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Webinar Series 1
July 22, 2020
PPP Loan and Paid Leave Landscape

Today's Speakers



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Paid Leave Landscape - July 2020

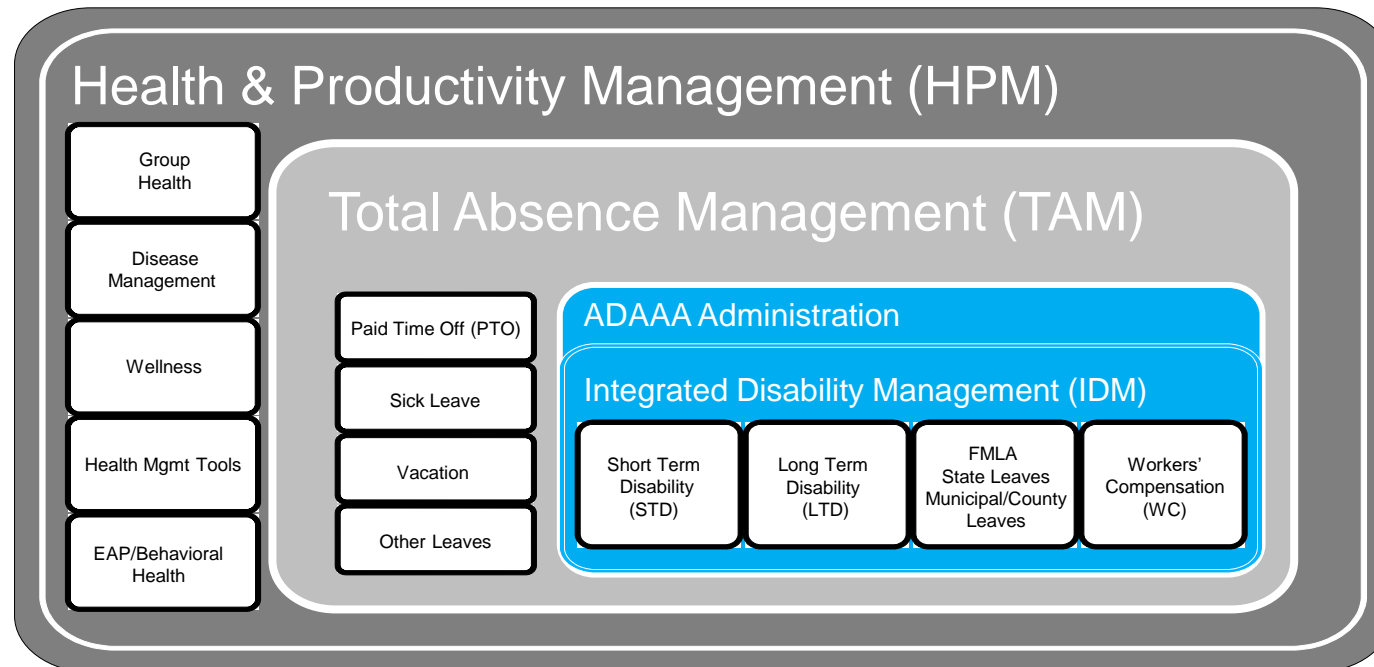
Trends | Plan Design Review | Key Considerations

The Latest Market Trends

- ▶ Without federal movement, states are passing regulations related to leave of absence
 - Statutory Disability
 - Paid Medical Leave
 - Paid Family Leave
- ▶ The complex patchwork that has developed is extremely challenging for employers, especially those with employee in many states
 - Increases interest in outsourcing
 - May increase demand for corporate plan to serve as a “standard”
- ▶ Employers continue to focus around compliance related to the overall absence management market with ADA/ADAAA taking center stage for many
- ▶ The workforce is multigenerational, and strategies are needed increase employee engagement; as that definition evolves
- ▶ Technology is playing an increasing role, particularly through automation and positively influencing the employee experience, but also in providing simple solutions and employee education

Absence Management Overview

- ▶ Absence management can mean different things to different people, but most commonly includes IDM, with WC coordination increasing due to ADA
- ▶ Employer requirements can differ by size and industry, but continually progresses across the HPM spectrum



Federal Proposals

Several federal proposals have been put forward in an effort to provide a uniform benefit to employees across the country

