

Law &amp; Policy Group

GRIST



# Roundup of selected state health developments, third-quarter 2023

*By Rich Glass and Katharine Marshall**Nov. 15, 2023***In this article**

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More than a dozen jurisdictions focused on leave issues during the third quarter of 2023, with Maine becoming the latest state to mandate paid family and medical leave (PFML). Several states announced 2024 PFML rates. Illinois, New Jersey and Puerto Rico passed laws affecting pharmacy benefit managers (PBMs) and prescription drugs. States passing health insurance coverage mandates included California, Illinois, New Jersey and Oregon. Court decisions affected an Oklahoma PBM law and a Puerto Rico paid leave law. A new commuter benefit mandate will apply to many Chicago-area employers next year. San Francisco and Seattle announced 2024 rates for each jurisdiction's health coverage mandates.

## PFML

Maine became the 13th state (plus Puerto Rico and Washington, DC) to require paid leave for an employee's own serious health condition or disability. Alabama passed a voluntary family leave insurance (FLI) law. Colorado, Delaware and Oregon finalized PFML regulations. Maryland, Massachusetts, New Jersey, New York and Washington have announced 2024 PFML rates.

### Alabama

The [Paid Family Leave Income Replacement Benefits Act](#) (2023 Pub. L. No. 112, [HB 141](#)) enables insurers to offer group family leave insurance (FLI) policies or voluntarily purchased employee policies. Qualifying reasons to use FLI include to care for a family member's serious health condition or injury incurred in the line of military duty, bond with a new child, handle qualifying military exigencies as [defined](#) in the federal Family and Medical Leave Act (FMLA), and address other matters specified in the policy. The law took effect Aug. 1.

## California

Last year, [2022 Ch. 878 \(SB 951\)](#) removed the [employee contribution wage limit](#) (currently set at \$153,164) for state disability insurance (SDI), effective Jan. 1, 2024. Employment Development Department (EDD) guidance confirms that voluntary plan employers may retain a wage ceiling but should analyze funding levels, especially with benefit levels set to increase in 2025; see [Roundup of selected state health developments, third-quarter 2022](#), Nov. 4, 2022.

## Colorado

Colorado's Division of Family and Medical Leave Insurance (FAMLI) has [amended](#) its regulations on premiums/elections and local government participation:

- **[Premiums/elections](#).** Employer size is based on the national, not state, headcount. (Employers with fewer than 10 employees do not have to contribute.) A new \$50-per-individual penalty and accrued interest apply to delinquent quarterly premium remittances.
- **[Local government participation](#).** These regulations confirm how local government employers can decline (and later elect) to participate in FAMLI.

Both rules will take effect Jan. 1, 2024. For other details on FAMLI, see [2023 state paid family and medical leave contributions and benefits](#), Feb. 1, 2023.

## Connecticut

Effective Jan. 1, 2024, the state minimum wage will [increase](#) from \$15 to \$15.69 per hour. The maximum weekly PFML benefit — set at 60 times the minimum wage rate — will accordingly increase from \$900 to \$941.40, effective on that date.

## Delaware

Delaware adopted rules addressing the state's [PFML mandate](#). Here is a summary of the Division of Paid Leave's [final PFML rules](#) (now in effect):

- **Covered employees.** They must primarily report to a Delaware work site, with at least 60% of work hours occurring physically in the state. Covered employees do not include casual/seasonal state or Department of Education employees.
- **Private plans.** Comparable private plans in place before May 10, 2022 (called “grandfathering plans”) may continue through 2029. Grandfathering plans include self-insured plans, employee handbook plans and some short-term disability (STD) plans. These plans must apply for approval by Jan. 1, 2024. Otherwise, the private plan submission portal will be open Sept. 1–Dec. 1, 2024, for 2025 and Oct. 1–Dec. 1 for later years. A self-insured private plan must have at least 100 covered individuals at all times, unless it can show administrative capacity to manage the plan.

- **12-month period.** An employer may choose any 12-month benefit period [available](#) under the federal FMLA (e.g., calendar, fixed, rolling).

For additional information, see [Delaware enacts paid family and medical leave law](#), July 7, 2022.

