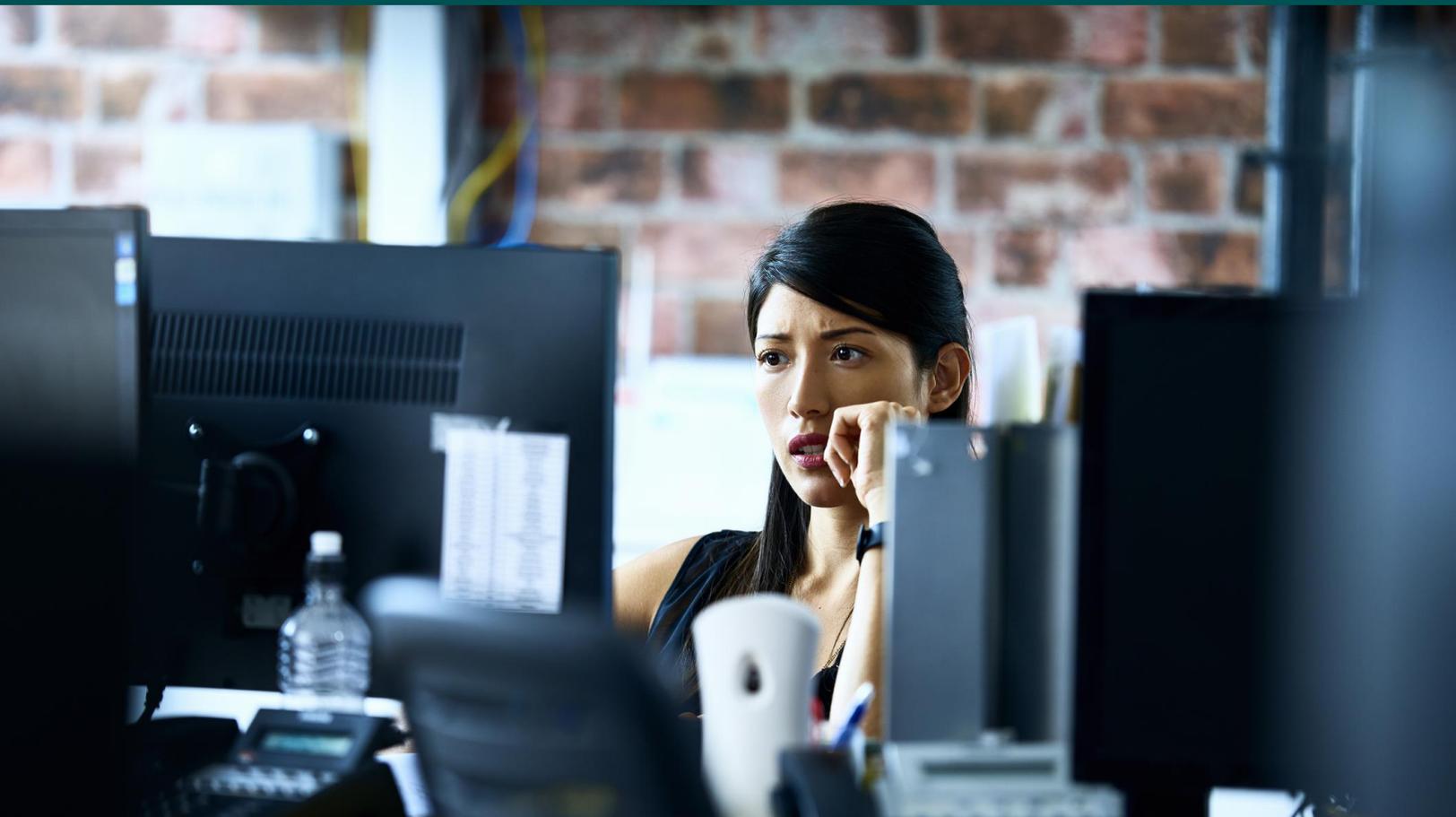




Keeping Up with Compliance



Efficiently managing an ever-changing regulatory landscape

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COVID-19 one year later

Vaccines, relief, safety, and its impact on employers

It's been a year since the first stay-at-home orders began rolling out, and the COVID-19 pandemic is still having a dramatic impact on many organizations – particularly on their HR teams. The good news, though, is that we've continued evolving how we fight the virus, and more tools are now available to help you support your people and create safe work environments. Here's the latest roundup of COVID-related issues impacting businesses so you can stay in the know and explore the resources available.