Bill	Status	Summary
Paid Family Leave Pilot Extension Act (S. 1628)	Introduced 5/23/2019	<ul style="list-style-type: none"> • Bill extends the tax credit for employers who provide paid family and medical leave through 2022 • Requires a study to be completed that examines the effectiveness of the tax credit and provides recommendations for modifications of the tax credit and suggestions for alternative policies to increase access to paid family and medical leave for qualifying employees
New Parents Act of 2019 (H.R.194)	Introduced 3/27/2019	<ul style="list-style-type: none"> • Allows parents to use a portion of Social Security benefits for up to 3 months after the birth or adoption of a child • Parents must choose to either increase retirement age or receive a temporary reduction in social security benefits upon retirement • Benefit will be equal to the primary insurance amount the individual would receive if they had attained age 62 and had been entitled to an old-age insurance benefit
FAMILY Act (H.R.1185)	Introduced 2/13/2019	<ul style="list-style-type: none"> • Leave is available for employees to provide care for a family member or themselves due to a serious health condition for up to 60 days (12 weeks) • Benefit payments equal to 1/18 of annual wages multiplied by the number of caregiving days each month divided by 20 (approx. 66%), up to a maximum monthly benefit of \$4,000 and minimum of \$580 • Funded by an employee income tax of 0.2% of annual wages and an employer excise tax of 0.2% annual wages paid
Economic Security for New Parents Act (S.3345)	Introduced 8/1/2018	<ul style="list-style-type: none"> • Provides paid parental leave benefits for eligible parents following the birth or adoption of a child • Parents can take leave for 1 month or at least 2 consecutive months with one year of the event • Benefit ratios will be determined each year by the Social Security Administration • Accessing these benefits will offset Social Security payments after retirement
Workflex in the 21st Century Act (H.R.4219)	Introduced 11/2/2017	<ul style="list-style-type: none"> • Amends ERISA to establish a voluntary workflex option that exempts employers from certain state and local employee benefits laws for qualifying flexible workplace arrangement plans • Employers must provide a minimum amount of compensable leave based on number of employees and years of service as well as at least one of the following options: (1) A biweekly work program meeting the requirements of section 804; (2) A compressed work schedule program that meets the requirements of section 805; (3) A telework program; (4) A job-sharing program; (5) Flexible scheduling; or (6) Predictable scheduling

Note: subject to change

State Paid Family and Medical Leave Landscape

As of July 2020

SDI/TDI + PFL Currently In Place

California New York
New Jersey Rhode Island

SDI/TDI Currently In Place

Puerto Rico

PFML Currently In Place

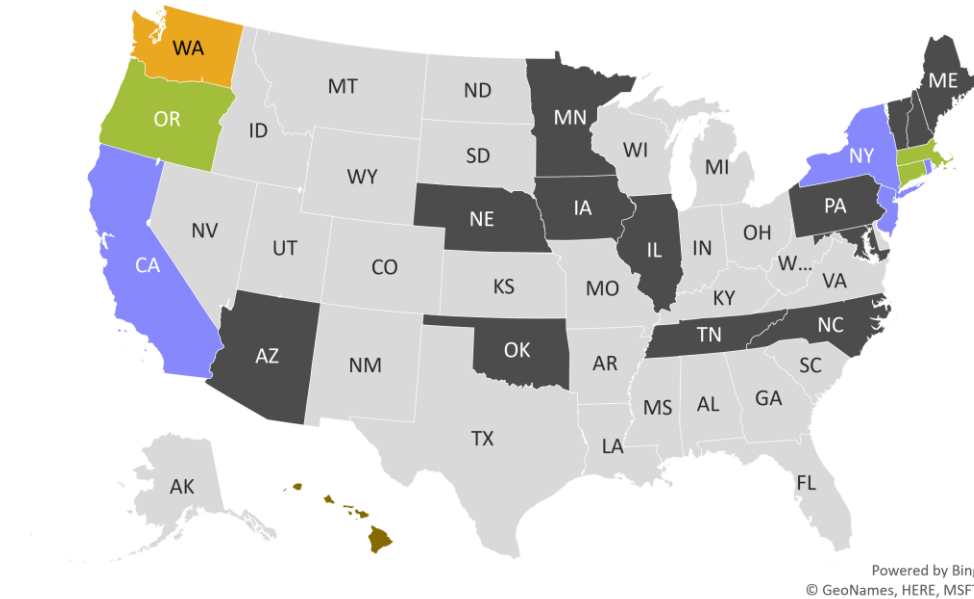
Washington Washington, D.C.

SDI/TDI Currently In Place & Proposing PFML Program

Hawaii

Proposing PFML Program

Arizona Minnesota Oklahoma
Illinois Nebraska Pennsylvania
Iowa New Tennessee
Maine Hampshire Vermont
Maryland North Carolina



Source: Emerging State Legislation Map, The ERISA Industry Committee, 7/10/2020

PFML In Regulatory Phase

Connecticut – collections begin 1/1/2021, benefits available 1/1/2022
Massachusetts – collections begin 10/1/2019, benefits available 1/1/2021
Oregon – collections begin 1/1/2022, benefits available 1/1/2023

State Structures

NY has historically been the most highly supported state by carriers, followed by CA then NJ. MA is on par to NY and most carriers are prepared to administer WA ASO. CT and OR are too new to tell but many carriers have already confirmed ASO.

