Always Designing for People™

Eye on Washington

Detailed Look at State, Local and Federal Updates

Timely, topical insights on a variety of payroll and reporting issues.

Topics covered in this issue:

State/Territory/District

Alaska Eliminates Minimum Wage Exception for Workers with Disabilities

Alaska has enacted **Senate Bill 185** (SB 185) which eliminates the use of the subminimum wage for workers with disabilities. SB 185 is effective December 12, 2022.

The Details:

SB 185 amends Alaska Stat. § 23.10.070 by eliminating the commissioner's authority to provide a subminimum wage for "an individual whose earning capacity is impaired by physical or mental deficiency, age, or injury."

Next Steps:

As of December 12, 2022, Alaska employers must pay workers with disabilities at least the state minimum wage of $10.34 per hour.

California Expands CalSavers/Retirement Plan Requirement to All Employers

California has enacted legislation (Senate Bill 1126) that requires employers with four or fewer employees to either register with CalSavers or offer a qualifying employer-sponsored retirement plan by **December 31, 2025**. Larger employers are already subject to the requirement.

The Details:

CalSavers is a state-based payroll withholding savings program using Roth (post-tax) individual retirement accounts.

By December 31, 2025, employers with four or fewer employees must either register with CalSavers or offer a qualifying employer-sponsored retirement plan. If employers choose the former, they must register using one of the following methods:

- Via the program's **website** (employer.CalSavers.com);
- By phone (855-650-6916);

- By overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459); or
- By regular mail (CalSavers, P.O. Box 55759, Boston, MA 02205-5759).

To register, an eligible employer must provide the following information:

- Employer name, legal name and "doing business as" name, if applicable;
- Federal Employer Identification Number or, if unavailable, the California Employer Payroll Tax Account Number;
- Employer mailing address;
- Employer physical address; and
- Name, title, phone number and email address of an individual designated by the employer as the primary contact for the program.

Within 30 days of registration (or within 30 days of the date of hire for employees hired after registration), employers must provide the following information to the program for each eligible employee:

- Full legal name;
- Social Security Number or Individual Taxpayer Identification Number;
- Date of birth;
- Physical address;
- Phone number, if available; and
- Email address(es), if available.

Note: An employee is defined as an individual who has the status of an employee under the California Unemployment Insurance Code and who receives a W-2 with California wages. An eligible employee is an employee of an eligible employer and the employee must be at least 18 years of age.

Eligible employees are entitled to a CalSavers information packet. The program is responsible for distributing the packet to the employee and will do so within 10 days of receipt of the employee's information.

Employers must remit to the program each employee's contribution each payroll period.

Next Steps:

If you have four or fewer employees, either register with CalSavers or offer a qualifying employer-sponsored retirement plan by December 31, 2025.

California Extends COVID-19 Supplemental Paid Sick Leave Requirement

California's Governor has signed AB 152 which extends COVID-19 Supplemental Paid Sick Leave (SPSL) through December 31, 2022, for employers with 26 or more employees. AB 152 amends the existing SPSL law and provides for state grants to certain employers that provide such leave.

The Details:

SPSL Continues to be Available but a New Bank of Time is not Required:

The SPSL law was set to expire on September 30, 2022, but AB 152 extends it through December 31, 2022. As a result, through December 31, 2022, employers with 26 or more employees must continue to provide up to 80 hours total of COVID-19 supplemental paid sick leave. Importantly, AB 152 does not provide an additional bank of time to those employees who may have already exhausted their allotted SPSL for the year.

Changes to Employee Testing:

Existing law allows an employer to require submission to a diagnostic test on or after the fifth day an employee reports testing positive for COVID-19.

Under AB 152, if the diagnostic test is positive, the employer may also require the employee to submit to a second diagnostic test within no less than 24 hours. The employer must make all of these tests available at no cost to the employee.

AB 152 also provides that an employer has no obligation to provide additional paid leave if an employee refuses to comply with the employer's required return-to-work diagnostic tests.

Wage Statement Requirements Continued:

Existing law requires employers to provide employees with written notice that sets forth the amount of SPSL the employee has used through the pay period in which it was due to be paid, either on an itemized wage statement or in separate writing provided on the designated pay date. SPSL must be set forth separately from paid sick leave. Employers must list zero hours used if the employee has not used any COVID-19 supplemental paid sick leave. AB 152 continues this requirement.

New Grant Program:

AB 152 establishes a new grant program through which certain small employers and nonprofit employers can seek reimbursement if they provide covered leave during 2022. The maximum reimbursement amount is $50,000. The grant program will be implemented by the California Office of the Small Business Advocate (CalOSBA). Applicants must provide proof of employee payroll records that verify all COVID-19 supplemental paid sick leave provided by the applicant under the law that match the amount of the grant request.

To be eligible for reimbursement under the program, California employers must meet all of the following requirements:

- Are one of the following:
  a. A "C" corporation, "S" corporation, cooperative, limited liability company, partnership or limited partnership; or
  b. A registered 501(c)(3), 501(c)(6) or 501(c)(19).
- Began operating before June 1, 2021.
- Are currently active and operating.
- Have 26 to 49 employees and provide payroll data and an affidavit, signed under penalty of perjury, attesting to that fact.
- Provided COVID-19 supplemental paid sick leave in accordance with the law in 2022.
- Submit organizing documents, including a 2020 or 2021 tax return or Form 990, and a copy of an official filing with the Secretary of State or with the local municipality.

Certain employers are specifically excluded from the program. See the **text of the law** for details.

Next Steps:

Covered employers should:

- Read the **text of the law** in full and ensure compliance.
- Post an updated **workplace notice** once published by the state.
- Continue complying with the wage statement/notice requirements for pay periods through December 31, 2022.
- Review and revise policies, forms, and practices to reflect the extension and other changes.
- Consult legal and tax advisors for assistance in determining whether your business is eligible for reimbursement from the state for COVID-19 supplemental paid sick leave provided in 2022.

California Amends Pay Transparency and Pay Data Reporting Rules

California has enacted Senate Bill 1162, which amends the requirements for employers regarding pay transparency and pay data reporting. Senate Bill 1162 takes effect January 1, 2023. ADP is in the process of reviewing our reporting capabilities to help support clients who need to retrieve employee-level data necessary to file a pay data report.