## Maine

The state's budget law ([2023 Ch. 412](#), LD 258) included a PFML mandate. Contributions of 1% of wages (evenly split between employees and employers in most cases) will start in 2025. Employers with fewer than 15 Maine employees will be exempt from contributions, but their employees will not. Benefits will start in 2026.

The law allows up to 12 weeks of paid leave per year for these reasons:

- Bond with a child within the first 12 months of birth or placement for adoption/foster care
- Care for a family member's or employee's serious health condition
- Handle a qualifying exigency
- Care for a covered service member
- Take safe leave
- Manage bereavement
- Donate an organ

Covered employers include all private and state public employers. Approved private plans are permissible if employee contributions do not exceed state plan levels. For further details, see [Maine law requires paid family and medical leave](#), Sept. 11, 2023, and [Maine paid family and medical leave overview](#), Sept. 12, 2023.

## Maryland

The state's Department of Labor has [announced](#) the initial PFML contribution rate, starting Oct. 1, 2024: 0.9% of covered wages, up to the [Social Security maximum wage base](#) (\$168,600 in 2024). Contributions will be evenly split between employees and employers in most cases. Small employers with 14 or fewer employees are exempt from contributions, but employees must continue to contribute their 0.45% share. The 0.9% contribution rate will continue through at least June 30, 2026. Starting in 2026, Maryland workers will be eligible for up to \$1,000 in weekly benefits. For more information, see [Maryland revises paid family and medical leave](#), May 25, 2023, and [Maryland paid family and medical leave overview](#), July 25, 2023.

## Massachusetts

Massachusetts has [posted](#) 2024 PFML rates:

PFML rates	2023	2024
Total contribution rate (up to the Social Security maximum wage base)	0.63%	0.88%
Required employer contributions:		
• 25 or more Massachusetts employees	0.312%	0.42%
• Fewer than 25 Massachusetts employees	0.0%	0.0%
Required employee contributions	0.318%	0.46%
<a href="#">Maximum weekly benefit</a>	\$1,129.82	\$1,149.90

## New Jersey

The [Department of Labor and Workforce Development](#) published [final](#) family leave insurance (FLI) regulations conforming with the 2019 law. The regulations clarify that employers may provide a private plan notice via email or a website designed exclusively for employee use.

The agency also [issued](#) 2024 rates for temporary disability insurance (TDI) and FLI, which together constitute the state's PFML program. The 2024 rates are as follows:

TDI/FLI rates	2023	2024
TDI contributions		
• Employer	Balance of plan costs	No change
• Employee	None	No change
FLI contributions		
• Employer	None	No change
• Employee	0.06%	0.09%
Maximum employee contribution taxable wage base (for FLI)	\$156,800	\$161,400
Maximum TDI/FLI weekly benefit	\$1,025	\$1,055

For other details, see [New Jersey updates, expands family and disability benefits](#), March 26, 2019.

## New York

The Department of Financial Services has [published](#) 2024 PFL rates:

PFL rates	2023	2024
Contributions		
• Employer	Balance of plan costs	Balance of plan costs
• Employee rate	0.455%	0.373%
• Maximum annual employee contribution	\$399.43	\$333.25
Applicable benefits percentage	67% of employee's average weekly wage (AWW)	No change
Applicable maximum benefit percentage	67% of state AWW	No change
Maximum PFL weekly benefit	\$1,131.08	\$1,151.16

A separate disability benefits law (DBL) applies to paid leaves for nonwork-related disabilities.

## Oregon

In advance of Jan. 1, 2024, when PFML benefits become available from Paid Leave Oregon (PLO), the Oregon Employment Department (OED) issued final regulations and a temporary administrative order.

Effective Aug. 1, the final PLO regulations address these areas:

- **Benefits and assistance grants.** Employees on intermittent leave may work for another employer on any day they are not taking leave. The additional two weeks of pregnancy leave (beyond the standard 12 weeks of leave) is available only once per pregnancy. Other changes revise the application processes for employers with fewer than 35 employees seeking assistance grants.
- **Contributions.** PLO benefits are not wages subject to PLO contributions.
- **Equivalent plans.** OED has the right to review eligibility information. The rules also make technical changes for plan terminations and withdrawals.