State	Social Insurance through an Exclusive State Fund	Social Insurance with an Opt-out: Limited Private Options	Social Insurance Alongside Regulated and Private Options
CA		✓ Self-insured for SDI and family	
CT		✓ Insured or self-insured (TBD if funding must link)	
D.C.	✓ District administered only		
MA		✓ Insured or self-insured for medical, family or both	
NJ		✓ Insured or self-insured for TDI and family	
NY			✓ No state plan; privately insured or self-insured or NY State Insurance Fund (NYSIF); for TDI and family
OR		✓ Insured or self-insured for medical and family	
RI	✓ State administered only		
WA		✓ Self-insured for TDI, family or both	

Note: subject to change

Employer Eligibility

State	Employer Eligibility
CA	<ul style="list-style-type: none"> • All CA private employers • Public entities electing to participate
CT	<ul style="list-style-type: none"> • Private employers with 1+ employees • Self-employed individuals and certain public employers may opt-in
D.C.	<ul style="list-style-type: none"> • All private employers that are required to pay unemployment insurance, except for those exempt from taxes in D.C. by federal law or treaty • Self-employed individuals can opt-in
MA	<ul style="list-style-type: none"> • <i>All employers with covered MA employees and 1099-MISC contractors if more than 50% of the employer's workforce</i> • Public employers and self-employed individuals can opt-in
NJ	<ul style="list-style-type: none"> • Employers covered under NJ Unemployment Compensation Law, including state and government employers
NY	<ul style="list-style-type: none"> • Private employers with 1 or more employees on each of at least 30 consecutive or non-consecutive days in any calendar year • Public employers and self-employed individuals can voluntarily opt-in
OR	<ul style="list-style-type: none"> • All employers with one or more employees • Self-employed individuals and tribal governments are eligible to opt-in
RI	<ul style="list-style-type: none"> • All RI private employers • Government entities may elect to have certain classes of employees participate • Self-employed individuals may not opt-in
WA	<ul style="list-style-type: none"> • All WA employers, except Federal employers • Out of state employers with WA employees • Federally recognized tribes and self-employed individuals can opt-in

Note: subject to change

Program Funding

Employers generally may elect to pay some or all of an employee's contribution requirement.

State	Funding Method	Contribution Rates
CA	<ul style="list-style-type: none"> Employee payroll deductions 	<ul style="list-style-type: none"> 1% of wages up to taxable wage base of \$122,909 for TDI and PFL
CT	<ul style="list-style-type: none"> Employee payroll deductions 	<ul style="list-style-type: none"> Percentage to be established but will not exceed 0.5% of subject earnings
D.C.	<ul style="list-style-type: none"> Employer payroll tax 	<ul style="list-style-type: none"> 0.62% of total wages for PFL
MA	<ul style="list-style-type: none"> Employee and employer contributions 	<ul style="list-style-type: none"> 0.75% of federal social security base limit of \$132,900 for PFML, broken down by: <ul style="list-style-type: none"> 0.62% medical leave contribution of which employer pays at least 60% (0.372%) and employee pays up to 40% (0.248%) 0.13% family leave contribution, of which the employee pays the entire share
NJ	<ul style="list-style-type: none"> Employee payroll deduction 	<ul style="list-style-type: none"> 0.16% of employee's AWW up to taxable wage base of \$134,900 for FLI
NY	<ul style="list-style-type: none"> Employee payroll deduction 	<ul style="list-style-type: none"> 0.27% of employee's gross wages, up to SAWW of \$1,401.17 for PFL
OR	<ul style="list-style-type: none"> Employee and employer contributions 	<ul style="list-style-type: none"> 1% of employee's AWW up to taxable wage base of \$132,900 <ul style="list-style-type: none"> Employers are required to pay at least 40% of the total rate and may withhold up to 60% from employees
RI	<ul style="list-style-type: none"> Employee payroll deduction 	<ul style="list-style-type: none"> 1.3% of wages up to taxable wage base of \$72,300 for TDI and TCI
WA	<ul style="list-style-type: none"> Employee and employer contributions 	<ul style="list-style-type: none"> 0.4% of wages up to taxable wage base of \$137,700 for PFML Employers are required to pay at least 1/3 of total premiums and may withhold up to 2/3 from employees