Pay Transparency:

Under Senate Bill 1162, effective January 1, 2023:

- Upon request, all employers must:
  - o Provide an employee with the pay scale for their current position; and
  - o Provide an applicant with the pay scale for the position for which they applied (previously provided upon request after an initial interview).
- All employers must retain records of a job title and wage rate history for each employee. The records must be kept for the duration of employment plus three years after the end of employment.
- An employer with 15 or more employees must include the pay scale for a position in any job posting. If the employer engages a third party to announce, post, or publish a job posting, the employer must provide the pay scale to the third party. The third party is required to include the pay scale in the job posting.

Note: Pay scale is defined as a salary or hourly wage range.

Penalties:

Violations of the law may result in penalties ranging from $100 to $10,000 per violation. For first violations of the job posting requirement, no fine will be assessed if the employer demonstrates that all job postings for open positions have been updated to include the pay scale as required. Individuals may also bring civil actions against an employer.

Pay Data Reporting:	
Existing Law	**Senate Bill 1162**
A private employer that has 100 or more employees and is required to file an annual Employer Information Report (EEO-1) under federal law must submit a pay data report to the state on or before March 31 each year.	A private employer that has 100 or more employees must submit a pay data report, covering the prior calendar year, to the state on or before the second Wednesday of May each year, beginning May 10, 2023.
	A private employer that has 100 or more employees hired through labor contractors within the prior calendar year must submit a separate pay data report to the state covering those employees. The private employer must also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor must supply all necessary pay data to the private employer.
The pay data report must include the following information: • The number of employees by race, ethnicity and sex in each of the following job categories: o Executive or senior-level officials and managers o First or mid-level officials and managers o Pofessionals o Technicians o Sales workers o Administrative support workers o Graft workers o Operatives o Laborers and helpers o Service workers	The pay data report must also include the median and mean hourly rate for each combination of race, ethnicity and sex within each job category.

Pay Data Reporting:	
For employers with multiple establishments, the employer must submit a report for each establishment and a consolidated report that includes all employees.	For employers with multiple establishments, the employer must submit a report covering each establishment. These employers are no longer required to submit a consolidated report.
An employer can comply with the requirement if they submit a copy of their EEO-1 Report, containing the same or substantially similar pay data information required.	Employers can no longer comply by submitting a copy of their EEO-1 Report in lieu of a CA pay data report.
Employers may be responsible for the costs associated with the state's efforts to enforce compliance.	Employers that fail to file the required report may be fined up to $100 per employee, and up to $200 per employee for a subsequent failure to file. Employers may also be responsible for the costs incurred with the state's efforts to enforce compliance.

Next Steps:

- Review policies and procedures to ensure compliance with the applicable provisions of Senate Bill 1162.
- Train supervisors on how to respond to employee requests for their pay scales.
- ADP is in the process of reviewing our reporting capabilities to help support clients who need to retrieve employee-level data necessary to file a pay data report. We will provide updates soon.

California Expands Paid Sick Leave and CFRA Leave

California has enacted legislation (Assembly Bill 1041), which will allow employees to use paid sick leave and California Family Rights Act (CFRA) leave to care for a "designated person." Assembly Bill 1041 takes effect January 1, 2023.

Note: The state's paid sick leave law applies to all employers. The CFRA applies to employers with five or more employees.

The Details:

Existing Law	Effective January 1, 2023
Paid sick leave: Among other reasons, eligible employees may take up to 24 hours or three days (whichever is more) of paid sick leave to care for a family member, which is defined as a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling.	**Paid sick leave:** The definition of a family member expands to also include a designated person. For the purposes of paid sick leave, a "designated person" is a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days.
CFRA: Among other reasons, eligible employees may to take up to 12 workweeks in any 12-month period to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner with a serious health condition.	**CFRA:** Eligible employees may also use CFRA leave to care for a designated person with a serious health condition. For the purposes of the CFRA, a designated person is any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

Next Steps:

- Ensure policies, forms and practices comply with the amended laws.
- Train supervisors on the changes.

California Modifies Garnishment Maximum Withholding Amount

California has enacted Senate Bill 1477 which modifies the maximum amount of an individual's disposable earnings subject to levy when required to enforce a money judgment.

The Details:

Effective September 1, 2023, the maximum amount of disposable earnings of a judgment debtor for any workweek that is subject to levy must not exceed the lesser of 20 percent of the individual's disposable earnings for that week or 40 percent of the amount by which the individual's disposable earnings for that week exceed 48 times the state minimum hourly wage.

Current law provides that the maximum amount of a judgment debtor's disposable earnings for any workweek that is subject to levy shall not exceed 50 percent of the amount by which the disposable earnings for the week exceed 40 times the state minimum hourly wage.

Next Steps:

As of September 1, 2023, California employers, when required to enforce a money judgment on an employee, must not withhold in excess of the lesser of 20 percent of the individual's disposable earnings for that week or 40 percent of the amount by which the individual's disposable earnings for that week exceed 48 times the state minimum hourly wage.

California to Require Bereavement Leave

California has enacted legislation (Assembly Bill 1949) that will require employers with five or more employees to offer bereavement leave. Assembly Bill 1949 takes effect **January 1, 2023**.

The Details:

Eligible employees are entitled to use up to five days of bereavement leave upon the death of a family member. The days of bereavement leave need not be consecutive, but the leave must be completed within three months of the date of death of the family member.

Under the law, a family member is a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law as **defined by these terms**.

To be eligible for bereavement leave under the law, an employee must work for the employer for at least 30 days before the start of the leave.

Note: An employee's right to bereavement leave is separate and distinct from any right under the California Family Rights Act.

Documentation:

An employer may request that an employee provide documentation of the death of the family member. If requested by the employer, the employee must provide the documentation within 30 days of the first day of the leave. Under the law, documentation includes, but isn't limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

Confidentiality:

Employers must maintain the confidentiality of any employee requesting leave under the law. Any documentation provided to the employer must be maintained as confidential and must not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

Pay During Leave:

Unless the employer has an existing paid bereavement leave policy, the leave provided under Assembly Bill 1949 may be unpaid, but employees are entitled to use accrued sick leave or other paid time off for this purpose.

If the employer has an existing paid bereavement leave policy, the employer must continue to offer the same number of days of paid bereavement if five or fewer. For example, if an employer's existing policy calls for three days of paid bereavement leave:

- The employer must continue to offer three days of paid leave.
- The remaining two days of bereavement leave can be unpaid if the employee doesn't elect to use accrued sick leave or other paid time off for this purpose.