Please note – the information provided below is not legal or tax advice. Organizations should always consult their legal counsel to understand how various policies and regulations may impact their organization.

Vaccines and your people

With COVID-19 vaccines becoming more widely available, employers need to establish their vaccine strategy and approach now before things hit critical mass. Of course this leads to some big questions – should we encourage employees to get vaccinated? Should we require them to? How should we communicate this to them?

Here are a few things for HR teams to consider when managing vaccination policies.

Building a communication strategy

During the COVID-19 pandemic, [trust in governments worldwide has dropped significantly while trust in businesses has increased](#).

This means that many of your employees are looking to you for vaccine education – and what you say will be highly impactful.

It's important to start by taking time to [develop a strategic communications plan](#) that provides comprehensive vaccine education and delivers relevant and meaningful messages to different teams, areas of the business, and/or demographics. Regardless of the steps you decide to take with vaccines, you need a clear and intuitive way of telling your people about your decisions.

Watching state mandates

Keep an eye on state regulations and how they may impact your organization's vaccine policy. Some states, [like New York](#), may require employers to provide paid leave for employees who get vaccinated. Others already have policies in place that govern vaccines and if/when an employer may



After a year of battling COVID-19 and with widespread vaccine access on the horizon, the regulatory landscape and considerations for workplace safety look very different than when the pandemic first began.

need to provide paid leave or include time spent getting vaccinated as working hours.

The point here is that beyond formulating your own organization-specific plans, you need to be able to quickly handle regulatory requirements. As we've seen [multiple times in the past](#), this crisis has increased the speed with which these changes happen so it pays to be informed.

Evaluating other organizations' vaccine policies

Some organizations have recently made announcements around their vaccine policies. Some are offering paid time off to their employees, like [Target](#) and [Olive Garden](#), while others are offering monetary incentives, like [Kroger](#).

It's important to understand that (at the time of this writing) there has been little guidance from the federal government around company incentives and COVID-19 vaccines. Regardless of the policy that your organization establishes, there are two items that will be critical to consider:

1. The potential tax implications of offering additional paid leave or monetary incentives – especially around [calculating overtime premiums](#)
2. Accommodations for employees who can't get vaccinated for reasons such as medical or religious restrictions, etc. – especially for organizations who choose to encourage employees to get vaccinated with special incentives

For example, while Kroger is offering a monetary incentive to employees who get vaccinated, they're also offering that same incentive to employees who can't get vaccinated if they complete an educational health and safety course. Make sure you have the flexibility to include these kinds of options if you go down this path.

Learn from the policies other organizations have enacted around vaccines while also ensuring you stay up on the latest regulatory standards affecting your company.



Relief and employee safety

On March 11th, the American Relief Plan (ARP) Act was signed into law. This Act includes a number of measures to provide relief to individuals and businesses. Here are a few things that may impact HR teams.

Family and sick leave credits

While employers have had the option of continuing to offer paid family and sick leave credits under the [Families First Coronavirus Response Act \(FFCRA\)](#) since December 31st, 2020, the ARP Act makes a few changes to the credits, including:

- Extending FFCRA credits to Sept. 30, 2021
- Increasing the limit on the credit for paid family leave to \$12,000
- Increasing the number of days a self-employed individual can take into account in calculating their qualified family leave equivalent from 50 to 60
- Allowing paid leave credits for leave related to a COVID-19 vaccination
- Resetting the limit on the overall number of days taken into account for paid sick leave after March 31, 2021
- Expanding credit eligibility to allow 501(c)(1) governmental organizations to take them

The American Rescue Plan also expands the definition of qualifying [paid family leave](#) to allow a business to claim family leave payroll tax credits for all qualifying uses of paid sick time, including

for leave provided if the employee is subject to a quarantine or isolation order due to COVID-19 or is caring for someone in a comparable situation.