OED's [temporary administrative order](#) made conforming changes to align with two recent laws: [2023 Ch. 203](#) (SB 999) and [2023 Ch. 292](#) (SB 913). Highlights of the order (which took effect Aug. 9) include:

- A nonexhaustive list of factors for determining whether an affinity relationship exists
- A clarification that a healthcare provider must be someone other than the employee or the person for whom the employee is providing care
- The process for an employee to name a claimant-designated representative

- The employer’s ability to deduct up to 10% of an employee’s gross pay each pay period after returning from leave for any unpaid balance of the employee’s share of health or other insurance premiums

For further PLO details, see [Oregon’s paid family and medical leave contributions delayed to 2023](#), Aug. 5, 2021.

Washington

Washington’s Employment Security Department has [issued](#) the 2024 premium rate, which will decrease to 0.74% of total gross wages. The agency also has [posted](#) 2024 PFML benefit amounts and updated the required [employee poster](#). Maximum weekly benefits will be \$1,456, up from \$1,427. Minimum weekly benefits will stay at \$100.

Other leave-related issues

California increased — and New York City clarified — paid sick leave (PSL) benefits. New Illinois laws address bereavement and organ donation leaves. A federal appellate court halted changes to Puerto Rico’s paid leave law. Massachusetts guidance clarifies differences between the Parental Leave Act and the PFML program. Bloomington, MN, revised last year’s earned sick and safe time (ESST) ordinance, aligning the city’s requirements with a similar [state law](#) (2023 Ch. 53, SF 3035) enacted earlier this year; see [Minnesota adopts paid sick and safe leave requirement](#), Sept. 27, 2023.

California

Under [2023 Ch. 309](#) (SB 616), enhancements to mandatory PSL will take effect Jan. 1, 2024, as follows:

PSL changes	Through Dec. 31, 2023	Effective Jan. 1, 2024
Annual allotment and usage cap	3 days (24 hours)	5 days (40 hours)
Accrual rate	1 hour per 30 hours worked	1 hour per 30 hours worked
Total accrual cap	6 days (48 hours)	10 days (80 hours)

Other changes address employees covered by a collective bargaining agreement (CBA). The amended law preempts local PSL laws that are “contrary to” state law and prescribes employer obligations related to the reinstatement of a separated employee, advance leave, pay stubs, rate of pay, employee notice, and the timing of PSL payments. The preemption provision may impact companies that employ workers in several localities with paid leave requirements. Guidance from the Department of Industrial Relations is expected.

## Illinois

The state enacted three laws. First, the [Child Extended Bereavement Leave Act](#) (2023 Pub. Act 103-0466, SB 2034) amends the [existing unpaid family bereavement leave law](#) to include a full-time employee's loss of a child by suicide or homicide. Duration will vary by employer size:

- 250 or more full-time Illinois employees: up to 12 weeks of leave
- 50–249 full-time Illinois employees: up to six weeks of leave

Employees may take this leave continuously or intermittently but must use it within one year of the child's loss. The law will take effect Jan. 1, 2024.

Second, [2023 Pub. Act 103-0314](#) (HB 2493) amends the existing [Victims' Economic Security and Safety Act](#) to include an employee's family or household member killed in a violent crime. Qualifying reasons to use this leave include attending a funeral, wake or alternative service; making arrangements; or grieving. The law will take effect Jan. 1, 2024.

Third, [2023 Pub. Act 103-0450](#) (HB 3516) amends the [Employee Blood Donation Leave Act](#) to include organ donations, requiring up to 10 days of paid leave per 12-month period. This law applies to all governmental employers and any private employer with 51 or more employees. The law will take effect Jan. 1, 2024.

