



State/Local Compliance Update: October 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.

California

- **California expands paid sick leave to five days per year.** On October 4, Governor Newsom signed [Senate Bill 616](#) which expands existing paid sick leave requirements under the Healthy Workplaces, Healthy Families Act of 2014. The amendment, that takes effect on January 1, 2024, increases the annual amount of California paid sick leave from three days (or 24 hours) to five days (or 40 hours) for eligible employees. The amendment also raises the accrual cap from 48 hours to 80 hours.
- **New California leave entitlement for miscarriage or other reproductive loss.** On October 11, Governor Newsom signed [Senate Bill 848](#) which makes it an unlawful employment practice for an employer (with five or more employees who are covered under the law) to refuse to grant an eligible employee's request to take up to five days of leave following a reproductive loss event. The new law goes into effect January 1, 2024. Previously, California law required bereavement leave upon the death of an employee's family member. This new law increases an employee's leave entitlements for a reproductive loss event, which is defined as the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.
- **San Francisco Health Care Accountability Ordinance.** We have previously discussed the San Francisco Health Care Security Ordinance (HCSO), which requires covered employers (i.e., employers that must obtain a San Francisco business registration certificate and have at least 20 employees in any location if at least one works in the city or county of San Francisco) to spend minimum amounts on health care for their covered employees. There is also a similar but separate San Francisco Health Care Accountability Ordinance (HCAO) that requires certain employers to comply with minimum health plan standards (or provide alternative payment) for covered employees. Covered employers are either subject to the HCSO or HCAO, but not both. If an employer is subject to HCAO, they will need to comply with it rather than the HCSO. The HCAO applies only to contractors of the City and County of San Francisco that have 20+ employees (50+ for nonprofits) with a contract or lease of \$25k+ annually (\$50k+ for nonprofits). The HCAO requires employers to (a) offer health plan benefits to their covered employees, (b) make payments to the City for use by the Department of Public Health, or (c) under limited circumstances, make payments directly to their covered employees. The HCAO also requires covered employers to display a worksite poster, collect signed HCAO Know Your Rights notices from covered employees annually, and collect an HCAO waiver form from employees who choose to waive their coverage rights. See the San Francisco HCAO [website](#) for more information and copies of the poster and forms.

Illinois

- **Illinois law provides additional protections and benefits requirements for temporary labor.** Illinois [HB 2862](#) was passed into law and provides protections for temporary workers. Specifically, if a temporary worker is assigned to work for a third-party client for more than 90

calendar days (non-consecutive), the temporary worker must be provided equivalent benefits as a comparable directly hired employee.

- **Illinois provides FAQ guidance for Paid Leave for All Workers Act.** As background, the Illinois Paid Leave for All Workers Act goes into effect on January 1, 2024, and requires covered employers to provide eligible Illinois employees with up to 40 hours of paid leave each year (which employees can use for any reason). On October 18, the State published additional Paid Leave for All Workers Act [FAQs](#) confirming that an employer does not need to modify the terms of its existing vacation or PTO policy if that existing policy meets or provides the minimum amount of leave required by the law in a 12-month period and employees can take that amount of leave for any reason of their choosing. Note that this Illinois paid leave law is expansive, covering all employers that have one or more employees in the state of Illinois with certain exceptions for some state, federal, and unionized workers.

Massachusetts

- **Updates to Massachusetts Paid Family and Medical Leave Act.** The Massachusetts Department of Family and Medical Leave (1) updated the Massachusetts Paid Family and Medical Leave Act (PFML) 2024 contribution rates and weekly benefit amounts and (2) revised guidance on topping off benefits with accrued paid leave.
 - The contribution rates and benefits amounts for 2024 have been announced and are available on the State's Paid Family and Medical Leave employer contribution rates and calculator [website](#). The weekly maximum benefit amount available to individuals is \$1,144.90 for 2024 (up from \$1,129.82 for 2023). The change in benefit amounts is based on the average weekly wage in the State and the change in contribution rates is made to ensure the Fund's solvency for paying out benefits. See the Paid Family and Medical Leave in Massachusetts [website](#) for more details and information.
 - The PFML law was amended (as part of 2024 state budget) to now allow employees to supplement ("top off") benefits received from the State with any available accrued paid leave (e.g., sick time, vacation, PTO, personal time, etc.). This change is effective November 1, 2023. Note that employees still cannot be required to use accrued paid leave either before or while on PFML.

New Jersey

- **New Jersey law provides additional protections and benefits requirements for temporary labor.** [Proposed regulations](#) were released under the New Jersey Temporary Workers' Bill of Rights (that was signed into law earlier this year). Like the Illinois law discussed above, this New Jersey law aims to provide covered temporary workers with equal pay and benefits to directly hired employees. Note that New Jersey does not require temporary workers to be employed for a specific amount of time before entitlement to equal pay and benefits. New Jersey also takes a different approach than Illinois about how equal pay and benefits are determined—while Illinois uses the lowest paid, directly hired comparable employee to determine pay and benefits for temporary workers, New Jersey uses the average rate of pay and average cost of benefits. So, the potential financial impact is greater in New Jersey if the comparable workers are paid at different rates. Just like Illinois however, New Jersey does allow employees to be paid cash in lieu of comparable benefits. See the State's Temporary Workers in NJ: Rights and Protections [website](#) for more information.