Employee retention credit

Eligible organizations can receive a refundable tax credit on employee wages and the employer portion of health benefits. This was part of the [original CARES Act legislation](#) that was passed in April 2020.

Originally this credit was set to expire after June 30th, but the ARP Act now extends the employee retention credit through the end of 2021.

Updated safety guidance

OSHA recently updated its guidance around how vaccines fit into an effective workplace COVID-19 prevention program.



And the organization recommends that employers make vaccines available at no cost to all eligible employees, providing information and training on the benefits and safety of vaccinations, and uniformly applying safety standards and protective measures (for instance, wearing face coverings and social distancing), to both vaccinated and unvaccinated employees.

OSHA also received increase funding to investigate employers who do not have or do not enforce COVID safety measures, so it's important for organizations to continue to adhere to [COVID safety guidelines](#).

Conclusion: The bottom line is adapting to fast-paced change is still critical

Even with a full year of COVID-19 experience under our belts, the pace of regulatory change and workplace safety standards evolving won't slow down anytime soon. That's why it's critical to have the right HR technology supporting your HR team and wider organization. Leveraging a flexible solution to support your vaccine strategy is critical to keeping your people safe and informed, while keeping your business moving forward.

If you're exploring how you can support your organization's continued COVID-19 response, including supporting vaccine tracking and employee communications, I invite you to [assess the ways HR technology can add value](#) and help smooth out these processes.



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RELATED CONTENT

- [Return to Business and Post-Pandemic Planning Checklist](#)
- [Achieving operational well-being in 2021](#)
- [Managing money stress and its impact on employees](#)

Learn how modern HR technology helps manage your response to change.

SEE THE VALUE

What HR can and can't enforce

when employees return to work

As COVID-19 stay-at-home orders are being lifted or modified and more employees are returning to the workplace and resuming business operations, **it can be challenging for HR professionals to know what standards they should enforce with employees and what they can't** as they prepare their post-pandemic plans. The lines can get blurry, so here are some key areas to help point you in the right direction and ease the process of keeping everyone safe while also staying compliant with regulations.

Before we get started, it's important to note that any information contained in this article should not be considered legal advice, and it is important for every organization to have their own legal counsel review and interpret the regulations that their organization is subject to.

What HR can enforce

There are several areas where clear policies and guidelines have been defined for responding to the pandemic when you return to work. These are some examples of areas where you can put processes in place that align with these standards:

Official COVID-19 regulatory standards at different levels

Companies should continue to enforce current local, state, federal, and industry regulations, as well as newly introduced guidelines and regulations such as the Families First Coronavirus Response Act ([FFCRA](#)), the Coronavirus Aid, Relief, and Economic Security Act ([CARES](#)), the Consolidated Appropriations Act ([CAA](#)), and the American Relief Plan ([ARP](#)). It will also be important to stay current, keep up with regular updates, and follow current guidelines from organizations like the Centers for Disease Control ([CDC](#)) and Occupational Safety and Health Administration ([OSHA](#)).

Furthermore, the United States government issued guidelines to enable individual states to reopen in a phased approach, so it will be important to follow the reopening guidelines established for the states you employ people in.

Here are some options for how HR professionals can manage tracking and reporting of compliance with COVID-19 regulations:



The return to work is a delicate balance for HR. Safety is paramount, but can't be achieved at the cost of regulatory compliance or the employee experience.

- Adjust your policies and procedures to reflect changes and provide employees with relevant documentation on new developments.
- Adjust your compensation models and pay rules to reflect payroll protection regulations, stimulus packages, and loans that businesses now have access to.
- Adjust your OSHA reporting to reflect new OSHA workplace safety measures by using frameworks built into your HCM system.
- Automate the tracking of compliance with these new standards so you can keep your processes up to date and provide appropriate reporting.

