



Colorado Health Families and Workplaces Act (HFWA)

Presented by: Jim Smallwood, RHU, REBC, ChHC
President-Employee Benefits
Jim.Smallwood@moodyins.com

Summary

- Introduction
- What is HFWA
- Three Types of Paid Sick Leave
- Next Steps for Employers
- Questions?

Introduction-Jim Smallwood

- 27 Years-Employee Benefits Consultant
- State Senator-Colorado State Senate District 4
- Business Owner and Manager
- Not an Attorney nor an CPA

What is HFWA in Colorado?

- State Statute
 - Created by SB20-205
 - 21 page bill
 - Largely partisan bill
 - Opposed by business
 - Signed by Governor Polis on July 14, 2020 and effective July 15, 2020
 - Requires ALL Colorado employer provide three types of paid sick leave
 - COVID-19 emergency paid sick leave (CO-EPSSL)
 - Paid sick and safe time (PSST)
 - Public Health Emergency paid sick leave (PHEL)

Three Types of Paid Sick Leave

- COVID-19 Emergency Paid Sick Leave (CO-EPSL)
- Paid Sick and Safe Time (PSST)
- Public Health Emergency (Paid Sick) Leave (PHEL)

Three Types of Paid Sick Leave

- COVID-19 Emergency Paid Sick Leave (CO-EPSSL)
 - Only provides worker benefits through 12/31/2020
 - No carry-over
 - Expands EPSLA to Colorado organizations over 500 workers
 - No tax relief to larger employers
 - Covers all workers covered by wages, benefits or both
 - Includes seasonal, temporary or remote workers
 - Mandates two weeks of paid leave (80 paid hours)
 - Regular rate of pay up to \$511 per day/\$5,110 in aggregate

Three Types of Paid Sick Leave

- COVID-19 Emergency Paid Sick Leave (CO-EPSSL)
 - Having COVID-19 symptoms and seeking a medical diagnosis; or
 - being ordered by a government agent (federal, state, or local), or advised by a health provider, to quarantine or isolate due to a risk of COVID-19; or
 - taking care of someone else due to COVID-19 precautions -- either someone in category (2), or a child whose school, place of care, or childcare is closed or unavailable.
 - The employee is experiencing any other substantially similar condition specified by the US Health and Human Services (at 2/3 pay)

Three Types of Paid Sick Leave

- Paid Sick and Safe Time (PSST)
 - Applicable to employers with 16 or more employees on 1/1/2021 and ALL employers 1/1/2022
 - Employees accrue one hour of PSST for every 30 hours they work, up to 48 hours per year
 - Employers pay leave at the same rate and benefits normally earned
 - Does not include overtime, bonuses or holiday pay
 - Commissioned work
 - Covers “sick” time purposes
 - mental or physical illness, injury, or health condition of the employee or family member;
 - medical diagnosis, care, or treatment related to an employee's or family member's illness, injury, or condition; or
 - preventive medical care

Three Types of Paid Sick Leave

- Paid Sick and Safe Time (PSST)
 - Also covers “safe” time purposes
 - seeking medical attention to recover from a mental or physical illness, injury, or health condition caused by the domestic abuse, sexual assault, or harassment
 - obtaining services from a victim services organization;
 - obtaining mental health or other counseling;
 - seeking relocation due to the domestic abuse, sexual assault, or harassment; or
 - seeking legal services, including preparing for or participating in a civil or criminal proceeding relating to or resulting from the domestic abuse, sexual assault, or harassment.

Three Types of Paid Sick Leave

- Public Health Emergency Paid Sick Leave (PHEL)
 - Employers much supplement an employee's PSST in the event of a public health emergency
 - Act of bioterrorism, or an epidemic caused by a novel and highly fatal infectious act, for which:
 - A disaster emergency is declared by the governor; or
 - an emergency is declared by a federal, state or local public health agency
 - a highly infectious illness or agent with epidemic or pandemic potential for which a disaster emergency is declared by the governor.
 - 80 hours of paid leave for employees who normally work 40 or more hours per week

- For employees who work fewer than 40 hours per week, leave is based on the greater of the amount of time an employee is

Three Types of Paid Sick Leave

- Public Health Emergency Paid Sick Leave (PHEL)
 - For employees who work fewer than 40 hours per week, leave is based on the greater of the amount of time an employee is scheduled to work, or actually does work during an average 14-day period
 - PHEL can be used for
 - to self-isolate and care for oneself (or a family member who is self-isolating) because the employee (or family member) is diagnosed with, or experience symptoms of, the communicable illness that is the cause for the PHE;
 - to seek or obtain (or care for a family member who needs) medical diagnosis, care, or treatment if experiencing symptoms associated with a communicable illness that is the cause of the PHE;

Three Types of Paid Sick Leave

- Public Health Emergency Paid Sick Leave (PHEL)
 - to seek (for oneself or a family member) preventive care concerning a communicable illness that is the cause of the PHE;
 - if the individual's presence on the job or in the community would jeopardize the health of others because of the individual's exposure to the communicable illness or because the employee is exhibiting symptoms of the communicable illness (regardless of diagnosis), as determined by local officials with such authority or the employee's or covered relation's employer;
 - to care for a child or other family member when the child's care provider is unavailable due to a PHE, or if the child's or family member's school or place of care has been closed by a local, state, or federal public official or at the discretion of the school or place of care due to a PHE, including if a school or place of care is physically closed but providing instruction remotely; or

Three Types of Paid Sick Leave

- Public Health Emergency Paid Sick Leave (PHEL)
 - if an employee is unable to work because the employee has a health condition that may increase susceptibility to or risk of communicable illness that is the cause of the PHE.

Next Steps for Employers

- Determine whether or not existing paid leave policies or agreements meet or exceed the requirements of the HWFA
- Work with counsel to update policies and procedures
 - Post required notices
 - Notify employees
- Prepare for Colorado's new Paid Family and Medical Leave Act

Questions?

- What is HFWA? What is FAMLI?
- HFWA will require employers with 16 or more employees to provide sick leave starting January 1, 2021; what do I need to do?
- If an employer has an existing Paid Time Off (PTO) policy, would that satisfy the requirements of HFWA or FAMLI?
- Does my company need to extend HFWA leave to part-time, temporary, and seasonal employees?
- Are non-employees, such as independent contractors, eligible to participate in either program?
- How do these acts relate to COVID-19 requirements and/or leave guidelines?

Thank
You!