

Absence Management

A newsletter from New York Life Group Benefit Solutions

In this fifth issue, we'll look at the American Families Plan and the newly proposed Building an Economy for Families Act. We also review PFML updates in CT, MA, OR, and WA. And provide statutory activity updates for DE, VA, and NY... and more.

Connecticut Paid Family and Medical Leave update.



The Connecticut (CT) Paid Leave Authority is reaching out to employers to remind them to register and/or submit their first quarter payments. A business must be registered with the Authority in order to make the required quarterly contribution payments. They are strongly urging all employers who have not yet done so to register now to ensure the proper withholding of one-half of one percent (0.5%) from employee wages. Employers can register and pay first quarter contributions on [Connecticut's official state website](#).

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Additionally, the CT Paid Leave Authority and the Connecticut Dept. of Labor are allowing employers to take "catch-up" deductions/contributions; however, the provision is very narrow.

If an employer has been delayed in taking the deductions because they needed additional time to update its payroll systems, the DOL will permit employers to deduct more than 0.5% from the employees' wages.

These "catch up" deductions must be no more than one percent of an employee's pay and can be taken only through June 30, 2021.

For more information, [visit the Frequently Asked Questions](#) page on the Connecticut Paid Leave website.

In summary, the provision only applies to those employers who have not taken deductions due to payroll system issues AND the catch-up deductions can only be taken through June 30th.

If an employer needs more time than that, the employer will need to submit a request to the CT DOL directly.

Please note, information in regard to the CT PFML program is frequently updated. As information is clarified, we will provide additional details.

New York Life Group Benefit Solutions (NYL GBS) is unable to provide any legal advice about the Family First Coronavirus Relief Act or the American Rescue and employer tax credits. Please review the link below or consult with your own legal professional before making any decisions.

[Employer tax credits for employee paid leave due to COVID-19 | Internal Revenue Service \(irs.gov\) »](#)

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, May 27th

[Sandwich Generation: Caught in the Middle »](#)

Navigating your personal finances can be a daunting task, but what if you are not only supporting your children but also caring for aging parents or grandparents? In this class we'll show you how to assess your financial capacity and set realistic boundaries to help you through this stage of life. We'll talk about how to handle setbacks and remain resilient. Lastly, we will provide resources and identify ways to help you manage your personal and financial goals.

Tuesday, June 8th

[Investing: Education for Beginners »](#)

Get ready for several compelling reasons why investing can be a critical factor in achieving long-term goals. We will review different types of personal goals and how time frames and investment accounts can play a key role in helping you reach your savings targets. Then build your knowledge as we review mutual funds, stocks, bonds and other investment considerations. We'll conclude with some action steps attendees can take to apply what they have learned.

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



Federal Paid Family and Medical Leave: two proposals.

Recognizing COVID has influenced the importance of paid family and medical leave (PFML), President Biden has proposed the American Families Plan and Chairman of the Ways and Means Committee, Richard Neal, has proposed a plan, titled: Building an Economy for Families Act. While several states have implemented PFML programs, both federal proposals outline plans for a universal PFML program for all U.S. workers.

The highlights of each program are included in the accompanying table on the next page and there are notable differences between the two proposals. For example, under the American Families Plan, the program would use a ten year phased in approach by the end of which, employees would be entitled to 12 weeks of leave; although, the bereavement leave of three days will be available in year one. Conversely, the Building an Economy for Families program would begin administering benefits in 2023, giving workers up to 12 weeks of leave for qualifying leave reasons.

The Building an Economy for Families plan addresses state PFML, disability, and paid family leave (PFL) programs already in place, defining those programs as "Legacy States" (CA, CO, CT, DC, MA, NJ, NY, OR, RI, WA). These states would be reimbursed by the federal government for the amounts that would have been paid to participants through federal government program.

The American Families Plan does not define "family member," while the Building an Economy for Families Act has a broad definition of family member including, "any other association by blood or affinity that is equivalent to a family relationship." Notably, neither proposal appears to include job protection or a definitive plan to fund the programs; however, based on comments from the White House and the Ways and Means Committee, neither want to see a payroll tax implemented. As a result, it is unclear whether or not each program would be mandatory or voluntary for individuals or employers.

The path forward for any federal PFML program remains unclear, but both proposals are expected to undergo stringent review and revisions.

[Read the American Families Plan fact sheet »](#)

Read the Building an Economy for Families Act discussion drafts, [Part 1](#) and [Part 2](#).