Social distancing and personal protective equipment (PPE) orders

As employees return to the workplace and have greater risk of contact with others, employers will need to keep them safe physically. Each company will need to [determine what protections are required](#) for the safeguarding of their workforce.

Here are some options for how HR professionals can manage tracking and reporting of social distancing and PPE enforcement:

- Enable mobile punch options for [hourly workers](#) so they can easily clock in and out from their own mobile device. This will reduce their interactions with others and maintain social distancing protocols.
- Provide facial recognition technology to enhance safety measures and limit exposure to a device or time clock.
- Add or adjust [attestation processes](#) to address health-related questions, such as “Did you wash your hands?” or “Are you wearing your PPE?” This will allow you to automatically track whether employees are following proper safety standards to protect themselves and lower your risk of liability.
- Adjust OSHA tracking and reporting to reflect new OSHA workplace safety measures by using frameworks built into your HCM system.
- Track and report qualifiers for disaster relief when you apply through organizations such as FEMA or a state equivalent. If you take advantage of grants to cover reimbursable emergency costs, track how you spend that money by logging assets like PPE in your HCM system to reduce the risk of misspent funds.
- Automate the tracking of compliance with these new standards so you can keep your processes up to date.

Temperature and health checks

Many states, localities, industries, and public health officials have orders in place that require employers to get temperature screenings and/or monitor symptom screenings before their employees can report to work.

Here are some options for how HR professionals can manage monitoring and reporting of temperature and health checks:

- Adjust your incident definitions to track disease-related events and employees who have had exposure or symptoms.
- Protect your employees' rights and reduce the risk of violating other regulations as you try to meet new requirements, for example by ensuring you don't expose health information protected by HIPAA.
- Consider [remote work options](#) for employees who are reporting symptoms or are quarantined but still willing and able to work.

Sanitizing, cleaning, and disinfecting

As companies reopen, they are required to practice a sanitary environment by cleaning and disinfecting public spaces, workplaces, businesses and schools. Companies need to follow CDC guidelines to ensure their business, employees, and customers are as safe as possible so they can [reopen and remain open](#).

Here are some options for how HR professionals can manage tracking and reporting of sanitizing, cleaning, and disinfecting practices they implement:

- Set up a non-paid code in your [time and attendance system](#) to track when cleaning and disinfection occurred to ensure a sanitary environment.
- Track locations that have been cleaned and disinfected to ensure your company stays compliant.
- If your organization practices activity tracking, designate a specific activity type for cleaning and disinfecting.

HR technology can automate the process of measuring a variety of tasks related to workplace safety and cleanliness, and can make it easier to keep a pulse on employee health.



Contact tracing

Employers are responsible for understanding when employees or customers have been at risk of contact with COVID-19 to prevent and reduce its transmission. It is important monitor federal, state, and local public health communications for regulations, guidance, and recommendations to ensure the appropriate monitoring of exposure and risk to the organization. In many cases, these have taken the form of [contact tracing](#) guidelines.

Here are some options for how HR professionals can manage monitoring and reporting of contact tracing in their workplace:

- Implement [contact tracing tools](#) to help you track whether employees are taking the proper precautions, what health risks the organization may be exposed to, and what incidents have occurred to minimize risk.
- Develop a plan and monitor schedules for employees who may become ill to ensure proper coverage for productivity.
- Monitor employee absences and have flexible leave policies and practices.
- Ensure you are keeping information protected and staying compliant with EEOC, OSHA and HIPAA guidelines when tracking this information.

State and local paid family and medical leave regulations

If your employees are unable to work due to COVID-19 or have to care for an ill family member, you will need to follow Department of Labor ([DOL](#)) guidelines to verify if the leave is covered under the Family and Medical Leave Act. It will be equally important to enforce [state and local paid family and medical leave regulations](#) to ensure compliance.

Here are some options for how HR professionals can manage tracking and reporting of paid family and medical leave:

- Adjust accruals to account for unique forms of time off, including mandatory quarantine, required sick time, and time to care for sick family members.
- Adjust leave rules to track crisis-related leave types as they are happening, and [report on them](#) so you know how your organization is being affected.
- Automate leave administration and tracking of paid and unpaid federal, state, and employer-specific leave policies. Ensure your technology is configured to match the needs of your organization to maintain balances, reduce manual process errors, and control absence costs.



