



ABSENCE ADVISORY

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



JULY 2024

We are pleased to share the July 2024 Absence Advisory, along with information related to state and other paid leave legislation.

TOP NEWS INSIDE

- [Colorado FMLI Updates.](#)

- Important updates:

- [Connecticut Paid Leave Private Plans.](#)

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- [Pregnant Workers Fairness Act \(PWFA\).](#)



COLORADO

COLORADO FAMLI UPDATES

Colorado's Division of Workers' Compensation announced their annual 2024-2025 State Average Weekly Wage (SAWW). As of July 1, 2024, Colorado's SAWW increased from \$1,421.16 to \$1,471.34, an increase of roughly 3.5%. Colorado's change in SAWW may impact the weekly benefits an employee receives through the state plan or through a private plan regardless of whether the claim was open and active prior to July 1, 2024, or newly created on or after that date.

Additionally, Colorado is projecting an increase to the maximum weekly benefit as of Jan. 1, 2025, from \$1,100.00 to \$1,324.21.

[Read here for more information.](#)

IMPORTANT UPDATES

CONNECTICUT PAID LEAVE PRIVATE PLANS

This is an edit to our previous [June edition](#) regarding Connecticut Paid Leave private plans. It should have stated:

Employers with an approved private plan are required to submit a new private plan application under the following circumstances:

1. When the initial approval period expires (typically 3 years), and the employer would like to continue with their private plan.
2. When there is a "material change" to the existing private plan.

[Review these frequently asked questions to learn more.](#)

OREGON PAID LEAVE

The following information was previously communicated to our clients.

As a reminder, Oregon's Employment Department announced their annual 2024-2025 State Average Weekly Wage (SAWW). The SAWW is updated annually. The following went into effect along with Oregon SB 1515 and SB 999 changes previously published in our [April edition](#) advising that leave taken under the Oregon Family Leave Act may not be taken concurrent with Oregon Paid Leave.

As of July 1, 2024, OR PL's SAWW will increase from \$1,269.69 to \$1,307.17. Oregon's minimum weekly benefit will be impacted and will be \$65.36, and the maximum weekly benefit will be \$1,568.60. These increases only affect benefit years that **begin on or after July 7, 2024, or later**. Oregon workers whose Paid Leave benefit year starts before July 7 will continue to receive the same benefit amount.

For Aflac Group Life, Absence and Disability Solutions clients with Oregon Paid Leave private plan: We have made the appropriate updates within our claim administration system.

[Learn more.](#)

RHODE ISLAND TDI AND TCI

The Department of Labor and Training announced the new maximum weekly benefit amount for New Jersey Temporary Disability Insurance (TDI) and Temporary Care Insurance (TCI). The maximum weekly benefit rate for both benefits will increase to \$1,070, an increase of \$27 from the current rate of \$1,043. Under the TDI program, the maximum weekly benefit rate for beneficiaries with the maximum five dependents will be \$1,444, an increase of \$36 from the current rate of \$1,408.

[Read here for more information.](#)

Additionally, the Rhode Island Paid Family Leave Act established the Temporary Caregiver Insurance Program to provide individuals up to 6 weeks of paid benefits during a 12-month period to care for a seriously ill loved one, such as an aging parent or in-law, or bonding with a new child.

- Beginning Jan. 1, 2025, temporary caregiver benefits shall be limited to a maximum of seven (7) weeks in a benefit year.
- Beginning Jan. 1, 2026, temporary caregiver benefits shall be limited to a maximum of eight (8) weeks in a benefit year.

[Learn more.](#)



COLORADO II

COLORADO ORGAN DONOR RIGHTS (HB 1132)

On June 3, 2024, Colorado enacted and made effective a new law that protects employees who are or become living organ donors. While this law does not create a new leave entitlement, it prohibits employers from taking adverse action against the employee during the prohibited period. The prohibited period includes the 30 days before the organ donation recovery procedure and the 90 days immediately after the employee has the procedure.

Colorado has defined an organ as all or part of the following that may lead to a life-saving organ donation:

- Kidney.
- Liver.
- Lung.
- Pancreas.
- Intestine.
- Any other organ that requires major surgery to be donated.

Review additional details of Colorado's Organ Donor Rights:

- [2024a_1132_signed.pdf \(colorado.gov\)](#).
- [Support for Living Organ Donors | Colorado General Assembly](#).