## Massachusetts

The Massachusetts Commission against Discrimination issued [guidelines](#) and a [Know Your Rights guide](#) on the [Parental Leave Act](#), which provides up to eight weeks of unpaid leave for birth or adoption. Parental leave under the act runs concurrently with leave taken under the state's PFML law and federal FMLA. Key takeaways include:

- **Employee eligibility.** PFML has a minimum earnings requirement and a seven-day waiting period (unless bonding leave follows immediately after pregnancy-related medical leave). Parental leave has no earnings requirement and an initial probationary period of up to three months.
- **Intermittent leave.** Employees may take parental leave intermittently with an employer's agreement, and requests for intermittent leave may not be "unreasonably denied." Intermittent PFML requests are not subject to the ban on unreasonable denials.
- **Employee notice.** Parental leave requires at least two weeks' notice, absent unexpected reasons beyond an employee's control. PFML requires at least 30 calendar days' notice, absent unusual circumstances.

For further details, see [Massachusetts readies for paid family and medical leave](#), Jan. 13, 2020.



## Minnesota — Bloomington

In September, the Bloomington City Council amended the original ESST ordinance, which took effect July 1. An expanded “family member” definition now matches the state’s definition, which includes one designated individual. The 90-day waiting period before an employee can use accrued leave has been dropped. Employers may front-load ESST to avoid carryover requirements. Employers front-loading 48 hours at the start of the year must pay out unused time at year-end; employers front-loading 80 hours do not have to pay out unused time at year-end. These and other changes will take effect Jan. 1, 2024. See [Roundup of selected state health developments, second-quarter 2022](#), Aug. 22, 2022.

## New York — New York City (NYC)

NYC’s Department of Consumer and Worker Protection (DCWP) published a final rule under the Earned Sick Time Act, which requires paid time off for employees to care for themselves or family members. Here are the highlights:

- **Covered employees.** Telecommuters are excluded if they work outside of the city for an employer in NYC. Employees with a primary work location outside of NYC are covered “if they regularly perform, or are expected to regularly perform, work” in NYC. The rules provide several clarifying examples. For instance, an excluded employee would include a remote employee with two daylong meetings per year in NYC and a remote employee working on a one-day project for a customer in NYC.
- **Employer size.** Employer size — based on national headcount at the highest point of the calendar year (including part-time employees) — determines annual sick and safe leave amount per employee: 100 or more employees (56 hours of paid leave), five to 99 employees (40 hours of paid leave), and four or fewer employees (40 hours of leave, which can be unpaid if the employer’s net income is \$1 million or less).
- **Employee notice.** While employers may require reasonable advance notice of leave, they must include notice procedures in a written policy. Foreseeable leave requires up to seven days’ notice; unforeseeable leave require notice as soon as practicable.
- **Pay statements.** Employers must specify the total balance and, if different (typically due to carryovers), the time available to use in current calendar year. The rules also detail how employee-accessible systems satisfy this requirement.

These rules took effect Oct. 15. More information is available on the [DCWP webpage](#).

## Puerto Rico

A [2022 law](#)’s changes to Puerto Rico’s paid leave mandate are currently in litigation. In August, the 1st US Circuit Court of Appeals upheld a lower court decision striking down the law (*Fin’l Oversight and Mgmt. Bd. for Puerto Rico v. Hernández-Montañez*, No. 23-1267 (1st Cir. Aug. 10, 2023)). For background, see [Roundup of selected state health developments, first-quarter 2023](#), May 19, 2023.



[Note: For ease of reference, Spanish-to-English translations are provided in hyperlinked resources where available, given that Puerto Rico is the only US jurisdiction whose legal system is primarily in a non-English language.]

## Washington, DC

Universal paid leave benefits still may not be reduced by estimated or actual STD benefits received by participants, as a result of [2023 Act 25-0204 \(B25-0389\)](#). The law expired on Oct. 24, but another [emergency bill](#) was enacted to extend the prohibition until late January 2024. For further background, see [Roundup of selected state health developments, fourth-quarter 2022](#), Feb. 17, 2023.

## Rx

Rx costs and PBMs continue to be a focus on legislative, judicial and regulatory fronts. Illinois and New Jersey each passed three Rx/PBM laws. An appellate court cited ERISA preemption as the reason for striking down several provisions of a 2019 Oklahoma PBM law. A Puerto Rico law requires third-party financial assistance to apply to a fully insured plan's cost sharing.

