

Absence Management

A newsletter from New York Life Group Benefit Solutions

In our ninth issue, we offer tips for working more comfortably, the latest regarding violence-related leave in Missouri, paid leave in Maryland, security and safety in Illinois, California disability benefits, and updates of Federal Paid Family Medical Leave.

Ergonomics at work.



With return-to-the-office plans beginning to either roll out or again be disrupted by the Delta variant, where work is performed remains a main stage issue for employers. While you work through your needs, culture, and ever-changing laws surrounding your workplaces, let us provide you with resources to help employees take charge of any environment they find themselves working in to improve comfort and productivity.

Start with this simple but effective activity:

Before you sit in your chair, let your arms hang by your sides. Bring your forearms up so you have a 90° bend in your elbow

and no bend at all in your wrists. Now sit down. If your shoulders pop up due to high arm rests, lower them a bit. If your wrists start to bend, try to raise or lower your chair so you keep them straight as they hover over a keyboard. If the chair does not adjust, find a pillow or cushion for your seat or a small book for under your keyboard. Should you use an external monitor, try to place it an arm's length away with the top at eye level.

Basic ergonomics help us to fit better with our workstation, but changing positions is where we can find the most relief. The best thing we can remember to do is stand up and move around every 30-60 minutes. While waiting for someone to join a call, stand up and stretch your back and wrists, look at something that isn't a computer screen about 20 feet away, or walk over and fill up your water.

While basic ergonomics aren't going to help you finalize your COVID-19 office strategy, it will allow employees to take control of their immediate workstation and use what they have around them to maximize comfort and productivity.

Resources:

[Work-at-home: Resources for working without a traditional office](#)

[Work-at-home \(or-in-office\): Resources for a typical office setup](#)

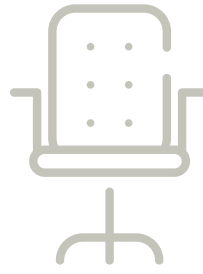
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Tips for the home office.

[Click here](#) for vocational tips if you have an office set up at home. You can also watch [this video](#) to learn more.



Tips for the home workspace.

[Click here](#) for vocational tips if you have an office set up at home. You can also watch [this video](#) to learn more.

Missouri Domestic Violence Leave Law.

Effective August 28th, 2021, Missouri enacted House Bill 432 which is an unpaid leave for employees when the employee, family member, or household member is the victim of domestic or sexual violence. Leave may be taken for the following reasons:

- › To seek medical attention for, or recover from, physical or psychological injuries caused by domestic or sexual violence;
- › To obtain services from a victim services organization;
- › To obtain psychological or other counseling;
- › To participate in safety planning, temporarily or permanently relocate, to take other actions to increase safety from future domestic or sexual violence or to ensure economic security;
- › To seek legal assistance or remedies to ensure health and safety, including to prepare for or participate in any legal proceeding.

This policy applies to all employees working for employers in Missouri with at least 20 employees, including state agencies and political subdivisions. Employees working for an employer with 50 or more employees are entitled to two weeks of unpaid leave during any twelve-month period. Employees working for an employer with 20-49 employees are entitled to one week of unpaid leave during any 12-month period. Leave may be taken continuously, intermittently, or on a reduced work schedule.

The new leave rights will run concurrently with existing leave entitlements under Missouri and federal law. Employees must provide their employer with at least 48 hours' advanced notice of their intention to take leave, unless such notice is not practicable. Employers cannot take any action against the employee when an unscheduled absence occurs if the employee provides certification within a reasonable period after the absence.



The employer can require the employee to provide certification that the employee or the employee's family or household member is a victim of domestic or sexual violence and that the leave is for one of the purposes permitted. The employee must provide the certification to the employer within a reasonable period after the employer requests certification. A police report, court record or other corroborating evidence is acceptable.

Any employee who takes leave is entitled to be restored to their position, or equivalent, when the leave commenced. During leave, the employer must maintain health coverage for the employee and any family or household member, but may recover the premiums paid for maintaining coverage.

Finally, the law requires employers to make timely and reasonable safety accommodations resulting from circumstances relating to being a victim of domestic or sexual violence.

Maryland Essential Employee Paid Leave.



During a declared emergency, essential employers must provide essential employees with “public health emergency leave.”

Amount of leave:

- › 112 hours for full time employees who regularly work 40 or more hours per week;
- › For part-time employees who work less than 40 hours per week, an amount of hours equivalent to the average hours worked during a typical four-week working period;
- › For employees whose schedules and hours vary from week to week, the average number of hours the employee was scheduled to work over the six-month period ending on the date which the emergency is declared;
- › If the essential worker didn't work during the six-month period described, the reasonable expectation at the time of hiring or the average number of hours per week the worker would normally be scheduled to work; whichever is greater.

An employer may require an employee who uses public health emergency leave to provide documentation of the need to use leave. If the employee refuses to provide documentation, the employer may refuse to pay the employee for the public health emergency leave.

Although technically in effect, employers are not required to provide this paid leave until the date upon which funding is made available and there is an official declaration of emergency. As of September 13, 2021, an emergency declaration is not in place and a funding source has not been announced.

On May 30, 2021, Maryland enacted House Bill 581, The Maryland Essential Workers' Protection Act. During a declared emergency, essential employers must provide essential employees with “public health emergency leave.”

An essential worker is an individual who performs a duty or work responsibility during an emergency that cannot be performed remotely or is required to be completed at the worksite.