Note: subject to change

Employee Eligibility

State	Employee Eligibility
CA	<ul style="list-style-type: none"> Earned \$300 in wages in CA subject to insurance tax in the base period
CT	<ul style="list-style-type: none"> Earned at least \$2,325 in subject earnings during the highest earning quarter in the base period Is presently employed by an employer or <i>has been employed by an employer in the last 12 weeks</i>
D.C.	<ul style="list-style-type: none"> 50% of <i>work occurs</i> in D.C. Employed when applying for benefits
MA	<ul style="list-style-type: none"> Work is localized in MA, or work is not localized in any state, but operations are based in MA, or operations are not based in any state, but the employees resides in MA Has 15 weeks or more of earnings and earned at least \$4,700 in the last 12 months <i>Former employees not separated for more than 26 weeks</i>
NJ	<ul style="list-style-type: none"> Worked 20 calendar weeks in the base year; and Earned \$200 or more per week; or Earned \$10,000 or more in the base year
NY	<ul style="list-style-type: none"> Full time employees who worked 20+ hours per week for 26 weeks Part time employees who worked less than 20 hours per week for 175 days
OR	<ul style="list-style-type: none"> Earned at least \$1,000 in wages during the base year or at least \$1,000 in the alternate base year
RI	<ul style="list-style-type: none"> Paid at least \$12,600 in the base period or earned at \$2,100 in one base period quarter Total base period wages are at least 1.5x the highest quarter earnings Base period taxable wages are at least \$4,200
WA	<ul style="list-style-type: none"> Work 820+ hours in a qualifying period <i>All or most of the work performed is in WA</i>

Note: subject to change

Qualifying Leave Events

State	Family Leave			Medical Leave		Safe Leave	
	Bonding	Care for a Family Member	Care for a Covered Service Member	Qualifying Military Exigency	Own Health Condition	Organ/Bone Marrow Donation	Safe Leave
CA	✓	✓		Available 1/1/2021	Through TDI		
CT	Available 1/1/2022	Available 1/1/2022		Available 1/1/2022	Available 1/1/2022	Available 1/1/2022	Available 1/1/2022*
D.C.	✓	✓		✓	✓		
MA	Available 1/1/2021	Available 7/1/2021	Available 1/1/2021	Available 1/1/2021	Available 1/1/2021		
NJ	✓	✓			Through TDI		✓
NY	✓	✓		✓	Through TDI		
OR	Available 1/1/2023	Available 1/1/2023			Available 1/1/2023		Available 1/1/2023
RI	✓	✓			Through TDI		
WA	✓	✓		✓	✓		

*Eligible individuals who take CT Family Violence Leave can receive benefits through PFML for up to 12 days beginning in 2022, however if PFML is exhausted, employees may take this leave unpaid

Note: subject to change

Medical Leave Definitions

To qualify for leave for an employee's own medical condition, they must meet the definition of Disability or Serious Health Condition, depending on the state's leave law.

State	Medical Leave Requirement	Definition
CA	Disability	<ul style="list-style-type: none"> Unable to work due to a non-work-related illness or injury, either physical or mental, which prevents you from performing your regular and customary work Also includes elective surgery, pregnancy, childbirth, or other related medical conditions
CT	Serious Health Condition	<ul style="list-style-type: none"> An illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, nursing home or residential medical care facility; or (B) continuing treatment, including outpatient treatment, by a health care provider
D.C.	Serious Health Condition	<ul style="list-style-type: none"> Physical or mental illness, injury, or impairment that requires inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision at home by a health care provider or other competent individual
MA	Serious Health Condition	<ul style="list-style-type: none"> An illness, injury, impairment or physical or mental condition that involves (i) inpatient care in a hospital, hospice or residential medical facility; or (ii) continuing treatment by a health care provider.
NJ	Disability	<ul style="list-style-type: none"> Mental or physical illness and mental or physical injury Must have a non-work-related illness or injury that keeps you from working and be under medical care for treatment of the disabling condition
NY	Disability	<ul style="list-style-type: none"> The inability of an employee, as a result of injury or sickness not arising out of and in the course of employment, to perform the regular duties of his employment or the duties of any other employment which his employer may offer him at his regular wages and which his injury or sickness does not prevent him from performing Also includes disability caused by or in connection with a pregnancy
OR	Serious Health Condition	<ul style="list-style-type: none"> An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility; An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care; or Any period of disability due to pregnancy, or period of absence for prenatal care.
RI	Disability	<ul style="list-style-type: none"> To be medically eligible, a Qualified Healthcare Provider must certify the patient functionally unable to perform their customary and regular work duties and provide the length of time the patient is expected to be unable to work
WA	Serious Health Condition	<ul style="list-style-type: none"> An illness, injury, impairment, or physical or mental condition that involves Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or continuing treatment by a health care provider Also includes any period of incapacity due to pregnancy, or for prenatal care

Note: subject to change

Covered Family Member Relationships

All covered relationships are subject to specific definitions, which vary from state to state.

State	Child	Spouse	Domestic Partner	Parent	Parent-in-Law	Sibling	Grandparent	Grandchild	Family-like Relationship
CA	✓	✓	✓	✓	✓	✓	✓	✓	
CT	✓	✓		✓		✓	✓	✓	✓
D.C.	✓	✓	✓	✓	✓	✓	✓		
MA	✓	✓	✓	✓	✓	✓	✓	✓	
NJ	✓	✓	✓	✓	✓	✓	✓	✓	✓
NY	✓	✓	✓	✓	✓	✓	✓	✓	
OR	✓	✓	✓	✓		✓	✓	✓	✓
RI	✓	✓	✓	✓	✓		✓		
WA	✓	✓	✓	✓	✓	✓	✓	✓	

An Amendment to the WA PFML Act signed on 3/26/2020 expands the definition of family member to include a child's spouse.