Retaliation Prohibited:

Employers are prohibited from taking adverse action against an individual because:

- They exercise the right to bereavement leave.
- They give information or testimony as to their own bereavement leave, or another person's bereavement leave, in an inquiry or proceeding related to rights guaranteed by the law.

Next Steps:

- Review policies, forms and practices to ensure compliance with Assembly Bill 1949.
- Train supervisors on the new law and how to handle leave requests.

Colorado Issues Final Rules on Paid Family and Medical Leave

Colorado has issued final rules addressing employer participation requirements and benefits under the state's paid family and medical leave insurance program. The final rules take effect on **October 15, 2022**.

Employers can also meet the legal requirements through a private plan, as opposed to the public, state-run plan. The rules on private plans have not been adopted at this time but in general a private plan must provide equal or greater benefits and protections than the public plan.

All employers will need to collect and remit premiums under the public program beginning Jan. 1, 2023, even if the employer intends to meet the requirements through a private plan. However, employers will be eligible for a refund of these premiums if they have received approval by the state for a private plan with an effective date on or before Jan. 1, 2024.

The focus of this update is on the public plan option.

The Details:

By way of background, beginning January 1, 2024, eligible employees may receive up to 12 weeks of leave and wage-replacement benefits in a 12-month period for the following purposes:

- To care for their own serious health condition;
- To care for a new child during the first year after the birth, adoption, or placement through foster care of that child;
- To care for a family member with a serious health condition;
- Because of any qualifying exigency arising out of the fact that a family member is on active duty (or has been notified of an impending call or order to active duty) in the armed forces; and
- When the employee or their family member is a victim of domestic violence, stalking, or sexual assault.

Note: Employees with a serious health condition related to pregnancy or childbirth complications may take up to an additional four weeks (16 weeks in total).

Employees must make a reasonable effort to schedule leave to avoid unduly disrupting the employer's operations. When the need for leave is foreseeable, an employee must provide at least 30 days' notice to their employer. If the necessity for leave isn't foreseeable, the employee must provide the notice as soon as practical.

Employers must:

- Post **a notice** on the program in the workplace; and
- Notify employees about the program in writing at the time of hire and when they learn that an employee is experiencing an event that would trigger such leave.

Final Rules:

The final rules define various terms and clarify issues related to benefits and employer participation requirements. Here are some examples:

Employer Participation Requirements:

The final rules require employers to register with the Division of Family and Medical Leave Insurance (DFMLI) via "MyFAMLI+ Employer" by January 1, 2023, or when they become an employer, whichever occurs later.

Employers must submit wage reports to the DFMLI via "MyFAMLI+ Employer" on the same quarterly schedule as they submit premiums. If an employer fails to submit timely wage reports, the DFMLI may assess a fine of up to $50 per employee whose wages weren't reported.

Employee Eligibility:

To be eligible for benefits, employees must earn $2,500 during their "base period." The final rules clarify that this $2,500 threshold can be met from any combination of employers, and it need not include their current employer.

Serious Health Condition:

The state will generally use the federal Family and Medical Leave Act's provisions regarding "serious health condition" to determine whether an employee's or family member's condition qualifies.

Applying for Benefits:

To request benefits, the employee must apply to the DFMLI. Applications may be submitted up to 30 days prior to the benefit start date. The DFMLI will notify the employer of the application submission within five business days. If the need for leave is unforeseeable, applications may be submitted up to 30 days after the leave has begun.

Employee Notice to Employer:

The final rules clarify that employee notice to the employer doesn't need to include any specific terms or reference specific provisions of the paid family and medical leave law or its implementing regulations, but the notice must reasonably implicate qualifying leave under the law. Employers may require the notice to contain the anticipated start time, anticipated duration and, where applicable, anticipated frequency of leave.

Notification must be in the same manner as the employee and employer typically communicate work availability and, absent unusual circumstances, must comply with the employer's usual and customary notice and procedural requirements for leave. That is unless those requirements are contrary to rights, benefits, or protections afforded to the claimant under the law and its implementing regulations.

Note: If employers fail to post the required notice about the program, they are prohibited from taking adverse action against employees who fail to provide notice.

Rolling Twelve Months:

To determine the amount of leave an employee has available, a 12-month period that is measured backward from the date an employee uses paid family and medical leave benefits must be used. Under this "rolling" 12-month period, each time an employee takes paid family and medical leave, the remaining leave entitlement would be the balance that hasn't been used during the immediately preceding 12 months.

Fitness For Duty Certifications:

The final rules clarify that employers aren't prohibited from requiring an employee to provide certification of their fitness for duty prior to returning to work from paid family and medical leave, provided it isn't used to discriminate, retaliate, or interfere with the employee's rights.

Next Steps:

- Register with "MyFAMLI+Employer" by January 1, 2023 once the site goes live.
- Withhold premium payments and submit quarterly wage reports beginning January 1, 2023.

Visit the CO Department of Labor and Employment's **website** for more information.

Connecticut Expands Anti-Discrimination Law

Connecticut has enacted legislation (Senate Bill 5), which expands the state's nondiscrimination law to cover all employers and extends additional protections to victims of domestic violence. The changes are effective October 1, 2022.

The Details:	
Existing Law	Effective October 1, 2022
Employers with three or more employees are prohibited from discriminating against any individual because of their race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, physical disability, or status as a veteran.	All employers are prohibited from discriminating against any individual because of their race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, mental disability, intellectual disability, learning disability, physical disability, status as a veteran, or status as a victim of domestic violence. • All employers are prohibited from denying a reasonable leave of absence to employees so they can: • Seek attention for injuries caused by domestic violence, including for a child who is a domestic violence victim, so long as the employee isn't the perpetrator; • Obtain services, including safety planning, from a domestic violence agency or rape crisis center; • Obtain psychological counseling, including for a child, so long as the employee did not commit domestic violence against the child; • Take other actions to increase safety from future incidents, including temporary or permanent relocation; or • Obtain legal services, assist in the offense's prosecution, or otherwise participate in related legal proceedings.
	Employers with three or more employees must post information concerning domestic violence and the resources available to victims of domestic violence in the state. The Connecticut Commission on Human Rights and Opportunities is expected to provide a sample notice.