## Illinois

Three laws focus on Rx, two related to fully insured plans, another related to drug manufacturers and distributors:

- [2023 Pub. Act 103-0453 \(HB 3631\)](#). PBMs operating on behalf of fully insured plans may not retaliate against a pharmacy for disclosing information in a legal proceeding or to a government agency, effective Aug. 4.
- [2023 Pub. Act 103-0429 \(HB 2189\)](#). A fully insured plan's insulin cost-sharing cap will drop from \$100 to \$35 for a 30-day supply, effective July 1, 2025.
- [2023 Pub. Act 103-0367 \(HB 3957\)](#). A drug manufacturer or wholesale drug distributor may not engage in price gouging related to essential off-patent or generic drugs, effective Jan. 1, 2024.

The first two laws do not apply to self-funded ERISA plans. Illinois generally does not apply its insurance laws on an extraterritorial basis to fully insured plans issued in another state.

## New Jersey

Here is a summary of New Jersey's three Rx laws:

- [2023 Ch. 107 \(AB 536\)](#). The law applies to PBMs, insurers and pharmacy service administrative organizations (PSAOs) operating fully insured and self-funded ERISA plans in the state. PBMs will have to meet minimum standards, including a duty of good faith and fair dealing to plans and their participants and adhere a conflict-of-interest standard set by the federal Centers for Medicare & Medicaid Services or another accrediting organization. Participants cannot pay more at the point of

service (POS) than an uninsured individual would pay. All of a PBM's compensation from manufacturers (e.g., rebates, discounts and credits) must be shared with the covered person at the POS or with the insurer to offset future premiums. PBMs must operate from a single maximum allowable cost (MAC) list and use the average wholesale price for brand drugs that lack a generic equivalent. Insurers and plans will have access to PBMs' Rx data and the right to audit all transaction records. The law will apply to contracts entered into, renewed, modified or amended on or after Jan. 1, 2025.

- **2023 Ch. 105 (SB 1614).** Fully insured plans, HMOs, hospital service corporations, medical service corporations, health service corporations, and certain state and school plans must comply with caps on 30-day supplies of insulin (\$35), epinephrine autoinjector devices (\$25) and prescribed asthma inhalers (\$50). The law has an exception for fully insured high-deductible health plans (HDHPs) designed to work with health savings accounts. The law will take effect for plan years starting on or after Jan. 1, 2025. New Jersey does not generally apply its laws on an extraterritorial basis to fully insured plans issued in another state. The law does not apply to self-funded ERISA plans.
- **2023 Ch. 106 (SB 1615).** Annual reporting requirements apply to PBMs, PSAOs, and drug distributors and manufacturers. A manufacturer must notify the Department of Law and Public Safety within 10 days if a drug's wholesale acquisition cost (WAC) has increased above certain thresholds for brand and generic drugs. PSAOs must report negotiated reimbursement rates and fee schedules. PBMs must continue to report minimum and maximum WAC, total rebates, discounts, price concessions, and net income. The law will become operative on or about Aug. 1, 2024.

## Oklahoma

In *Pharmaceutical Care Management Association v. Mulready* (No. 22-6074 (10th Cir. Aug. 15, 2023)), the court concluded that four requirements in Oklahoma's Patient's Right to Pharmacy Choice Act were preempted by ERISA:

- Network access standards
- Ban on steerage to mail-order or specialty pharmacies
- Any willing provider mandate
- Prohibition on terminating a pharmacist's contract when on probation

The court narrowly construed the US Supreme Court's 2020 *Rutledge* opinion. The Oklahoma Insurance Department (OID) and the US Department of Labor (DOL) had argued that ERISA preemption only applies when a plan directly engages in activity prohibited by a state law and does not apply to other parties like PBMs and third-party administrators (TPAs). For a discussion of ERISA preemption, see Is ERISA preemption at risk of being preempted?, Feb. 23, 2023.

## Puerto Rico

Pub. L. No. 109-2023 (PS 1008) amends the [Puerto Rico Health Insurance Code](#) to require that insurers, PBMs, and TPAs apply discounts, coupons, or any contribution provided by drug manufacturers toward deductibles and out-of-pocket maximums. The law effectively prohibits copay accumulator or maximizer programs. The law's application to self-funded ERISA plans is unclear. The law took effect Aug. 31.