Note: subject to change

Job Protection

When job protection is not included in state paid leave, concurrent state or federal leaves may protect eligible employees.

State	Job Protection Provided through PFML Program
CA	<ul style="list-style-type: none">• No
CT	<ul style="list-style-type: none">• Yes
D.C.	<ul style="list-style-type: none">• No
MA	<ul style="list-style-type: none">• Yes
NJ	<ul style="list-style-type: none">• Yes, subject to the provisions of the NJ FLA wherein covered employers must have 30 or more employees
NY	<ul style="list-style-type: none">• Yes
OR	<ul style="list-style-type: none">• Yes
RI	<ul style="list-style-type: none">• Yes, upon returning to work, employees must be offered a comparable position with equivalent seniority, status, employment benefits, pay and other terms and conditions as the job they were in before taking leave
WA	<ul style="list-style-type: none">• Yes, if the employer has 50 or more employees, the employee has worked for the employer for at least 12 months, and the employee has worked at least 1,250 hours in the last 12 months

Note: subject to change

Benefit Amount

State	Benefit Amount	Maximum Weekly Benefit	Minimum Weekly Benefit
CA	<ul style="list-style-type: none"> 60% or more of an employee's earnings for employees who earn 1/3 or more of the state average quarterly wage 70% of an employee's weekly earnings for employees who earn less than 1/3 of the state average quarterly wage 	\$1,300	\$50
CT	<ul style="list-style-type: none"> 95% of an employee's base weekly earnings up to 40x the minimum fair wage; plus 60% of base weekly earnings over 40x the minimum fair wage 	60x minimum fair wage (estimated at \$780 on 1/1/22)	Not stated
D.C.	<ul style="list-style-type: none"> 90% of an employee's AWW that is < 150% of D.C. minimum wage multiplied by 40; plus 50% of the employee's AWW that is > 150% of D.C. minimum wage multiplied by 40 	\$1,000	Not stated
MA	<ul style="list-style-type: none"> 80% of an employee's AWW that is < 50% of the SAWW; plus 50% of an employee's AWW that is > 50% of the SAWW 	\$850	Not stated
NJ	<ul style="list-style-type: none"> 85% of an employee's AWW 	\$881	Not stated
NY	<ul style="list-style-type: none"> 60% of an employee's AWW 	\$840.70	Lesser of \$100 or 100% of AWW
OR	<ul style="list-style-type: none"> 100% of the employee's AWW that is < 65% to the SAWW; plus 50% of the AWW that is > 65% of the SAWW 	120% of SAWW	5% of SAWW
RI	<ul style="list-style-type: none"> 4.62% of the employee's total highest quarter wage in the base period (approx. 60%) 	\$867 + dependent allowance, up to \$1,170	\$98
WA	<ul style="list-style-type: none"> 90% of an employee's AWW that is < 50% of the SAWW; plus 50% of an employee's AWW that is > 50% of the SAWW 	\$1,000	Lesser of \$100 or 100% of AWW

NJ benefit increased on 7/1/2020 and was previously paid at 2/3 of the AWW

NY benefit increases on 1/1/2021 to 67% of an employee's AWW

Leave Duration

State	Leave Duration
CA	<ul style="list-style-type: none"> 8 weeks total for family leave for bonding and to care for a family member
CT	<ul style="list-style-type: none"> 12 weeks for family and medical leave 2 additional weeks available for a serious health condition resulting in incapacitation during pregnancy for up to 14 weeks combined total
D.C.	<ul style="list-style-type: none"> 8 weeks for family leave for bonding 6 weeks for family leave to care for a family member with a serious health condition 2 weeks for medical leave 16 weeks total if all qualifying events occur within a 52-week period
MA	<ul style="list-style-type: none"> 12 weeks for family leave for bonding, care for family member or for a military exigency 20 weeks for medical leave 26 weeks for family leave to care for a family member who is a covered service member 26 weeks combined total within a 52-week period
NJ	<ul style="list-style-type: none"> 12 weeks for family leave for bonding and to care for a family member 20 days for SAFE Leave
NY	<ul style="list-style-type: none"> 10 weeks for family leave for bonding, to care for a family member, and for a military exigency
OR	<ul style="list-style-type: none"> 12 weeks for paid family and medical leave 4 additional weeks available for unpaid leave, for a total of 16 weeks 2 additional weeks available for leave related to pregnancy, childbirth, or a related medical condition, for a total of 18 weeks
RI	<ul style="list-style-type: none"> 4 weeks for family leave for bonding or to care for a family member
WA	<ul style="list-style-type: none"> 12 weeks for family leave for bonding, to care for a family member, for a qualifying exigency and for medical leave Additional 2 weeks available when leave is a result of a pregnancy complication 16 weeks when a combination of family and medical leave is used 18 weeks when a combination of family and medical leave and leave is a result of pregnancy complications