An employee who is absent from work for a covered reason must, within a reasonable time after the absence, provide a certification if requested by the employer. The certification must be in the form of:

- A police report indicating that the employee or the employee's child was a victim of domestic violence;
- A court order protecting or separating the employee or employee's child from the perpetrator of an act of domestic violence;
- Other evidence from the court or prosecuting attorney that the employee appeared in court; or
- Documentation from a medical professional, domestic violence counselor, or other healthcare provider that the employee or the employee's child was receiving services, counseling, or treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

Where an employee has a physical or mental disability resulting from an incident or series of incidents of domestic violence, the employee must be treated in the same manner as an employee with any other disability.

To the extent permitted by law, employers must maintain the confidentiality of any information regarding an employee's status as a victim of domestic violence.

Domestic violence includes incidents resulting in physical harm, bodily injury, assault or an act of threatened violence between family or household members. It also includes stalking, threatening behavior, or coercive control.

Note: Employers with three or more employees must also coordinate compliance with the Connecticut Family Violence Leave Act (CFVLA). The CFVLA requires employers with three or more employees to give employees who are victims of family violence up to 12 days per calendar year of unpaid leave from work to:

- Seek medical care or counseling for physical or psychological injury or disability;
- Obtain services from a victim services organization;
- Relocate because of family violence; or
- Participate in any civil or criminal proceeding related to or resulting from family violence.

Next Steps:

- Post the required notice.
- Review leave policies and procedures to ensure compliance with Senate Bill 5.
- Train supervisors on how to handle leave requests.

District of Columbia Expands Paid Family Leave Program

The expansion of the District of Columbia's paid family leave benefits took effect October 1, 2022. The changes could have taken effect **as soon as July 1, 2022**, but they were delayed until October 1, 2022.

The Details:

Effective October 1, 2022, eligible employees will be entitled to more weeks of paid family leave. They will be able to receive a maximum of:

- 12 workweeks (up from eight workweeks) of paid parental leave benefits within a 52-workweek period for bonding associated with:
  - The birth of a child;
  - The placement of a child for adoption or foster care; or
  - The placement of a child for whom the employee legally assumes and discharges parental responsibility.
- 12 workweeks (up from six workweeks) of paid family leave benefits within a 52-workweek period to provide care or companionship to a family member with a serious health condition.
- 12 workweeks (up from six workweeks) of paid medical leave benefits within a 52-workweek period for their own serious health condition.

Eligible employees are entitled to up to two workweeks of paid leave benefits for prenatal medical care. This is the same amount as under current rules.

Generally, employees will be eligible to receive no more than 12 weeks of paid family leave benefits in a year, regardless of the number of qualifying events.

Note: Effective the quarter beginning July 1, 2022, the employer contribution rate decreased from 0.62 percent to 0.26 percent.

Next Steps:

- Amend leave policies and forms to reflect the changes.
- Post an updated notice in the workplace.
- Ensure the program information you are required to provide at time of hire, annually, and when leave is requested reflects the changes.

Delaware Prohibits Employers from Seeking Age-Related Info

Delaware has enacted legislation (Senate Bill 211) that expressly prohibits employers from asking applicants age-related questions on an initial application. Senate Bill 211 is effective immediately.

The Details:

Under Senate Bill 211, employers with four or more employees in the state are expressly prohibited from requiring or requesting applicants to disclose their age and date of birth on an initial employment application. Covered employers are also prohibited from requesting either the dates of attendance at or the date of graduation from an educational institution on an initial employment application.

Exceptions:

The law doesn't apply to an employer requesting or requiring such information:

- Based on a bona fide occupational qualification or need; or
- When such information is required to comply with any provision of state or federal law, or the requirements of any regulatory, licensing, or certifying body or organization.

For age to constitute "a bona fide occupational qualification or need" under the law, an employer must establish that age is an essential component of one's ability to successfully perform a particular job and is necessary to the normal operation of the business.

Next Steps:

- Review application forms and procedures to ensure compliance with Senate Bill 211.
- Train supervisors and others involved in the hiring process on the law.

Florida Releases Minimum Wage Poster

Florida has now released the poster required to be posted in the workplace regarding the minimum wage increase in the state.

The Details:

Effective September 30, 2022, the minimum wage in Florida was increased to $11.00 per hour for non-tipped employees and to $7.98 in cash wages for tipped employees.

Florida has released the **poster** informing employees of the minimum wage increase. The poster should be posted "where it can be easily viewed by employees." An employer found liable for intentionally violating minimum wage requirements is subject to a fine of $1,000 per violation.

Next Steps:

Florida employers should post the minimum wage notice as required as soon as possible.

Massachusetts PFML Rate for 2023 Released

The Massachusetts Department of Family and Medical Leave (DFML) has announced the 2023 contribution rates for the state's Paid Family and Medical Leave program.

The Details:

Paid Family and Medical Leave (PFML) is a state program that offers up to 26 weeks of paid leave for family or medical reasons to eligible employees (including former employees) in Massachusetts. PFML is funded through employee and employer contributions.

You may find additional information on the PFML here: **Employer's Introduction to Paid Family and Medical Leave | Mass.gov**

2023 - Employers with 25 or more covered individuals

Employers with 25 or more covered individuals will be required to remit a contribution to the DFML of **0.63 percent of eligible wages**. This contribution can be split between covered individuals' payroll or wage withholdings and an employer contribution. (In 2022, the rate is 0.68 percent).

For **Family Leave**, up to 100 percent of the family leave contribution can be withheld from a covered individual's wages (**0.11 percent of eligible wages**). (The rate is 0.12 percent in 2022).

For **Medical Leave**, up to 40 percent of the medical leave contribution can be withheld from a covered individual's wages (**0.208 percent of eligible wages**). Employers are responsible for contributing the remaining 60 percent (**0.312 percent of eligible wages**). (These rates in 2022 are 0.224 percent and 0.336 percent respectively).

2023 - Employers with fewer than 25 covered individuals

Employers with fewer than 25 covered individuals must remit an effective contribution rate of **0.318 percent of eligible wages**. This contribution rate is less because small employers are not required to pay the employer share of the medical leave contribution, reducing the total contribution amount. (The rate was 0.344 percent in 2022).

Small employers are responsible for remitting the funds withheld from covered individuals' earnings but are under no obligation to contribute themselves. However, they may elect to cover some or all of the covered individuals' share.

