MarshMcLennan Agency

State Legislation Update

Roundup of selected state health developments, first-quarter 2023

May 19, 2023

In this article

Paid leave | Telehealth | Prescription drugs | Insurance| Other benefit-related issues | Related resources

Statehouses across the United States stayed busy in the first quarter of 2023, tackling issues like leave, health insurance and prescription drug pricing. New laws in Arkansas and Tennessee allow for family leave insurance. Illinois now requires all workers to earn paid leave they can use for any reason, starting in 2024. A recent San Francisco ordinance institutes paid military leave, while changes to existing paid leave laws occurred in Puerto Rico and two Minnesota cities. A new Seattle ordinance provides paid sick and safe leave benefits to gig workers. COVID-19 leave mandates expired in several California localities. Telehealth access gained traction in several states, including Idaho, Utah, Vermont, Washington and Wyoming. More than a half dozen states passed prescription drug laws, including ones capping insulin cost sharing in Washington and West Virginia. Illinois and New York were among states issuing insurance coverage mandates. North Carolina expanded its Medicaid program, as allowed under the Affordable Care Act (ACA).

Paid leave

Six states are still considering paid family and medical leave (PFML) bills during the 2023 legislative session: Florida, Louisiana, Missouri, Minnesota, Nebraska and North Carolina. Illinois enacted a new law requiring almost all employers in the state to provide paid leave that employees can use for any reason. Arkansas and Tennessee passed optional family leave insurance laws similar to one enacted last year in Virginia. Colorado and Massachusetts made minor changes to existing paid leave laws. San Francisco's paid military leave mandate is now in effect. A few California local COVID-19 leave mandates have ended. Seattle added a paid sick leave mandate for certain employers. Puerto Rico's paid vacation and sick leave law has reverted back to pre-July 2022 standards because of a court ruling. Two Minnesota cities amended their paid sick leave ordinances.

Arkansas

As a result of 2023 Act No. 84 (SB 111), accident, health and life insurers may now offer employers a new line of family leave insurance. The insurance will cover an employee's income loss (or portion thereof) due to birth, adoption or foster placement of a child; a family member's serious health condition; or a family member's military exigency. The family leave insurance can be a separate group policy or an amendment to a group disability policy. The law took effect Feb. 17.

California

A supplemental paid sick leave requirement in Los Angeles expired Feb. 15 after the city council voted to end the COVID-19 state of emergency on Feb. 1 (see Motion 32A. On Feb. 14, Long Beach's city council approved a resolution ending the supplemental sick leave requirement, effective Feb. 21. Los Angeles County voted to lift its local state of emergency on March 31, effectively ending the county's paid sick leave mandate on April 14.

For a comprehensive review of local COVID-19 leave requirements, see States, cities tackle COVID-19 paid leave (Feb. 15, 2023).

Colorado

A Colorado law (2023 Pub. L. No. 40, SB 46) changes the average weekly wage calculation under the state's Family and Medical Leave Insurance Program. The calculation now takes into account wages from previous jobs held during the base period. Prior to the amendment, average weekly wage only took into account the job from which the individual was taking paid leave. The change took effect March 23.

Illinois

The Paid Leave for All Workers Act (2023 Pub. Act 102-1143, SB 208) makes Illinois the third state — joining Maine and Nevada — to require employees earn accrued paid leave they can use for any reason. The law requires at least 40 hours of paid leave per 12-month period (or one hour for every 40 hours worked) for all Illinois employees (with some exceptions). Leave must be available after 90 days of employment. This law will take effect Jan. 1, 2024. For more information, see Illinois requires paid leave for any reason starting in 2024 (April 11, 2023).

Massachusetts

Massachusetts law requires employers to "provide for, contribute to or otherwise maintain an employee's employment-related health insurance benefits" during PFML. The Department of Family and Medical Leave issued regulations effective Jan. 6. To meet the obligation to "otherwise maintain" group health benefits, an employer can:

- Continue to pay its portion of contributions
- Reimburse amounts above the active employee rate during a COBRA or state coverage continuation period
- Allow eligible employees to continue coverage as long as they remain eligible for a multiemployer (union) plan that bases eligibility on hours worked or contributions made during an earlier qualifying period

Employers need not maintain coverage if an employee was ineligible for benefits when PFML leave began, resigns during PFML leave or is a former employee when the leave begins.