CA family leave maximum duration increased on 7/1/2020 from 6 weeks previously

NJ family leave maximum duration increased on 7/1/2020 from 6 weeks previously

NY maximum leave duration increases to 12 weeks on 1/1/2021

Small Employers

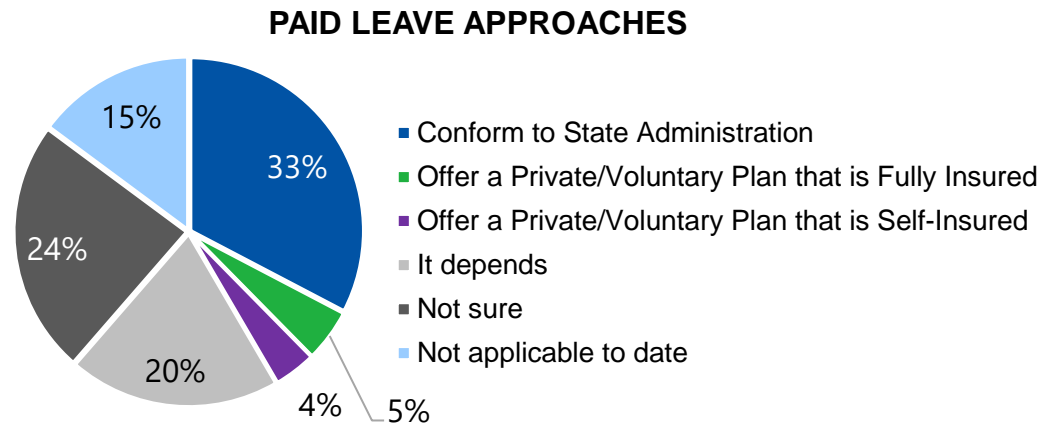
Small employers may be subject to different requirements dependent on the state in which they operate.

State	Contribution Requirements for Small Employers
CA	<ul style="list-style-type: none">• N/A: Employee contributions only
CT	<ul style="list-style-type: none">• N/A: Employee contributions only
D.C.	<ul style="list-style-type: none">• N/A: All employers are required to contribute
MA	<ul style="list-style-type: none">• Employers with less than 25 employees are not required to contribute
NJ	<ul style="list-style-type: none">• N/A: Employee contributions only
NY	<ul style="list-style-type: none">• N/A: Employee contributions only
OR	<ul style="list-style-type: none">• Employers with less than 25 employees are not required to contribute
RI	<ul style="list-style-type: none">• N/A: Employee contributions only
WA	<ul style="list-style-type: none">• Employers with less than 50 employees are not required to contribute