For **Family Leave**, up to 100 percent of the family leave contribution can be withheld from a covered individual's wages (**0.11 percent of eligible wages**). (The rate is 0.12 percent in 2022).

For **Medical Leave**, up to 100 percent of the medical leave contribution can be withheld from a covered individual's wages (**0.208 percent of eligible wages**). There is no employer share for employers with fewer than 25 covered individuals. (The rate in 2022 is 0.224 percent).

Next Steps:

Effective with wages paid in 2023, employers must adjust their withholding for the Massachusetts PFML as outlined above.

For a copy of the Massachusetts PFML announcement, please click on the following link:

Paid Family and Medical Leave employer contribution rates and calculator | Mass.gov

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New Jersey Releases New Workplace Impairment Guidance

The New Jersey Cannabis Regulatory Commission (NJCRC) has released guidance and provided a sample form to help employers address workplace impairment due to employee cannabis use.

Background:

In 2021, Governor Phil Murphy signed Assembly Bill 21, also known as the **New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act**, into law, which:

- Legalized adult use of recreational cannabis;
- Restricted an employer's ability to test for and take adverse action against an employee based upon an employee's off-duty cannabis use; and
- Created a Commission to train Workplace Impairment Recognition Experts (WIREs) to detect and identify workplace use or impairment and help investigate workplace accidents.

The Details:

The NJCRC has released new guidance on workplace impairment for employers, while it finishes its standards for WIRE certifications.

The new guidance clarifies the process for demonstrating physical signs or other evidence of impairment that are sufficient to support an employer's adverse employment action against an employee for the employee's suspected cannabis use or impairment during work.

Physical Signs of Impairment:

Under the guidance, an employer may use the following as physical signs or evidence to establish reasonable suspicion of cannabis use or impairment at work:

- A cognitive impairment test;
- A scientifically valid, objective, consistently repeatable, standardized and automated test of an employee's impairment; and/or
- An ocular scan.

The guidance clarifies that a scientifically reliable and objective method that tests for marijuana is, by itself, insufficient to take adverse employment action against an employee. However, the following may be sufficient to support adverse employment action:

- Drug test results showing cannabinoid metabolites in an employee's bodily fluids; and
- Evidence-based documentation that captures physical signs or other evidence of impairment during an employee's work hours.

Evidence-Based Documentation:

Employers may also designate an interim staff member or third-party contractor (designee) to assist in determining suspected cannabis use during an employee's work hours. This individual should be sufficiently trained to determine impairment and qualified to complete a Reasonable Suspicion Observation Report.

Reasonable Suspicion Observation Report:

Employers may use a Reasonable Suspicion Observation Report, such as the NJCRC's **sample form**, to document an employee's behavior, physical signs and evidence that supports why they reasonably suspect an employee of being under the influence during work.

Note: Employers that already use a Reasonable Suspicion Observation Report to determine when drug testing is necessary may continue to do so.

The guidance also states that employers should establish a standard operating procedure for completing a Reasonable Suspicion Observation Report that includes:

- The employee's manager or supervisor, or an employee at those levels; and
- A designee, or a second manager or supervisor.

Next Steps:

- Review and revise drug-testing and drug-free workplace policies and procedures.
- Train HR personnel and managers on:
  - The requirements and restrictions in the Act and new guidance
  - How to assess the signs and behaviors of employee impairment that result from cannabis use
- Consider adopting and implementing a **Reasonable Suspicion Observation Report**, when administering drug-testing policies to help ensure compliance with the **guidance**.

Reminder: New York "Manual Workers" Must Be Paid Weekly

The requirement that private-sector employers pay its "manual workers" on a weekly basis has been part of the state of New York Labor Code for many years. With few exceptions, **New York Labor Code § 191** requires that manual workers must be paid no later than seven calendar days after the workweek where wages were earned.

Claims alleging employers failed to timely pay manual workers have become more common as a result of a 2019 New York court case (***Vega v. CM Associates Construction Management***) that determined employees may sue employers over late wages, even if the wages have been fully paid. The court also found that an employee may bring suit even if the New York Department of Labor (NYDOL) chooses not to pursue action against the employer. Employers found to be in violation of the pay frequency law must pay the full amount of delayed wages, plus attorney fees and interest. This is the case even if the employee's wages were paid in full on a bi-weekly basis.

The Details

What's the definition of "Manual Worker?"

New York Labor Code § 194 defines a "manual worker" to mean "a mechanic, workingman or laborer." In a **frequently asked question** (FAQ), the New York DOL added the following comment regarding the statutory definition:

"It has been the long-standing interpretation of this Department that individuals who spend more than 25 percent of working time engaged in 'physical labor' fit within the meaning of the term 'manual worker.' Furthermore, the term 'physical labor' has been interpreted broadly to include countless physical tasks performed by employees."

A **NYDOL opinion letter** has also suggested that "as a cautionary measure, a prudent employer would pay any employees whose position might be considered to be within the meaning of 'manual worker' not less than once a week since such frequency would satisfy the most stringent requirements prescribed by New York Labor Law Section 191."

Are there exceptions and different pay frequency rules for other workers?

Manual workers for nonprofit entities must be paid in accordance with their agreed terms of employment but not less frequently than semimonthly. In addition, large employers of manual workers may apply to the Commissioner of Labor to pay manual workers semi-monthly (see the **NYDOL FAQs** for more information).

"Railroad Workers" must be paid on or before Thursday of each week and must include wages earned during the seven-day period ending on the Tuesday of the preceding week.

"Commission Salespersons" must be paid in accordance with the agreed terms set forth in the written commission agreement but not less frequently than once in each month and not later than the last day of the month following the month in which the wages are earned. If wages are substantial (currently $900 per week), additional compensation earned, including extra or incentive earnings, may be paid less frequently than once in each month.

"Clerical or Other Workers" must be paid in accordance with the agreed terms of employment and not less frequently than semimonthly.

The pay frequency requirements do not apply to persons employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of $900 a week (see the **NYDOL FAQs** for more information).

Federal, state and local government employers are also not subject to the pay frequency requirements.

Recommendations:

If you employ workers in New York, then work with your legal counsel to determine whether these New York workers might be considered "manual workers" for whom weekly payment is required.

If you make the determination that a change to employee pay frequency is required, please notify your ADP service representative immediately to facilitate this change.

