** Employer notice is required. The Labor Commissioner is to make publicly available a "model notice" to provide to employees. Leave is to be granted to employees upon verbal or written notice to the employer.

› **Certification requirements and restrictions:** Leave is not conditioned upon a medical certification and leave may not be denied solely for lack of certification.

› **Job protection/reinstatement:** May run concurrently with FMLA and/or CFRA.

NYL GBS does not manage the paid sick or paid family leave.

Go online for more information about the [California COVID paid sick leave »](#)

California has published a helpful chart that explains the comparison between CA Paid Family Leave, CA Paid Sick Leave and CA 2021 COVID-19 Supplemental Paid Sick Leave. [View the Side by Side Comparison of Paid Leave Options »](#)



## CA COVID supplemental paid sick leave eligibility and entitlement.

› **Covered full-time employees** are entitled to 80 hours of sick pay (at least 40 hours per week in the two weeks preceding the date of leave requested).

› **Employees who work less than 40 hours per week**, the amount of hours the employee is normally scheduled to work for the employer over two weeks.





## Free webinars for NYL GBS clients.



As a reminder, every month My Secure Advantage™ (MSA), hosts financial wellness webinars which are free for New York Life Group Benefit Solutions' Clients.

The webinars are presented the second Tuesday at noon ET (9:00 a.m. PT) and the fourth Thursday at 3:00 p.m. ET (12:00 p.m. PT). The upcoming webinars include:

**Thursday, April 22nd**

### Financial Forum »

April is National Financial Literacy Month. MSA is hosting a Financial Forum in honor of Financial Literacy. Their panel of money coaches will answer your questions on any financial topic. Whether they are related to debt, budgeting, saving, investing, mortgages, retirement or financial habits, our panelists will be ready to answer your questions.

**Tuesday, May 11th**

### I Want to Buy a House »

The dream of owning your home is attainable if you get your finances in order and learn as much as you can about the process. In this class, MSA will help you get started by walking through the different mortgage loans available, reviewing what lenders look for in a borrower, and what costs you can expect during the process. They'll also talk about how to make sure you can afford your house so that you can enjoy it for years to come!

Don't forget that your employees and their household members can register for upcoming events and watch past events anytime through the MSA website.

If you also have NYL GBS Life Assistance Program (LAP), ask your Account Manager to provide you with the quarterly calendar of LAP webinars, which also includes the MSA webinars.

## Coronavirus (COVID-19) related resources.

We continue to monitor the evolving legislation to determine revisions to federal and statutory paid/unpaid leave and disability plans.

[Read our COVID-19 FAQ](#) for the latest employer information.

There are resources to help you understand how these changes may impact your plans. [Families First Coronavirus Response Act \(FFCRA\) FAQ](#)

The EEOC also has Coronavirus resources available at: [eeoc.gov/coronavirus](https://www.eeoc.gov/coronavirus) »



## Pending legislation watch.

We understand the challenges of staying on top of the potential legislative changes across the country.

### Recent activity includes:

- › **New Mexico House Bill 20:** The Healthy Workplaces Act will provide 64 hours of paid sick leave every 12 months, accruing at least one hour of leave for every 30 hours worked.
- › **New York Senate 1187:** This bill was passed by the Senate and may be considered by the Assembly. The bill would prohibit gender based rating for any individual and group disability policies and contracts issued, renewed, modified, altered or amended on or after January 1, 2023.

We will continue to update you as we receive new information.

<sup>1</sup> May 2020, New York Life Group Benefit Solutions U500 Employee Benefit Study

<sup>2</sup> July 2016, Fractl, The Cost Of Happiness Survey, republished July 2020. [https://cdn2.hubspot.net/hubfs/424019/TheCostofEmployeeHappinessCalculations\\_1.pdf](https://cdn2.hubspot.net/hubfs/424019/TheCostofEmployeeHappinessCalculations_1.pdf)

<sup>3</sup> May 2019, Integrated Benefits Institute, *WHAT REALLY HAPPENS WHEN A CO-WORKER TAKES EXTENDED LEAVE? PERSPECTIVES FROM 538 EMPLOYEES* Survey. <https://www.ibiweb.org/resource/impacts-of-co-workers-leaves/?sfw=pass1617976374>

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