## Insurance

California expanded behavioral health coverage and will require dental coverage disclosures. Maine capped insurance reimbursement of ambulance services. An Illinois law broadens off-label use of some medications. Massachusetts has published its 2024 minimum creditable coverage (MCC) rates. A new Oregon law applies gender-affirming care and reproductive healthcare protections to fully insured plans. Washington, DC, added an infertility coverage mandate. A New Hampshire case against a Tennessee insurer upheld the extraterritorial reach of the state's insurance laws. New Jersey regulations establish parity rules for abortions and related drugs covered by fully insured plans. Colorado's COVID-19 vaccine coverage mandate expired.

## California

Two laws were enacted, with several awaiting the governor's consideration as the third quarter ended:

- **[2023 Ch. 42 \(AB 118\)](#)**. Fully insured and managed care plans (including HMOs) will need to include behavioral health crisis service providers beyond a 988 center or mobile crisis team. Plans cannot require prior authorization for these services, except for post-stabilization care. The law took effect July 10.
- **[2023 Ch. 125 \(AB 952\)](#)**. Fully insured and managed care plans (including HMOs) will need to disclose on ID cards and the insurer's web portal whether dental coverage is state-regulated. The law will take effect for plan years starting in 2025. This requirement is in addition to the Summary of Dental Benefits and Coverage requirement that took effect in the past few years for the same types of plans; see [Roundup of selected state health developments, third-quarter 2022](#), Nov. 4, 2022.

## Colorado

In July 2021, the Division of Insurance [required](#) fully insured plans to cover COVID-19 vaccines and associated administration without cost sharing. This regulation was [repealed](#), effective Aug. 30. This law does not affect the federal Affordable Care Act requirement to provide in-network preventive health services, including COVID-19 vaccines and administration, at no cost to participants.

## Illinois

[2023 Pub. Act 103-0462 \(SB 1344\)](#) expands an existing mandate for fully insured plans to provide no-cost coverage of abortion medication, hormonal therapy for gender dysphoria, and HIV pre- and post-exposure prophylaxis (PrEP and PEP) to include off-label use of other drugs when prescribed or ordered

by a healthcare provider for these purposes. The law will take effect starting with 2024 plan years. The law does not apply to self-funded ERISA plans.

## Maine

Under [2023 Pub. L. No. 468 \(LD 1602\)](#), now in effect, fully insured plans must reimburse ambulance service providers at these rates when an enrollee refuses transport despite a call for emergency services:

- **In-network:** 200% for basic life support services and 100% for advanced life support services
- **Out-of-network:** 180% for basic life support services and 100% for advanced life support services

Plan cannot require preauthorization when an ambulance service provider transports a participant to a hospital, between hospitals, or from a hospital to a nursing home, hospice care facility or other healthcare facility. Insurers must adopt the US Department of Health and Human Services' medical necessity and reasonableness standards. Maine generally does not apply its insurance laws on an extraterritorial basis to fully insured plans issued in another state. The law does not apply to self-funded ERISA plans.

## Massachusetts

The Massachusetts Health Connector has [announced](#) its 2024 MCC amounts:

MCC deductibles	2023	2024
Individual tier deductible	\$2,850	\$2,950
Individual tier separate prescription deductible*	350	360
Family tier deductible	5,700	5,900
Family tier separate prescription deductible*	700	720

\* The overall deductible maximum still applies to plans with a separate prescription deductible.

MCC maximum out-of-pocket costs	2023	2024
Individual tier MOOP	\$9,100	\$9,450
Family tier MOOP	18,200	18,900

The state's individual mandate requires residents to obtain MCC or pay a state tax penalty. Plan sponsors (or their vendors) are responsible for determining whether employer-provided coverage meets MCC standards. For details, see [Massachusetts sets 2024 individual-mandate coverage dollar limits](#), Sept. 18, 2023.

