



State/Local Compliance Update: June 2023

A brief update on what happened the prior month in group health plan compliance at the state and local level, listed alphabetically. If you would like additional information, please reach out to the GBS Compliance Team.

Colorado

- **Colorado expands reasons employees can use paid sick leave under the HFWA.** On June 2, Governor Polis signed [Senate Bill 23-017](#), which expands the reasons employees can use paid sick leave under the Colorado Healthy Families and Workplaces Act (HFWA). The HFWA previously allowed for health- and safety-related reasons to take paid leave. Under the new bill (which takes effect on August 7, 2023) employees may now access paid leave for qualifying bereavement and natural disaster-related reasons. Colorado employers also must notify employees of their right to take paid leave under the HFWA, including the reasons for which employees can take such leave—so employers should consider updating their sick leave policies with the new grounds for which employees may take leave and update their sick leave poster on or before the effective date of the new law. Colorado is expected to publish an updated poster regarding these changes in the coming months. As a reminder, last month we discussed the Colorado public health emergency leave benefit (which was also covered by the HFWA) that because of the end of the public health emergency is no longer available as of June 9, 2023. See the [HFWA website](#) for more information.

Connecticut

- **Expansion to reasons employees can take paid sick and safe leave.** On June 26, [Senate Bill 2](#) was signed into law which expands the reasons covered employees can use leave under the Connecticut paid sick and safe leave law. These changes are effective October 1, 2023.
 - As background, Connecticut’s paid sick and safe leave allows covered employees to earn one hour of paid sick leave for every 40 hours worked, up to a maximum of 40 hours per year. But, it applies only to employers with 50 or more Connecticut employees and excludes most manufacturers and certain non-profits. Also, the law limits covered employees to “service workers” who are either paid on an hourly basis or are classified as nonexempt under the federal Fair Labor Standards Act. Covered employees fall broadly in industries such as retail, healthcare, hospitality, custodial, and food service.
 - Senate Bill 2 expands covered uses of paid leave in two ways:
 - First, service workers can use “sick” leave for a “mental health wellness day,” i.e., a day during which the individual attends to their emotional and psychological well-being instead of working their regularly scheduled shift.
 - Second, in addition to taking “safe” leave if a service worker is personally a victim of family violence or sexual assault, service workers can take such leave if they are a parent or guardian of a child who is a victim – provided the employee is not the (alleged) perpetrator – for medical care or psychological or other counseling for physical or psychological injury or disability, obtaining services from a victim services organization, relocating due to family violence or sexual assault, or participating in any civil or criminal proceedings related to or resulting from family violence or sexual assault.

Florida

- **Florida passes Digital Bill of Rights law.** Governor DeSantis signed the Florida Digital Bill of Rights ([FDBR](#)) on June 6. Florida is the 10th state to enact a consumer data privacy law along with California, Virginia, Colorado, Connecticut, Utah, Iowa, Indiana, Tennessee, and Montana. The FDBR goes into effect July 1, 2024. Like most state privacy laws, the FDBR contains entity-specific exemptions (including for HIPAA covered entities) and data-specific exemptions (including for PHI under HIPAA). Note also that the law does not apply to business with less than \$1 billion in gross annual revenue—meaning the FDBR will only cover a small number of very large entities.

Illinois

- **Illinois to establish a state-based exchange.** Governor Pritzker signed [House Bill 579](#) on June 27 that will establish a state-based exchange for policies sold under the ACA. Illinois was among the states that chose not to set up its own exchange, and instead uses the federal exchange. That will change under this new legislation, which calls on the Department of Insurance (DOI) to set up a state-based exchange to be fully operational by 2026.

Massachusetts

- **Massachusetts DOI provides special enrollment period for loss of COBRA coverage.** The Massachusetts Division of Insurance (DOI) issued [Special Bulletin 2023-09](#) to address the implications of the ending of the National Emergency (and the associated Outbreak Period) with respect to COBRA. The Bulletin does not apply to self-insured plans. But for fully insured plans (subject to Massachusetts insurance regulations and subject to this guidance) any individual who experiences a loss of COBRA coverage, including losses due to voluntary termination or termination for non-payment, will have special enrollment rights. Upon the occurrence of such a triggering event, impacted individuals will have a period of 60 days either prior to or after the event to request the special enrollment period.

Oregon

- **Legislation aligns Paid Leave Oregon and Oregon Family Leave Act.** On June 7, Governor Kotek signed [Senate Bill 999](#) that will more closely align provisions of Paid Leave Oregon with the Oregon Family Leave Act (OFLA). The alignments include provisions that define the terms “family member” and “one-year period,” protect eligible employees’ job restoration rights, and prescribe the method for determining the one-year period for purposes of tracking leave. As background, OFLA was enacted in 1995 and applies to employers with twenty-five or more employees within the state of Oregon. Paid Leave Oregon went into effect on January 1, 2023, and employees may begin applying for benefits on September 3, 2023. Paid Leave Oregon applies to employers with at least one employee in the state of Oregon. Large employers (i.e., those that employ twenty-five or more employees worldwide) must contribute to the Paid Leave Oregon fund. Small employers (those who employ fewer than twenty-five employees worldwide) may opt out of paying employer contributions. However, employers of all sizes with at least one employee in Oregon must withhold Oregon employees’ Paid Leave Oregon contributions from their paychecks, and such employees have job protection rights under Paid Leave Oregon, regardless of the size of the employer.