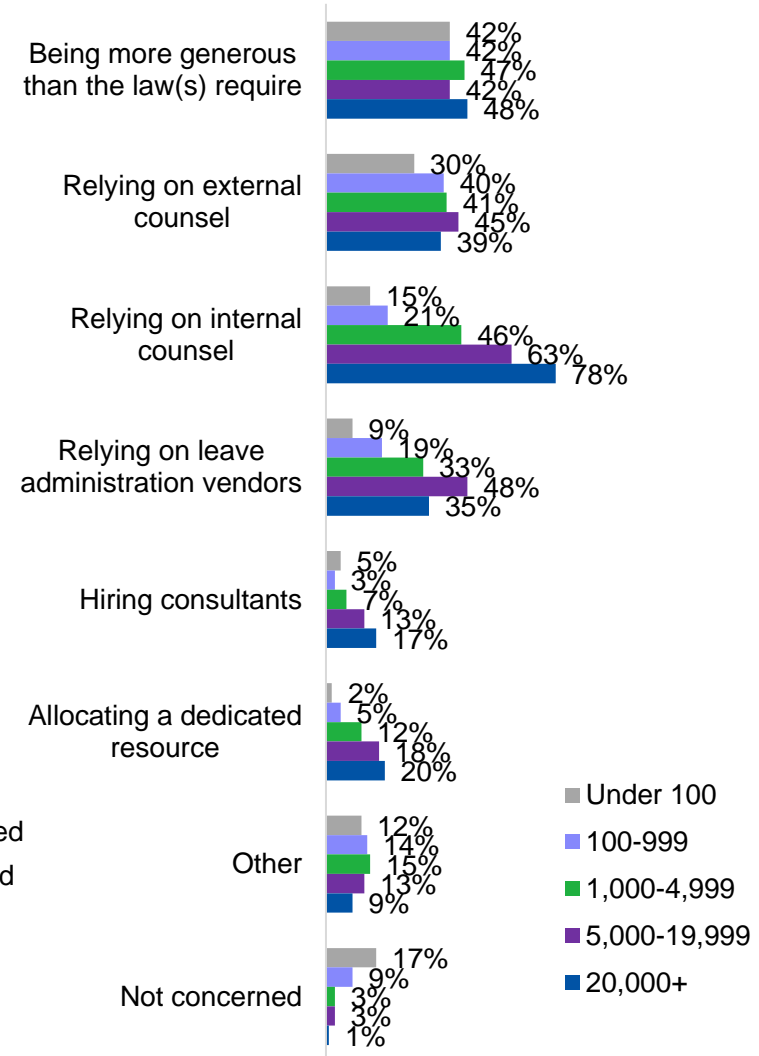
Note: subject to change

Strategies to Consider

- ▶ **Compliance** is a mandate
- ▶ **Cost** is an obvious factor; particularly if employer want to be more generous than states require
 - Estimated 26% offer paid parental plans compared to approximately 20% offering paid family leave plans
- ▶ Coordinating the program(s) is the biggest pain point; often drive by **culture**



APPROACHES TO STAY COMPLIANT RAPIDLY CHANGING PAID LEAVE REGULATIONS BY SIZE*



Strategies to Consider

Employer have a range of choice to meet the needs but are primarily driven by compliance, cost and culture



COMPLIANCE

- Consider insource, outsource, co-source and appropriate roles
- Identify internal tool if appropriate
- Understand legal requirements and hold harmless provisions with vendor partner(s)
- Level set on contributions
- Review, update and coordinate policies



COST

- Select the state plan or a private plan; estimate fees
- Estimate internal staffing impact
- Identify external vendor partner costs
- Centralize overall approach
- Estimate overall costs



CULTURE

- Engage upper level management
- Revisit company benefits philosophy
- Consider all states holistically
- Consider if benefit equity is necessary
- Determine contribution approach
- Enhance the employee experience



Payroll Protection Program Loan Forgiveness

July 22, 2020

Marcum LLP and Marcum Technology have prepared these materials as part of an educational program. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual, entity or case.

While every effort has been made to offer current and accurate information, errors can occur. Furthermore, laws and regulations referred to in this program may change over time and should be interpreted only in light of particular circumstances.

The information presented here should not be construed as legal, tax, accounting or valuation advice. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Agenda

- ▶ PPP application deadline extended to August 8th
- ▶ Paycheck Protection Flexibility Act
- ▶ New Interim Final Rule
- ▶ The program rules for loan forgiveness
- ▶ Questions and Answers

PPP Loan Forgiveness Eligible Expenses

Loan forgiveness – cost during covered period beginning on loan disbursement date. New Legislation extends period to earlier of 24 weeks or December 31, 2020

- ▶ Payroll Costs (gross wages <\$100,000, vacation/sick leave, employer paid group health care and retirement benefits, SUTA) – at least 60% must be this category
 - Wages
 - Alternative Payroll Covered Period – first day of next pay period (eligible if payroll schedule is bi-weekly or more frequent only)
 - Amounts paid or incurred during covered period
 - Payroll costs are considered incurred on day employee's pay is earned
 - Payroll costs paid in the 1st regular payroll after the covered period are allowed
 - Owner-employees, self-employed individuals and self-employed partners
 - Maximum compensation is 8/52 of 2019 compensation for 8 week period
 - Maximum compensation is 2.5 / 12 of 2019 compensation for 24 week period
 - Interim Final Rule (5.22.2020) indicates bonuses, hazard pay, etc. are eligible for forgiveness, but max comp for forgiveness per EE is \$15,385 for 8 week period
 - Maximum EE comp is \$46,154 ($\$100,000 / 52 \times 24$) for 24 week period

PPP Loan Forgiveness Eligible Expenses

▶ Payroll Costs (continued)

- Health Insurance
 - Paid or incurred during covered week period
 - Includes self-insurance
 - Reduced by employee contributions
 - It appears accrued costs paid during the covered period will count toward forgiveness (additional guidance may be forthcoming)
- Retirement
 - Paid or incurred during the covered period
 - No limitation outlined in forgiveness application
 - It appears accrued costs paid during the covered period will count toward forgiveness (additional guidance may be forthcoming)
- Employer-level state taxes
 - Amounts paid by the borrower assessed on employee compensation
 - State withholding taxes are not included

PPP Loan Forgiveness Eligible Expenses

- ▶ What to include for owners – it depends on entity type
 - Compensation
 - Use 2019 compensation to determine maximum eligible for forgiveness
 - For 8 week period – maximum is \$15,385
 - For 24 week period – maximum is \$20,833
 - C Corp / S Corp – use wages. S Corp wages includes health insurance
 - Must pay out via wages during covered period in 2020
 - 1065 (partnership) – use 92.35% of: 2019 SE income less Sec 179 exp
 - Also subtract unreimbursed partnership expenses and depletion
 - Sch C – use 2019 Sch C net income
 - Health Insurance
 - Only include for C Corp owners
 - Do not include for Sch C, 1065 (partnership), or S Corp owners
 - Retirement
 - Include for C Corp or S Corp owners
 - Do not include for Sch C or 1065 (partnership) owners