## New Hampshire

A Tennessee district court upheld the extraterritorial application of New Hampshire's fertility coverage insurance mandate in *BlueCross BlueShield of Tennessee, Inc. v. Bettencourt* (No. 1:21-CV-00271, Sept. 18, 2023). A participant resided in New Hampshire but was covered by a fully insured plan issued in Tennessee. The case underscores the reality that states can apply insurance requirements to insured coverage for state residents, even when the insured plan is issued in another state.

## New Jersey

New Jersey's Division of Insurance (DOI) finalized regulations requiring fully insured plans to cover medical and surgical abortions, effective Sept. 18. Any cost sharing must be in parity with similar covered services. An exclusion for religious employers exists. The regulations are an outgrowth of last year's Freedom of Reproductive Choice Act but do not apply to self-funded ERISA plans.

## Oregon

A new law (2023 Ch. 228, HB 2002) protects gender-affirming care and reproductive healthcare rights:

- Fully insured plans and multiple-employer welfare arrangements (MEWAs) may not deny or limit coverage of — or impose cosmetic or blanket exclusions on — medically necessary gender-affirming treatment.
- Network adequacy standards apply to gender-affirming treatment.
- Other legal protections apply to reproductive health rights.

The law generally took effect July 13; the coverage-related provisions will take effect for plan years starting in 2024. Oregon generally does not apply its insurance laws on an extraterritorial basis to fully insured plans issued in another state. The coverage-related provisions do not apply to self-funded ERISA plans.

## Puerto Rico

Pub. L. No. 101-2023 (PS 227) requires fully insured plans to cover screening for — and treatments of — prepartum and postpartum depression. The law took effect Aug. 30.

## Texas

Final regulations confirm that the state's balance-billing law applies to these types of fully insured plans:

- Insurers licensed and doing business in Texas
- Group health plans issued to out-of-state employers

- Certificates of insurance delivered to employees who reside in Texas but work for out-of-state employers

The law requires independent dispute resolution. The rules took effect July 12. These regulations do not apply to self-funded ERISA plans. However, a recent law ([HB 1592](#)) allows self-funded plans to opt into the program, effective Sept. 1.

## Washington, DC

The [Expanding Access to Fertility Treatment Amendment Act](#) (Act 25-0173, B25-0034) requires fully insured individual and large group health plans to cover infertility diagnosis and treatment, including in vitro fertilization and standard fertility preservation services. The law will take effect Jan. 1, 2025. Washington, DC, applies its insurance laws on an extraterritorial basis for city residents covered by fully insured plans issued in another state.

## Other benefit-related issues

Temporary employees in Illinois are now entitled to pay and benefit parity with comparable employees at client companies. Many Chicago-area employers will soon have to offer commuter benefits. San Francisco and Seattle have posted 2024 benefit rates under each jurisdiction's health benefit mandates. A California law broadens the scope of confidential medical information protections. A Missouri law expands the use of telehealth.

## California

Enactment of [2023 Ch. 254](#) (AB 254) expands the [Confidentiality of Medical Information Act](#) definition of medical information to include reproductive or sexual health information collected by a digital service (e.g., mobile-based app or website). The law will take effect Jan. 1, 2024.

### California — San Francisco

San Francisco has [posted](#) its 2024 Health Care Expenditure rates under the Health Care Security Ordinance (HCSO), applicable to employers with a San Francisco business registration certificate and at least 20 employees nationally. The rates are as follows:

Employer size	Number of workers worldwide	2023 expenditure rate	2024 expenditure rate
Large	All employers with 100+ workers	\$3.40 per hour	\$3.51 per hour
Medium	Businesses with 20–99 workers Nonprofits with 50–99 workers	\$2.27 per hour	\$2.34 per hour
Small	Businesses with 0–19 workers Nonprofits with 0–49 workers	Exempt	Exempt

The HCSO exemption threshold for managerial, supervisory and confidential employees will remain at \$121,372 per year. Special rules apply to self-funded plans. For details, see [San Francisco posts 2024 Health Care Expenditure rates](#), Aug. 25, 2023.