Employers should continue to review and update their internal policies and provide timely and appropriate updates/training to management to implement the laws as it applies to your company.

PREGNANT WORKERS FAIRNESS ACT (PWFA)

In last month's Aflac Advisory, an update was provided that the U.S. Equal Employment Opportunity Commission's (EEOC) published its final rule to implement the Pregnant Workers Fairness Act (PWFA) in the Federal Register on April 19, 2024, which went into effect on June 18, 2024.

Here are some important reminders and information that expand on last month's update.

COVERED ENTITIES

The PWFA applies to private and public sector employers (state and local governments) who have 15 or more employees. Additionally, the PWFA applies to Congress and Federal agencies and to employment agencies and labor organizations.

The PWFA requires a covered entity to provide reasonable accommodations to a qualified employee's or applicant's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an undue hardship.

The PWFA's use of the terms "related to, affected by, or arising out of" pregnancy, childbirth, or related medical conditions should be interpreted broadly and do not need to be the sole, the original, or a substantial cause of the condition.

Important: Limitations under the PWFA do not need to meet the definition of a "disability" under the Americans with Disability Act (ADA).



QUALIFIED EMPLOYEE

A qualified employee is an individual who can perform the essential functions with or without reasonable accommodation; or if unable to perform one or more essential functions:

- The inability is temporary.
- The essential function(s) could be performed “in the near future.”
- The inability to perform the essential functions can be reasonably accommodated.

EXAMPLES OF LIMITATIONS AND RELATED MEDICAL CONDITIONS

Examples of limitations may include but are not limited to:

- A pregnant employee who seeks time off for prenatal health care appointments.
- A pregnant employee seeking an accommodation to limit exposure to secondhand smoke to protect the health of their pregnancy.
- An employee requesting leave for in vitro fertilization (IVF) or menses.
- An employee requesting time to attend therapy appointments for postpartum depression.

Examples of related medical conditions may include but are not limited to:

- Gestational diabetes;
- Endometriosis.
- Miscarriage.
- Stillbirth.
- Abortion.
- Nausea or vomiting;
- Frequent urination.
- Varicose veins.

Remember, an employee could have an existing condition that is worsened by pregnancy, childbirth or pregnancy-related conditions.

EMPLOYER'S RESPONSIBILITIES

When an employee has requested an accommodation, the PWFA requires a covered entity to engage in the interactive process and provide reasonable accommodations to a qualified employee's or applicant's known limitations as described by the PWFA, unless the accommodation will cause undue hardship.

Don't Forget! The employee does not need to use specific terms such as “PWFA” or “ADA” to request accommodation.

DOCUMENTATION

The PWFA describes the minimum amount of information that is sufficient to confirm the physical or mental condition; confirm that the physical or mental condition is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions; and describe the adjustment or change at work needed due to the limitation.

Additionally, there are circumstances when documentation cannot be requested:

- When the limitation and adjustment or change needed at work is obvious and the employee provides self-confirmation.
- When the employee's limitation is already known by the employer (e.g., episodic – morning sickness).
- When a pregnant employee requests one of the following predictable assessments:
 - Carrying water.
 - Additional restroom breaks.
 - Sitting or standing when needed.
 - Taking breaks for eating or drinking, as needed.
 - When an employee requests a lactation accommodation.
- When an employee requests an accommodation covered by an employer's own policy that does not require employees without known limitations to submit.

COORDINATION WITH THE ADA

When evaluating an employee's request for accommodation, both the ADA and the PWFA may apply, and each law should be evaluated at the time of the accommodation request. If there is a scenario where both the PWFA and the ADA could apply, the employer should apply the provision that would be less demanding for the employee to satisfy.

It is also possible for an employee to have multiple accommodations under the distinct laws. For example, an employee could have one accommodation under the ADA for a lung condition unrelated to pregnancy and separately another accommodation under the PWFA.

Aflac has provided updates to our clients that describes the impacts of the final rules; however, for additional information about the Pregnant Workers Fairness Act, please review:

- [Federal Register: Implementation of the Pregnant Workers Fairness Act.](#)
- [What You Should Know About the Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission \(eeoc.gov\).](#)
- [Summary of Key Provisions of EEOC's Final Rule to Implement the Pregnant Workers Fairness Act \(PWFA\) | U.S. Equal Employment Opportunity Commission.](#)

Employers should continue to review and update their internal policies and provide timely and appropriate updates/training to management to implement the final PWFA rules as it applies to your company.



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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