What you can't enforce

While there are many things that companies need to enforce, they also need to protect themselves from the things they can't enforce without violating employee rights protections and other similar compliance standards. Below are some areas to potentially watch.

Requests for family members' medical information

While companies can ask employees if they have been exposed to anyone diagnosed with COVID-19 or shown symptoms of the disease, according to the Genetic Information Nondiscrimination Act ([GINA](#)), they cannot ask employees for medical information about their family members.

Requests for family members' medical information

While companies have the right to set the terms and conditions of employment based on the needs of the business and/or for health and safety reasons, they cannot mandate employees to work from home because of perceived or actual disabilities. In addition, according to the Age Discrimination in Employment Act ([ADEA](#)) and the [ADA](#), companies cannot require employees who are a certain age, disability or other protected characteristics to stay home from work. This can set the company up for risks related to discrimination.

Targeting protected groups for health screening

While organizations may choose to screen employees based on high-risk roles or employees who interact with customers, they cannot select groups of employees based on characteristics related to age, sex, race, national origin, religion, or disability. Furthermore, according to the ADA, companies cannot disclose employees' personal medical information to other team members, but they can inform staff if someone in the company has tested positive or has symptoms of COVID-19.

Conclusion: Take care with reopening standards

As HR professionals prepare to reopen, there are a lot of things that need to be considered. The good news is your [HR technology can help you manage during a crisis](#) and prepare you when a next crisis hits. A unified HCM solution can help ensure that you are tracking and reporting on critical information in a timely and accurate manner.



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Teresa leads our HCM Strategic Advisory team at UKG. As a veteran HCM business consultant and IT professional, she loves connecting with technology's human side.

RELATED CONTENT

- [Who is the employee of the future, and how has COVID-19 changed them?](#)
- [2020 APA Payroll Trends Infographic](#)
- [The cost of doing nothing in payroll](#)

Manage through crisis
with HR technology.

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Managing state and local paid family and medical leave regulations

Keeping up with paid state leave can be challenging and confusing – this article will help you understand what paid family and medical leave is and what states currently have paid family and medical leave laws. It's important to note that any information contained in this article should not be considered legal advice, and it is important for every organization to have their own legal counsel review and interpret the paid family and medical leave laws that their organization is subject to.

What is family and medical leave?

Family and medical leave (a.k.a. FMLA, for the initial Family and Medical Leave Act that was passed by the federal government in 1993) entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave with the continuation of group health insurance coverage for specified family and medical reasons (in a 12-month period).

What is *paid* family and medical leave?

Unlike FMLA, which is unpaid and a federal regulation that applies to all states, paid family and medical leave provides employees with

compensation when they have to go on leave and, currently, [only certain states](#) have passed paid family and medical leave laws.

It's important to note – with the passing of the [Families First Coronavirus Response Act](#), certain organizations must provide paid family and medical leave to employees who are caring for family members or individuals who have contracted COVID-19. This is currently the only active paid family and medical leave regulation at the federal level.

How can organizations better manage tracking and compliance with paid family and medical leave regulations?

Organizations who leverage modern, cloud-based solutions for payroll, HR, and timekeeping can easily streamline leave tracking and support compliance with paid family and medical leave regulations through automatic compliance updates and user-friendly leave tracking tools. For example, UKG provides a single solution to support more effective leave management as part of our unified human capital management (HCM) systems.



Leave regulations vary by state, and sometimes even based on region. It's important to know which of these many different policies apply to your organization.

What paid family and medical leave laws apply in my location?

For more information on the specific paid family and medical leave laws at the state and district level, take a look at the list below. We've also included helpful links to the relevant state sites for more details.

California

Initial Effective Date: July 1, 2004

Employee Eligibility: Employees who have earned at least \$300 from which State Disability Insurance (SDI) deductions were withheld during base period.