	American Families Plan	Building an Economy for Families Act
Benefits Begin	Phased in over 10 years	2023
Employee Eligibility	All workers including "independent workers"	Full-time, part-time, self-employed, and gig workers without regard to employer size; employees
Benefit Amount	Approximately 80% wage replacement for low wage workers and up to a maximum \$4000/month	Benefits are progressive (higher percent of income for lower-income workers): The higher the income the lower the replacement percentage; from 5% for those making \$8,334 - \$20,833/month to 85% for those making up to \$1275/month
Benefit Duration	<ul style="list-style-type: none"> › 12 weeks by year 10 › 3 days of bereavement per year beginning in year one 	12 weeks (60 days), only 20 care giving days per month or 60 care giving days in benefit period
Waiting Period	5 day waiting period	Possibly 7 day waiting period
Family Member	Not defined	Spouse, child, parent, sibling, grandparents, grandchildren, spouses of family members, any other association by blood or affinity that is equivalent to a family relationship
Job protection	Not defined	Not defined
Private Plan Allowed	Not defined	Not defined
Funding	Not defined	Not defined
Interaction with Current State PFML Programs	Not defined	Residents of "Legacy States" would not be eligible for the federal program.
Mandatory Participation	Appears to be voluntary	Appears to be voluntary
Leave Reasons		
Bonding with new child	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Placement of a child for adoption or foster care	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Care of a family member with a serious health condition	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Addressing issues related to stalking and domestic violence	<input checked="" type="checkbox"/>	
An employee's own illness	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Military exigency	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Death of loved one	<input checked="" type="checkbox"/>	
Military Caregiver		<input checked="" type="checkbox"/>

Massachusetts Paid Family and Medical Leave (MA PFML) delays.



During recent PFML town hall meetings, The Massachusetts Department of Family and Medical Leave (MA DFML) indicated that it can take up to 35 days to receive a MA PFML benefit. **They further explained the following timeline:**

- › The DFML receives an employee's completed application. The application won't move forward in this process until all required documents are received. Once the application is submitted, there are several steps before an employee will receive payment.
- › The DFML reviews documents and enters the employee into the system so that the employee can receive payments. The DFML will review the application and let the employee and employer know if the employee is approved.
- › The DFML asks the employer to review and approve. The employer has 10 business days to respond.
- › Payment is sent. The employee will receive the first payment after the 3rd week of leave is complete. Payments are bi-weekly. Payments happen in weekly batches and the payment will appear the following week.

[More information on this process is available online »](#)

Since the MA PFML delays don't appear to be at the same level as WA PFML when that program went live, NYL GBS is not making any changes to our claims processes at this time.

The MA DFML indicated that they will be hiring additional personnel and working to get benefits paid in a timelier manner.



Delaware Cares.

A coalition of organizations recently launched an advocacy group called [Delaware Cares](#) for the purpose of passing paid family leave legislation. The coalition is advocating for a **state insurance program that would provide twelve weeks of paid leave** for life events, including a serious medical condition, the birth of a child, or caring for a family member.

Kentucky adoption leave amendment.



On March 23, 2021 Governor Andy Beshear (D) signed into law House Bill 210 which amends the Kentucky Adoption Leave Law, effective June 28, 2021. The amendment increases the age threshold for adopted children and requires equivalent benefits during leave for adoptive parents as those of birth parents. Below, you'll find the updated provisions under the amendment that goes into effect later this year:

› Covered leave reasons

An employee may take leave in order to receive an adoptive child under the age of 10 years. This does not apply to an adoption by fictive kin, stepparent, stepsibling, or blood relative, including a relative of half -blood, first cousin, aunt, uncle, nephew, niece, and a person of a preceding generation as denoted by prefixes of grand, great, or great-great, or a foster parent who adopts a foster child who is already in their care.

› Pay/benefits during leave

If an employer offers paid leave or any other benefits to birth parents, they must provide the same type, amount and duration of paid leave to adoptive parents.

› Leave entitlement/period

An employer must grant up to six weeks of personal leave. If an employer offers more than six weeks of leave for birth parents, they must provide the same amount of leave for adoptive parents.

› For NYL GBS Leave Solutions clients only

New York Life Group Benefit Solutions is assessing the amendment and will be making necessary changes to the leave offering.



Virginia Senate Bill 1219.

As the paid family and medical leave legislation continues to become more prevalent, it's no surprise that Virginia continues their interest in pursuing a paid family leave program.

Senate Bill 1219 was passed which requires a study and recommendations for a paid family leave program. The State Corporation Commission's Bureau of Insurance (the Bureau) will make recommendations to align with the objectives outlined in the "Paid Family and Medical Leave Study" previously published in September 2020. The Bureau plans to develop a stakeholder group consisting of businesses of different sizes, representatives within the insurance industry, labor organizations and supporters of paid family leave to assist in their findings.