Oregon Adds Rules to New Paid Family and Medical Leave Insurance Program

The Oregon Employment Department (OED) has added more rules to the **Oregon Paid Family and Medical Leave Insurance (PFMLI) program**, providing clarification for employers.

The Details:

The OED **rules** clarify various aspects of the PFMLI program, such as the use of certain types of leave, what verification is needed, and various employee and employer requirements.

Covered Leave:

The rules clarify when an employee can take the following types of leave:

New Child-Bonding Leave:

When the new child bonding period crosses two benefit years, the maximum combined total of new child-bonding leave between the two years for the one child is 12 weeks. The rules prohibit an employee from taking 12 weeks of family leave in one year and 12 weeks of family leave (24 weeks) in the following year for one child, even if both proposed absences would fall within 12 months of the child's birth, placement or adoption.

However, when an employee takes bonding leave for two or more children, the combined amount of family leave during the two benefit years may exceed 12 weeks. For example, if an employee has twins, the employee may take up to 12 weeks of leave for a child during the first benefit year and may also take up to 12 weeks of leave for the other child in the second benefit year.

Serious Health Condition:

Employees may use family leave to provide physical and psychological assistance to a family member with a serious health condition.

Physical assistance includes attending to basic medical, activities of daily living, safety, or nutritional needs when a family member cannot provide self-care; or, transporting the family member to a health care provider when the individual cannot transport themselves.

Psychological assistance includes providing comfort, reassurance, or companionship; completing the family member's administrative tasks; or, arranging for changes to a family member's care, including transfer to a nursing home.

Employee Intermittent Leave:

Under existing law, employees may claim leave benefits in increments equivalent to one workday or one workweek. The rules clarify that employees may use this time in consecutive or nonconsecutive periods of leave and increments that equal one workday or one workweek.

For a leave of less than one workweek, an employee can take leave equal to the average number of workdays they typically work. The weekly benefit for this time will be prorated based on the number of workdays of leave the employee takes in the workweek. To calculate the workday benefit amount, divide the weekly benefit amount by the average number of workdays the employee would typically work in a workweek.

Additionally, under the rules, employees with more than one employer must have their leave for a workday or workweek taken from all employers. As an example, if an employee works for different employers in the morning and afternoon but only needs to take leave during the morning or afternoon, the employee would not qualify for PFMLI benefits.

And, if an employee splits a four-day workweek equally between two employers, the employee cannot work for either employer during that time to qualify for a workweek of PFMLI benefits.

Verifying Benefit Eligibility:

New Child-Bonding Leave:

An employee must provide verification for new child-bonding leave that reflects the employee's name as parent or guardian of the child after the birth or placement of the child through adoption or foster care, the child's name, and the date of the child's birth or placement.

Types of verification may include:

- The child's birth certificate or other documents issued by the child or pregnant employee's healthcare provider; or
- A copy of a court order that verifies placement or documents from the foster care, adoption agency, or social worker involved in the placement confirming the placement.

Serious Health Condition:

An employee seeking medical or family leave must provide verification of the following, in addition to their own or a family member's personal information:

- The relevant healthcare provider and their type of medical practice or specialization and contact information;
- The approximate date the serious health condition began;
- A reasonable estimate of the duration of the condition or its recovery period; and
- A reasonable estimate of the frequency and duration of the intermittent leave and estimated treatment schedule (if applicable).

Safe Leave:

To take safe leave, an employee must provide verification, which can include:

- A copy of a police report or a formal complaint that indicates an employee or their child was a victim of domestic violence, harassment, sexual assault or stalking;
- A protective order or other evidence from a court or agency that the claimant or child appeared in (or was preparing for) a related proceeding; or
- Documentation from an attorney, healthcare provider, law enforcement officer, licensed mental health professional or counselor, member of the clergy, or victim services provider that the individual or child was undergoing related treatment or counseling, obtaining services, or relocating.

Note: The rules provide an exception to the verification requirements if an employee can demonstrate good cause. For instance, if an employee has difficulty procuring the required verification because they lack access to services or have concerns for the safety of the claimant or their child. In this case, the employee can provide a written statement attesting they are taking qualifying leave.

Employees may also be required to provide additional verification to establish eligibility or qualify for benefits. Upon receiving a mailed request for information, they must respond within 14 days from the date of the request. If the request is delivered by telephone message, email, or other electronic methods, the employer must respond within 10 days.

Employee Notice Requirements:

The rules clarify that, in addition to existing notice requirements, employees are not required to expressly mention PFMLI when they provide notice. Written notice may include handwritten or typed electronic communications, such as email and text messages, consistent with an employer's known, reasonable and customary policies.

Employer Notice Requirements:

Employers requiring written notice may require employees to provide the type of leave, the anticipated timing and duration, and an explanation of the need for leave.

Additionally, an employer must outline their written notice requirements in a written policy and procedures and provide a copy to every eligible employee at the time of hire and each time the policy and procedure change.

The rules clarify that the policy must also include a description of the penalties (a 25 percent reduction in an employee's first weekly benefit amount) that the state may impose if an employee does not comply with the employer's notice requirements.

PMFLI Benefits:

PFMLI Contribution Rates:

Beginning January 1, 2023, Oregon employers with 25 or more employees (including those out of state) will pay 40 percent, and Oregon employees will pay 60 percent of the 1 percent of the contribution rate to the PFMLI fund.

Employers must submit an Equivalent Plan Application or a **Declaration of Intent** (see below) by **November 30, 2022**, to be exempt from quarterly contribution requirements.

Employee Benefit Entitlements:

Employee benefit entitlements will be based on the employee and the state's Average Weekly Wage (AWW) amounts. The OED will determine Oregon's AWW amounts.

Employee AWW Earnings	Employee Benefit Entitlements
Less than or equal to 65 percent of Oregon's AWW	100 percent of the employee's AWW amount
Greater than 65 percent of Oregon's AWW	65 percent of Oregon's AWW plus 50 percent of the employee's AWW that is greater than 65 percent (up to 120 percent of Oregon's AWW the current maximum weekly benefit)

Note: PFMLI program will pay these while the employee is on leave.

Employee Benefits Application Process:

Beginning **September 3, 2023**, employees may apply for PFMLI benefits through the OED up to 30 calendar days before or after their leave start date. The OED will notify employers when an employee has applied for benefits. Under the rules, an employer may respond to the OED's notification if their employee did not provide the required notice of their need for leave.