Paid Leave Maximums: As of 2020, up to 8 weeks of paid family leave. Up to 52 weeks for an employee's own disability leave.

Qualifying Reasons: To care for a seriously ill family member or to bond with a new child entering the family through birth, adoption, or foster care placement (as of Jan. 1, 2021, this will also include a "qualifying exigency" related to the military duty of the employee's family member).

Funded By: Employee-only payroll deduction of 1 percent of the employee's first \$118,371.

[Official State Website](#)

Connecticut

Initial Effective Date: January 1, 2021 (premiums) and January 1, 2022 (benefits)

Employee Eligibility: Employees must earn at least \$2325 in the highest earning quarter within the base period (4 of the 5 most recently completed quarters). Earnings can be with one or multiple employers.

Paid Leave Maximums: Up to 12 weeks of paid leave, plus an additional 2 weeks if the employee experiences an incapacitating serious health condition that occurs during pregnancy.

Qualifying Reasons: Employees can use paid family and medical leave to deal with a serious health condition, care for a family member with a serious health condition, bond with a newborn, adopted, or fostered child, donate an organ or bone marrow, deal with a situation related to the military deployment of a family member, or handle situations related to family violence.

Funded By: Employee-only payroll deduction of 0.5% of each employee's gross wages, until the employee earns above the Social Security wage base.

[Official State Website](#)

Massachusetts

Initial Effective Date: October 1, 2019 (premiums) and July 1, 2021 (benefits)

Employee Eligibility: Employees must have earned at least \$5,100 in the previous 12 months.

Paid Leave Maximums: Up to 12 weeks for family leave, up to 26 weeks for caring for a covered service member, and up to 20 weeks for the employee's own disability leave.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, bond with a newborn child, bond with a child after adoption or foster care placement, management family affairs when a family member is on active duty in the armed forces.

Funded By: Employee-only payroll deduction is 0.75 percent of an employee's eligible wages with the option for employers to cover a portion or the entire premium.

[Official State Website](#)

New Jersey

Initial Effective Date: January 1, 2009

Employee Eligibility: Employee must have had at least 20 weeks of covered employment and earned at least \$200 each week or have earned at least \$10,000 during the base period.

Paid Leave Maximums: Up to 6 weeks of paid leave, increasing to 12 weeks on July 1, 2020 and up to 26 weeks for an employee's own disability leave.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, bond with a newborn, adopted, or foster child, or handle situations related to family violence.

Funded By: Employees and employers contribute to the cost of the temporary disability program. The contribution rate for employers varies from 0.10 percent to 0.75 percent. For 2020, employers contribute between \$35.30 and \$264.75 on the first \$35,300 earned by each employee during this calendar year. On January 1 of each year, the taxable wage cap changes.

[Official State Website](#)

New York

Initial Effective Date: January 1, 2018

Employee Eligibility: Full-time employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment. Part-time employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive. Employees with irregular schedules should look at their average schedule to determine if they work, on average, fewer than 20 hours per week.

Paid Leave Maximums: Up to 10 weeks of paid family leave, increasing to 12 weeks in 2021 and up to 26 weeks for an employee's own disability leave.

Qualifying Reasons: Employees can use paid family and medical leave to deal with a serious health condition, care for a family member with a serious health condition, bond with a newborn, adopted, or fostered child, or deal with a situation related to the military deployment of a family member.

Funded By: For 2020, an employee-only payroll deduction of 0.270 percent of an EE's gross wages each pay period, up to a maximum contribution of \$196.72 per year.

[Official State Website](#)

Oregon

Initial Effective Date: January 1, 2022 (premiums) and January 1, 2023 (benefits)

Employee Eligibility: Employees must have earned at least \$1,000 in wages during the base year or alternative base year and paid into the PFML Insurance Fund.

Paid Leave Maximums: Up to 12 weeks of paid leave, plus an additional 2 weeks if an employee experiences an incapacitating serious health condition that occurs during pregnancy.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, bond with a newborn, adopted, or foster child, or handle situations related to family violence.