PPP Loan Forgiveness Eligible Expenses

▶ Non-Payroll Costs

- Eligible expenses limited to the following:
 - Rent or lease payments in place prior to February 15, 2020
 - Interest on mortgage obligation in place prior to February 15, 2020
 - Rent and mortgage interest are for both real estate, and personal property
 - Leases for equipment, copiers, vehicles, etc. all count
 - Utilities (electricity, gas, water, telephone, internet and transportation)
- Must be paid or incurred during covered period and paid on or before the next regular billing date
- It does not appear that pre-payments are forgivable
- Borrowers can elect to exclude any amount of non-payroll costs as part of their loan forgiveness application

Reductions in Loan Forgiveness (FTEs)

- ▶ Decrease in FTE headcount during covered period
 - Uses a 40-hour workweek as a base
 - Any employee working less than 40 hours is a fractional employee (rounded to nearest tenth) or borrowers can elect to count all PT employees as ½ FTE
 - Two look back periods for FTE threshold
 - Average monthly FTE for
 - 1/1/20 - 2/29/20 or
 - 2/15/19 - 6/30/19
 - Pick the lower one for your threshold
 - Meet / exceed that FTE during covered period or part of loan is not forgiven
 - FTE Safe Harbor - If lower FTE between 2/15 and 4/26, and re-hire to 2/15/20 FTE level by / before December 31, 2020, no reduction in forgiveness

Reductions in Loan Forgiveness (FTEs)

- ▶ No penalty if offer to return to work is denied (in writing), terminated for cause, voluntarily resigned or requested reduction of hours – must report denials to unemployment bureaus
- ▶ There are two new alternatives for a borrower to restore a potential reduction in forgiveness:
 - An inability to find qualified employees to replace those let go, and
 - An inability to restore the business operations to February 15, 2020, levels due to COVID-19-related operating restrictions

Reductions in Loan Forgiveness (Wages)

- ▶ Decrease in an individual employee's wages
 - Can't drop anyone's wages more than 25%
 - Exception for those who made > \$100k annualized for **any** 2019 pay period
 - Excluded from wage reduction calculation
 - Look at the employee's avg wages during the period 1/1/20-3/31/20
 - Pay them at least 75% of that amount during the covered period
 - Wage Reduction Safe Harbor – If the employee's annualized wages from February 15 - April 26, 2020, are less than the annualized wages on February 15, 2020 (because wages were reduced during this period), and the employee's June 30 or December 31, 2020, annualized wages are greater than or equal to the employee's February 15, 2020, annualized wages, loan forgiveness does not need to be reduced for this calculation.

Accumulating Documentation Incurred and Paid

- ▶ The SBA Forgiveness Application lists specific documentation that must be included with the application, and additional documentation that must be retained for 6 years
- ▶ If the loan is not forgiven, the term has been extended to five years from the previous two years, interest rate is still at 1%.
 - Not automatic 5 year loan, have to contact bank to change terms
- ▶ The IRS Notice 2020-32 conclusion that expenditures producing loan forgiveness are non-deductible, thus the forgiveness is effectively taxable.
- ▶ Companies that participate in the Payroll Protection Program Loan program will be eligible to defer the company portion of payroll taxes throughout 2020. This is a change from being eligible for the payroll tax deferral only through the date a company receives loan forgiveness

Loan Forgiveness Applications

▶ Updated application

- <https://home.treasury.gov/system/files/136/3245-0407-SBA-Form-3508-PPP-Forgiveness-Application.pdf>

- https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Instructions_1.pdf

▶ EZ Application

- <https://home.treasury.gov/system/files/136/PPP-Forgiveness-Application-3508EZ.pdf>

- <https://home.treasury.gov/system/files/136/PPP-Loan-Forgiveness-Application-Form-EZ-Instructions.pdf>



Common Questions

Common Questions

What is my maximum wages I can include if I apply for forgiveness before the end of 24 weeks?

Common Questions

Can I include the entire first payroll paid in my covered period even though the employees earned the wages prior to the start of my covered period?

Common Questions

Can I include my 2019 accrued profit sharing / pension contribution as part of my retirement costs that are eligible for forgiveness?

Common Questions

Do I have to keep my FTE count at the threshold level through December 31st if my covered period ends before then, or I decide to apply for forgiveness before the end of my covered period?

Common Questions

Are the expenses eligible for loan forgiveness able to be deducted for tax purposes?

Common Questions

Can I include rent I pay to the real estate company owned by the same people that own the operating company?

Can I hire my children / relatives and have their wages count toward forgiveness?

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IMPORTANT



Questions and Answers

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