Approved Equivalent Plans:

Employees working for an equivalent-plan employer – and employers that provide paid leave benefits equal to or greater than the PFMLI program – do not have to pay contributions.

Equivalent plans must provide equal to or greater than the PFMLI program's benefits to full-time, part-time, seasonal, and temporary employees. Additionally, these plans may not be more restrictive or cost employees more than the base rate established by the OED.

The OED has provided a **checklist** and **guidebook** to assist employers with equivalent plans.

Employer Applications:

The OED has released equivalent plan applications for employers already offering paid leave to employees or those considering offering such leave. Applications cost $250 (nonrefundable) and are accessible through the OED's **online portal** or a printable **form**.

Employers should allow at least 30 days for a decision on an application. If the OED denies an application, an employer must continue collecting and paying PFMLI contributions. However, they may submit an appeal to the OED or the **Oregon Office of Administrative Hearings**.

For the first three years, employers must reapply for the approval of their plans on an annual basis or if they make substantive changes to an approved plan. After three years, their plans will remain in effect until withdrawn or terminated.

Approved Equivalent Plans:

Dates to be Exempt from Contributions	Deadline to Submit Application
Beginning January 1, 2023	November 30, 2022
Beginning October 1, 2023	Between June 1, 2023 and June 30, 2023

Declaration of Intent:

Employers that cannot make the November 30, 2022, deadline may submit a Declaration of Intent that acknowledges and agrees that they intend to offer an equivalent plan. Employers that do so must apply by **May 31, 2023**. These plans will take effect on **September 3, 2023**.

If an employer submits a Declaration of Intent, they must deduct employees' contributions and hold them from January 1, 2023, until the OED approves the application. Employers that have not submitted a Declaration of Intent or an application by **June 30, 2023**, must contribute to the PFMLI program for the full year.

Next Steps:

- Review PFMLI policies and procedures.
- Determine required notice periods for employees applying to take leave.
- Review the **PFMLI website** for frequently asked questions guides and the additional release of rules from the OED.

Employees in Puerto Rico Entitled to Special Leave for Monkeypox

Puerto Rico's governor has issued an executive order declaring a state of emergency on the island for the monkeypox virus, triggering a special leave entitlement for nonexempt employees.

The Details:

As a result of the governor's declaration on September 1, 2022, nonexempt employees who are infected (or suspected to be infected) with the monkeypox virus and who exhaust all of their paid sick leave may use any other accrued leave to which they are entitled. If they exhaust all of that leave, they are entitled to five additional days of paid leave.

Employers are prohibited from using the employee's use of such leave as a basis for an adverse employment action.

The special leave entitlement for the monkeypox virus will end when the emergency declaration for the virus ends.

Next Steps:

If you have employees in Puerto Rico:

- Review leave policies and procedures to ensure compliance with the requirements.
- Train supervisors on how to handle requests for such leave.
- Watch for developments closely to determine when the state of emergency for the virus ends.

Washington 2023 Minimum Wage Rate and Overtime Salary Threshold Announced

The Washington Department of Labor & Industries (WDOL) has announced an increase to the state's minimum wage as well as revised overtime exemption salary thresholds.

The Details:

Effective January 1, 2023, the state minimum wage rate will increase from $14.49 per hour to $15.74 per hour. Workers who are 14 or 15 years old may be paid 85 percent of the adult minimum wage. This is an increase from $12.32 per hour to $13.38 per hour. Washington state does not permit the use of a tip credit in paying tipped employees.

In addition, the overtime exemption salary thresholds, which are based on the state minimum wage, will also increase effective January 1, 2023.

For both small businesses (one to 50 employees) an exempt employee must earn a salary of at least 1.75 times the minimum wage, or $1,101.80 a week ($57,293.60 per year).

For large employers (51 or more employees), an exempt employee must earn a salary of at least 2.0 times the minimum wage, or $1,259.20 a week ($65,478.40 per year).

Finally, the WDOL announced that in order to qualify for the overtime exemption, computer professionals employed by businesses (regardless of size) must earn a salary of at least 3.5 times the minimum wage ($55.09 per hour).

Minimum Wage Announcements - As of October 17, 2022

The following states or localities have announced new minimum wage increases.

State or Locality	Minimum Wage Rate	Minimum Tipped Cash Wage	Effective Date(s)	New or Updated Poster Requirement?	Notes
AZ	$13.85	$10.85	1/1/23	Yes	
Flagstaff, AZ	$16.80	$14.80	1/1/23	Yes	
Belmont, CA	$16.75	N/A*	1/1/23	Yes	
Burlingame, CA	$16.47	N/A*	1/1/23	Yes	
Cupertino, CA	$17.20	N/A*	1/1/23	Yes	Poster required. Once provided may be found here
Daly City, CA	$16.07	N/A*	1/1/23	Yes	
East Palo Alto, CA	$16.50	N/A*	1/1/23	Yes	
El Cerrito, CA	$17.35	N/A*	1/1/23	Yes	
Half Moon Bay, CA	$16.45	N/A*	1/1/23	Yes	Poster required. Once provided may be found here
Hayward, CA (26 or more EEs)	$16.34	N/A*	1/1/23	Yes	
Hayward, CA (25 or less EEs)	$15.50	N/A*	1/1/23		
Palo Alto, CA	$17.30	N/A*	1/1/23	Yes	
San Carlos, CA	$16.32	N/A*	1/1/23	Yes	
San Diego, CA	$16.30	N/A*	1/1/23	Yes	Previously issued San Diego materials incorrectly reflected a rate of $16.25.
San Mateo, CA	$16.75	N/A*	1/1/23	Yes	

State or Locality	Minimum Wage Rate	Minimum Tipped Cash Wage	Effective Date(s)	New or Updated Poster Requirement?	Notes
San Jose, CA	$17.00	N/A*	1/1/23	Yes	Poster required. Once provided may be found here
Santa Clara, CA	$17.20	N/A*	1/1/23	Yes	
Sunnyvale, CA	$17.95	N/A*	1/1/23	Yes	Poster required. Once provided may be found here
CO	$13.65	$10.63	1/1/23	Yes	
MT	$9.95	N/A*	1/1/23	Not Required / Optional	
NJ	Six or more employees: $14.13 Less than six employees: $12.93 Seasonal employees: $12.93 Agricultural employees: $12.01	$5.26	1/1/23	Yes	
NY (other than NY City and Nassau, Suffolk, Westchester Counties)	$14.20	Tipped Service Employees $11.85 Tipped Food Service Workers $9.45	12/31/22	Yes	
NY (Nassau, Suffolk, Westchester Counties)	$15.00	Tipped Service Employees $12.50 Tipped Food Service Workers $10.00	12/31/22		
NY City	$15.00	$10.00 Tipped Service Employees $12.50 Tipped Food Service Workers $10.00	12/31/22		