Leave may be taken for the following reasons:

- › To isolate because the essential employee has been diagnosed with the communicable disease that is the subject of the emergency or is experiencing symptoms associated with the communicable disease and awaiting test results;
- › To seek or obtain a medical diagnosis, preventative care or treatment because

the essential employee is diagnosed with the communicable disease that is the subject of the emergency;

- › To care for a family member who is isolating or because of a diagnosis of the communicable disease;
- › Due to a determination by a public health official or health care professional that the employee's presence at the place of employment would jeopardize the health of other individuals;
- › To care for a family member due to a determination by a public health official or healthcare professional that the family member's presence at the place of employment would jeopardize the health of others;
- › To care for a child or the family member when the care provider is unavailable or closed due to the emergency, including if the school is providing remote instruction.

Illinois Amendment to Victims' Economic Security and Safety Act (VESSA).



Effective January 1st, 2022, Illinois enacted House Bill 3582 which is an amendment to the Victim's Economic Security and Safety Act (VESSA). This amendment expands the definition of "family member," allowable leave reasons, and allows changes to documentation required of an employee.

Expansion of the definition of "family member":

- › Family member now includes civil union partner, grandparent, grandchild, sibling, any other person related by blood or by present or prior marriage or civil union, and any other individual whose close association with the employee is the equivalent of a family relationship as determined by the employee.
- › Prior to this amendment, family member was limited to spouse, parent, son, daughter, other person related by blood or marriage, and persons residing jointly in the same household.

Expansion of allowable leave reasons:

- › Leave is now allowed when the employee or their family member is a victim of any crime of violence.

Crime of violence:

- › These include homicide, sex offenses, bodily harm, harassing and obscene communications, terrorism, and armed violence.

- › Prior to this amendment, leave was allowed when the employee or family member was a victim of domestic, sexual, or gender violence.

Changes to Documentation Required by Employee:

- › An employee may submit documentation from a victim service organization, attorney, member of clergy, medical provider or other professional from whom the family or household member sought assistance, a police or court record or other corroborating evidence to the employer.
- › The amendment makes clear that an employee shall choose which document to submit and the employer shall not request or require more than one document to be submitted during the same 12 month period if the leave is related to the same incident or same perpetrator of violence.

Federal Paid Family Medical Leave update.



As we reported in our May 2021 Absence Newsletter, Chairman Richard Neal (Ways and Means) proposed a plan titled Building an Economy for Families Act which contains a strategy for a universal Paid Family and Medical Leave (PFML) program for all United States workers. Since then, there have been some changes to the proposal.

Some of the smaller changes include pushing out the effective date of the program from January 2023 to July 2023, changing terminology to "employer-sponsored plans" to recognize that some employers may choose to fully insure the program and some may choose to self-fund the program, and strict requirements around the appeal process for denied claims. The proposal also indicates that state and local employees who are subject to a collective bargaining agreement may be exempt from the program.

The most impactful update was to the reimbursement rate for employers who choose a private plan over the government run program. The reimbursement rate moved from 40% of benefit payments to 90% of a national average cost for a comprehensive plan. Reimbursement changed from retrospective expense-based language to a prospective process and reimbursement may also be applied to premiums. Essentially, employers will apply prospectively for their advance premium payment based on a national average. An additional amount will be included for administrative costs, but it cannot be more than the percent of administrative costs attributed to the government program. In this manner, an employer can more easily plan their budget for the year.

Conversely, self-insured employers will receive retrospective reimbursement, but the new updates include language clarifying that the benefits can be administered by the employer or a third party. For those employers interested in self-insuring the



program, the employer must have more than 50 employees, provide a surety bond, and the funds must be held in a separate account.

Lastly, there will be a \$1,000 initial application fee when applying for a private plan and a renewal application fee of \$200 each calendar year.

Outstanding questions remain. It remains unclear as to how current state PFML programs will interact with the federal program with respect to funding and federal standards. Also, the legislation appears to mandate job protection for employees, but only if they are part of a private plan, not if they are part of the government administered plan. As a result, this raises questions about the program's interaction with FMLA.

The proposal will next be reviewed by the Senate and in the current political climate, it is likely we will see additional changes, revisions, and amendments.

California Disability Benefit updates.



There are two new developments regarding California's disability benefit (CA DI).

As of January 24, 2020, the Governor's executive order waived the one week waiting period for COVID-19 related disability claims "for the duration of the emergency." While the waiting period waiver for COVID-19 related disability claims is still in place, in accordance with Governor's Executive Order N-08-21, it will expire for new claims with a date of disability on or after October 1, 2021.

On July 16, 2021, the Governor signed California Assembly Bill 138 which extends the disability insurance and paid family leave (CA PFL) wage replacement rate of 60% to 70% of an employee's weekly salary, depending on income, to January 1, 2023. Absent any new legislation, California DI and PFL benefits will revert back to a 55% replacement rate on January 1, 2023.

Free webinars for NYL GBS clients.

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

The webinars are presented the second Tuesday at 12:00 PM ET (9:00 AM PT) and the fourth Thursday at 3:00 PM ET (12:00 PM PT).

The upcoming webinars include:



Tuesday, October 12th

[Planning for College 101 »](#)

The costs of attending college continue to increase, so planning is imperative. This class will discuss different types of college savings accounts and review the FAFSA financial aid process. It's important to get funds from as many sources as possible, so we'll review scholarships, grants and loans. Get ready to leave this class better prepared to establish and fund your college savings goals.



Thursday, October 28th

[Student Loan Repayment Strategies »](#)

For many employees, especially in the first half of their careers, student loan payments are a significant monthly expense. This class helps attendees consider repayment options that meet their individual goals. We discuss repayment options for both federal and private loans, which include how to lower monthly payments or pay off loans faster.

If you also have Group Benefit 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.

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**Seminars are provided through a third party vendor who is solely responsible for their products and services. Terms and conditions are contained in the client program description, and are subject to change. Program availability may vary by plan type and location, and is not available where prohibited by law.

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123602 a 0821 SMRU 1913988 Exp. Date 09.15.2022