Funded By: Joint funding by employee (40 percent) and employer (60 percent) payroll deductions; total contribution rate will not exceed 1 percent of the employee's first \$132,900 of wages earned. The premium rate will be adjusted annually.

[Official State Website](#)

Rhode Island

Initial Effective Date: January 1, 2014

Employee Eligibility: Employees must have worked for the state for a total of 12 months within the past 7 years, have worked 1,250 hours during the 12 months immediately preceding the first day of requested leave, and work at a worksite that has at least 50 state employees within 75 miles as of the date the employee gives notice of the need for leave.

Paid Leave Maximums: Up to 4 weeks for family leave and up to 30 weeks for the employee's own disability leave.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, or bond with a newborn, adopted, or foster child.

Funded By: Employee-only payroll deduction of 1.1 percent of the employee's first \$71,000 of wages earned.

[Official State Website](#)

Washington

Initial Effective Date: January 1, 2019 (premiums) and January 1, 2021 (benefits)

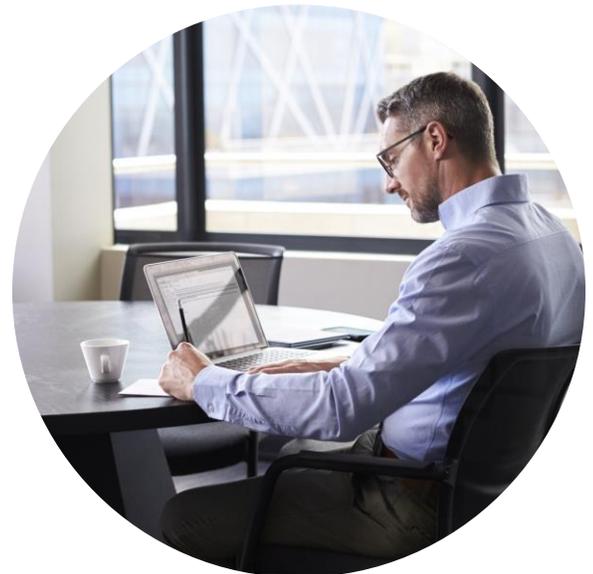
Employee Eligibility: Employee must have worked for at least 820 hours in four out of the five quarters prior to their leave application.

Paid Leave Maximums: Up to 12 weeks of paid leave, plus an additional 2 weeks if the employee experiences an incapacitating serious health condition that occurs during pregnancy.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, bond with a newborn child, bond with a child after adoption or foster care placement, or manage family affairs when a family member is on active duty in the armed forces.

Funded By: Joint funding by employee (63.333 percent) and employer (36.667 percent for employers with 50 or more employees) payroll deductions of 0.4 percent of the employee's first \$137,700 of wages earned.

[Official State Website](#)





Washington, DC

Initial Effective Date: July 1, 2020

Employee Eligibility: Employee must spend more than 50 percent of work time in DC for a covered employer or be based in DC and regularly spend a substantial amount of work time for the covered employer in DC and not more than 50 percent of work time for that covered employer in another jurisdiction, and must have been a covered employee for some or all of the 52 weeks preceding the covered event.

Paid Leave Maximums: Up to 8 weeks for parental leave, up to 6 weeks for family care, and up to 2 weeks for an employee's own serious health condition.

Qualifying Reasons: Employees can use paid family and medical leave to manage a personal serious injury or illness, care for a sick family member, or bond with a newborn, adopted, or foster child.

Funded By: Employer-only deduction of 0.62 percent of employee wages.

[Official District Website](#)

See how modern HR technology can help you manage complex leave requirements.

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- [5 important Consolidated Appropriations Act facts for HR and payroll pros](#)
- [Scheduling fairness: What it is and how to stay ahead of the curve](#)

Thanks for reading.

We hope you've gained some useful insights around managing the ever-shifting landscape of regulatory compliance after exploring these great articles. If you have any questions about next steps with your HR and payroll administration strategies, UKG is here to help. We look forward to helping you, your organization, and most importantly your people succeed as you move into the future.

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