State or Locality	Minimum Wage Rate	Minimum Tipped Cash Wage	Effective Date(s)	New or Updated Poster Requirement?	Notes
SD	$10.80	$5.40	1/1/23	Not Required / Optional	
Seattle, WA (employs more than 500 EEs	$18.69	N/A*	1/1/23	Yes	
Seattle small employers (500 or fewer employees) who do not pay at least $2.19/ hour toward the employee's medical benefits and/or where the employee does not earn at least $2.19/hour in tips	$18.69	N/A*	1/1/23		
Seattle small employers who do pay at least $2.19/ hour toward the employee's medical benefits and/or where the employee does earn at least $2.19/hour in tips.	$16.50	N/A*	1/1/23		
SeaTac, WA (hospitality and transportation employees)	$19.06	N/A*	1/1/23	Yes	

*CA/WA/MT does not allow the use of a tip credit

Federal

Social Security Wage Base for 2023 Announced

On October 13, 2022, the Social Security Administration (SSA) announced the 2023 wage base. The annual wage base limit is the maximum amount of employee wages that are subject to the Social Security tax for the calendar year.

The Details:

The 2023 Social Security wage base will be $160,200, which is an increase of $13,200 from $147,000 in 2022.

There is no limit to the wages subject to the Medicare tax and therefore all covered wages are subject to the 1.45 percent tax. As in 2022, wages paid in excess of $200,000 in 2023, will be subject to an extra 0.9 percent Medicare tax withholding that will only be withheld from employees' wages as employers do not pay the extra tax. Married couples filing jointly with earned income of more than $250,000 will also be subject to the additional 0.9 percent tax.

The Federal Insurance Contributions Act (FICA) tax rate, which is the combined social security tax rate of 6.2 percent of covered wages (up to the Social Security wage base) and the Medicare tax rate of 1.45 percent (on all covered wages), will be 7.65 percent for 2023. The maximum Social Security tax employees and employers will each pay in 2023 is $9,932.40. This is an increase of $818.40 from $9,114.00 in 2022.

Next Steps:

Effective for wages paid on or after January 1, 2023, employers must withhold FICA taxes as outlined above.

For a copy of the SSA Fact Sheet, please click on the link provided below:

https://www.ssa.gov/news/press/factsheets/colafacts2023.pdf

Federal Contractor Minimum Wage Increase Announced

The United States Department of Labor (DOL) has **announced** increases to stated minimum wages that federal contractors covered under Executive Orders (EO) 13658 and 14026 must pay its employees who are **performing work on or in connection with certain covered federal contracts.**

The Details:

Effective January 1, 2023, federal contractors covered under EO 13658 must pay at least a minimum wage of $12.15 per hour to non-tipped employees and pay tipped employees at least a minimum cash wage of $8.50 per hour. Generally, EO 13658 pertains to covered contracts that were entered into, renewed, or extended **prior** to January 30, 2022.

Effective January 1, 2023, federal contractors covered under EO 14026 must pay at least a minimum wage of $16.20 per hour to non-tipped employees and pay tipped employees at least a minimum cash wage of $13.75 per hour. Generally, EO 13658 pertains to covered contracts that were entered into, renewed, or extended **on or after** January 30, 2022.

Next Steps:

Federal Contractors, as of January 1, 2023, must pay at least the minimum wages as outlined above.

Appeals Court Rules Gender Dysphoria Protected Under ADA

The U.S. Court of Appeals for the Fourth Circuit has ruled that the Americans with Disabilities Act (ADA) protects individuals with gender dysphoria. The ruling applies in the states of Maryland, North Carolina, South Carolina, Virginia and West Virginia.

Background:

Gender dysphoria is a condition recognized by the medical community and is generally defined as distress caused by a discrepancy between a person's gender identity and their sex assigned at birth. This distress may result in intense anxiety, depression, suicidal ideation and even suicide. Not all transgender individuals suffer from gender dysphoria.

The Details:

A transgender woman with gender dysphoria spent six months incarcerated in a correctional center in Virginia and was forced to serve the time in men's housing. There, she claimed she experienced delays in medical treatment for her gender dysphoria, harassment by other inmates, and persistent and intentional misgendering and harassment by prison deputies. For 15 years prior to her incarceration, she had received medical treatment for gender dysphoria in the form of a daily pill and biweekly injections.

She filed a lawsuit, alleging the prison violated her rights under the Americans with Disabilities Act. The ADA prohibits discrimination against individuals because of a disability and requires covered entities to provide reasonable accommodations for individuals with a disability. As they relate to the workplace, these ADA protections apply to all employers with 15 or more employees.

A lower court ruled that she was barred from bringing the lawsuit because the ADA excludes gender dysphoria from protection.

However, the U.S. Court of Appeals for the Fourth Circuit reversed the lower court's dismissal of the lawsuit, ruling that clinically significant dysphoria is a disability protected under the ADA.

"We see no legitimate reason why Congress would intend to exclude from the ADA's protections transgender people who suffer from gender dysphoria," the court wrote.

Next Steps:

If you have employees in Maryland, North Carolina, South Carolina, Virginia or West Virginia:

- Consult legal counsel to determine the potential impact on your policies and practices.
- Train supervisors on how to handle requests for reasonable accommodations.
- Watch for developments since the ruling may be appealed.

IRS Final Regulations Address the Affordable Care Act "Family Glitch"

Click **here** for the article.

DOL Proposes New Independent Contractor Test

Click **here** for the article.

ADP Compliance Resources

ADP maintains a staff of dedicated professionals who carefully monitor federal and state legislative and regulatory measures affecting employment-related human resource, payroll, tax and benefits administration, and help ensure that ADP systems are updated as relevant laws evolve. For the latest on how federal and state tax law changes may impact your business, visit the ADP *Eye on Washington* Web page located at **www.adp.com/regulatorynews.**

If you have any questions regarding our services, please call 855-466-0790.

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