## Illinois

The [Day and Temporary Labor Services Act](#) was amended by [2023 Pub. Act 103-0437](#) (HB 2862) to require pay and benefits parity for temporary employees working more than 90 calendar days at a client company. Temporary employees must be compared with the lowest paid person at the client company performing same or substantially similar work or an employee with the closest level of seniority. A temporary agency may provide an hourly cash equivalent in lieu of providing comparable benefits. Client companies must timely provide necessary information. The law took retroactive effect on July 1. The state’s Department of Labor issued [emergency and proposed regulations](#), [FAQs](#), a [sample employment notice](#), and related resources.

### Illinois — Chicago area

The [Transportation Benefits Program Act](#) (2023 Pub. Act 103-0291, HB 2068) requires covered employers in the Chicago area to offer a transportation plan compliant with 26 USC § 132(f) or participate in a program offered by the Chicago Transit Authority or Regional Transit Authority. Covered employers have at least 50 full-time (35+ hours per week) employees working in Cook County or the surrounding area within one mile of fixed-route transit service. Employers may impose a 120-day waiting period for new hires. A CBA exception applies. The law will take effect Jan. 1, 2024. For other information on transportation plans, see [Transportation plans offer valued benefits but pose compliance issues](#), Nov. 14, 2023.

## Missouri

A new law ([SB 70](#)) authorizes the state to extend licensing reciprocity to out-of-state physicians, professional counselors, and various social workers and to join compacts with other states, thus expanding access to services via telehealth and other means. The physician and social worker compacts will take effect when the seventh state adopts them; the professional counselor compact will take effect when the 10th state adopts that compact.



## Oregon

Only Arkansas, Oregon and Virginia currently operate state-based exchanges on the federal platform. Effective Nov. 1, 2026, [2023 Ch. 585](#) (SB 972) authorizes Oregon to switch its own platform.

## Washington — Seattle

Seattle has [announced](#) the 2024 monthly rates for medical care that covered hotel industry employers must make to or on behalf of each covered employee. Rates are based on family status:

Monthly expenditure rates (by coverage tier)	2023	2024
Employee only	\$518	\$530
Employee with only dependents	881	902
Employee with only a spouse or domestic partner	1,036	1,062
Employee with a spouse or domestic partner and one or more dependents	1,555	1,592

[Mun. Code Ch. 14.28](#) applies to most businesses that own, control, or operate a Seattle hotel or motel with 100 or more guest rooms and to “ancillary hotel businesses” with 50 or more employees worldwide.

## Related resources

### Mercer Law & Policy resources

- [Transportation plans offer valued benefits but pose compliance issues](#) (Nov. 14, 2023)
- [Minnesota adopts paid sick and safe leave requirement](#) (Sept. 27, 2023)
- [Massachusetts sets 2024 individual-mandate coverage dollar limits](#) (Sept. 18, 2023)
- [Maine paid family and medical leave overview](#) (Sept. 12, 2023)
- [Maine law requires paid family and medical leave](#) (Sept. 11, 2023)
- [San Francisco posts 2024 Health Care Expenditure rates](#) (Aug. 25, 2023)
- [Maryland paid family and medical leave overview](#) (July 25, 2023)
- [Maryland revises paid family and medical leave](#) (May 25, 2023)
- [Roundup of selected state health developments, first-quarter 2023](#) (May 19, 2023)
- [Is ERISA preemption at risk of being preempted?](#) (Feb. 23, 2023)
- [Roundup of selected state health developments, fourth-quarter 2022](#) (Feb. 17, 2023)

- [2023 state paid family and medical leave contributions and benefits](#) (Feb. 1, 2023)
- [Roundup of selected state health developments, third-quarter 2022](#) (Nov. 4, 2022)
- [Roundup of selected state health developments, second-quarter 2022](#) (Aug. 22, 2022)
- [Delaware enacts paid family and medical leave law](#) (July 7, 2022)
- [Oregon's paid family and medical leave contributions delayed to 2023](#) (Aug. 5, 2021)
- [Massachusetts readies for paid family and medical leave](#) (Jan. 13, 2020)
- [New Jersey updates, expands family and disability benefits](#) (March 26, 2019)

## Other Mercer resources

- [Life, absence and disability benefits](#)
- [MercerRx](#)

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