The Bureau is expected to report their findings and any recommendations by November 30, 2021 to the Senate Committees on Commerce and Labor and Finance and Appropriations and the House Committees on Labor and Commerce and Appropriations.



Massachusetts emergency paid sick leave.

On April 1, 2021, Governor Baker of Massachusetts signed into law an act financing a program for improvements to the unemployment insurance trust fund and providing relief to employers and workers in the commonwealth.

However, the Governor exercised his line-item veto power with respect to emergency paid sick leave provisions related to COVID-19.

The bill now goes back to the legislature who must make the applicable revisions and send it back to the Governor for review and signature. We will continue to keep you informed as we hear more information.



Oregon Paid Family and Medical Leave delays.

The Oregon Paid Family Medical Leave Insurance (PFMLI) Advisory Committee has submitted a bill, HB 3398, to Oregon legislature recommending an amendment that would push out the Paid Family Medical Leave (PFML) benefit timeline. If approved, the bill would have Oregon PFML contributions beginning January 1, 2023, instead of January 1, 2022. Benefits would be initiated nine months later in September 2023, as opposed to January 2023.

If the Oregon Legislature approves these changes, the new timeline would allow the Committee to:

- › Adequately develop policy and administrative rules prior to collecting contributions from employees and employers and paying benefits to eligible workers.
- › Build a modernized technology platform that serves both unemployment insurance (UI) taxes and PFMLI contributions, which would significantly improve customer experience by permitting employers to utilize a single system.
- › Review and process employer equivalent plan applications using the state's new technology, avoiding the need for a separate manual process.

- › Afford time for adequate planning and preparation by partner agencies responsible for components of the program.
- › Involve user groups in substantial testing of the contributions technology solution prior to go-live, which would allow for a smoother rollout.
- › The Committee will be able to better stabilize rollout, ensure their staff are prepared to effectively serve employers and employees, and improve the customer experience when processing questions and claims through the state administered program.

As more information is available, we will keep you updated. The language of the bill can be found on the [Oregon Legislature website](#).

New York COVID-19 vaccine leave.

Several states continue to propose and pass legislation to provide leave for employees receiving vaccines and New York is no exception. On March 12, 2021, Governor Cuomo signed into law Senate Bill 2588A, effective immediately. The law requires all public and private employers in the state of New York to provide employees with up to four hours of paid time off to receive the COVID-19 vaccine to be paid at the employee's regular hourly rate. It applies to all employees.

If an employee receives a two-dose vaccine, the employee is entitled to eight hours of paid time off. Employers are prohibited against deducting time for any other leaves that the employee is eligible, including the New York paid sick leave law. It also prohibits discrimination and retaliation against employees. The law is set to expire on December 31, 2022.

› For NYL GBS Leave Solutions clients only

New York Life Group Benefit Solutions does not manage this leave and it will be up to the employer to manage.

Washington Paid Family and Medical Leave eligibility change.

The state of Washington recognized that COVID upended many employees' eligibility for WA PFML due to the "hours worked" requirement. As a result, on April 21, 2021, WA HB 1073 was signed by the governor and establishes alternate qualifying periods for employees that do not meet the hours worked threshold for eligibility, but limits the expansion for claims with an effective start date of January 1, 2021 through March 31, 2022.

Funded by American Rescue Plan dollars, the legislation creates a pandemic leave assistance program that is separate from WA PFML. In other words, it's a new benefit and not a PFML benefit; although, there is no new bank of leave entitlement. Entitlement will be decremented from the WA PFML duration and benefit calculations remain the same.

Starting August 1, 2021, employees, including those covered by a voluntary plan, must file through the state to take advantage of the new eligibility requirements, and will now qualify if the employee:

- › Worked for 820 hours in employment during the first through fourth calendar quarters of 2019, or;
- › Worked for 820 hours in employment during the second through fourth calendar quarters of 2019 and the first calendar quarter of 2020.



An employee seeking benefits under the new eligibility requirements must attest that their failure to meet the original "hours worked" requirement is due to COVID and not voluntary separation or misconduct.

Lastly, state plan employers can apply to the state for a grant that will cover expenses in relation to any temporary employee expenses incurred should the employer need to hire one; however, the same grant does not seem to be available to voluntary plan employers.



Pending legislation watch.

We understand the challenges that employers face with the many different state leave laws; which continue to be added and/or updated. We're here to help keep you informed and ahead of evolving legislation.

Recent activity includes:

- › **New Jersey FMLA:** This [proposed rule](#) makes various amendments to the New Jersey Family Leave Act. The amendments would change the definitions of "child," "eligible employees," and "family members" and the amount of leave eligible employees are entitled to per year.

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

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