Minnesota

St. Paul and Bloomington revised their earned sick and safe time (ESST) ordinances. In St. Paul, the amendment clarifies that employees working within the city's boundaries are covered, even if the employer

lacks a physical location in the city. The mandate previously applied only to employers with a brick-and-mortar presence in St. Paul.

Bloomington's amendment allows employers to provide accrued ESST in fractions of an hour instead of whole hours. In addition, pay stubs must include information on an employee's ESST hours. The city has published rules and a poster for the ESST mandate, which will take effect July 1.

Oregon

In advance of the Sept. 3 start date for Paid Leave Oregon benefits, the state Employment Department issued useful fact sheets on determining the taxability of paid time-off benefits and the primary place of performance when an employee works in Oregon and another state. The latter guidance confirms that Paid Leave Oregon applies in the following situations:

- An employee works in Oregon but lives in another state
- An employee works remotely in Oregon, even if the employer is located/headquartered in another state
- An employee works primarily in Oregon and occasionally in another state

Puerto Rico

Since 2016, Puerto Rico's finances have been subject to oversight under federal law, due to the territory's ongoing liquidity concerns. Effective July 20, 2022, Act No. 41-2022 amended various labor and employment laws, including expansion of Puerto Rico's statutory paid leave law. The oversight committee filed a complaint in federal district court, seeking to nullify the act because of fiscal concerns.

In March, the court declared the law null and void, reinstating prior statutory leave entitlements (*Fin. Oversight and Mgmt. Bd. for Puerto Rico v. Pierluisi Urrutia*, No. 17 BK 3283-LTS (D. PR March 3, 2023)). Employers with Puerto Rico employees should review and revise their leave policies (and other labor and employment practices affected by the court's nullification of Act No. 41-2022). The following table shows what changes are now in effect pending final resolution of the case, which is currently on appeal to the 1st Circuit.

Requirement	Act No. 41-2022	Current law after court ruling
Nonexempt employee's eligibility for paid vacation	Must work at least 115 hours per month	Must work at least 130 hours per month
Nonexempt employee's monthly paid vacation accrual	0.5 days for small employers (<13 workers) 1.25 days for large employers (≥13 workers)	0.5 days for small employers (<13 workers) 0.5–1.25 days for large employers (≥ 13 workers), depending on employee's years of service
Nonexempt employee's eligibility for paid sick leave	Must work at least 115 hours per month	Must work at least 130 hours per month
Nonexempt employee's monthly paid sick leave accrual	1 day per month, regardless of employer size	1 day per month, regardless of employer size

Requirement	Act No. 41-2022	Current law after court ruling
Part-time (at least 20 hours per week) nonexempt employee's eligibility	0.25 days of paid vacation and 0.5 days of sick leave for small employers 0.5 days each of paid vacation and sick leave for large employers	Not eligible
Payout of accrued, unused vacation upon employee request	All unused vacation days	Amount only in excess of 10 days

San Francisco

San Francisco has enacted the Military Leave Pay Protection Act (MLPPA), which took effect Feb. 19. This law applies to employers with 100 or more employees worldwide. Covered employees are San Francisco workers who are members of the reserve corps of the US Armed Forces, National Guard, or other uniformed service organization and are absent from work for military duty (defined in the ordinance). Collectively bargained employees can expressly waive MLPPA requirements.

The law requires supplemental pay equal to the difference between the employee's military pay and regular pay during military duty. Employees can take military leave in daily increments for up to 30 days in any calendar year. An employer can offset the supplemental pay by amounts the employer is otherwise required to pay during leave or provides under a company policy.

If an employee does not return to work within 60 days after release from military duty, an employer may treat the supplemental pay as a loan. Interest on the loan starts accruing after 90 days from the individual's release from military duty or return to fitness for employment, whichever is later.

The Office of Labor Standards Enforcement (OLSE) will provide information about paid military leave for employers to include in annual poster mailings. An OLSE FAQ provides more details.

Before an employee's military leave begins, employers should consider asking for a copy of the employee's current leave and earnings statement from a uniformed service agency to ensure correct calculation of this benefit.

Seattle

The city's App-Based Worker Paid Sick and Safe Time (PSST) Ordinance requires covered network companies with at least 250 app-based workers worldwide to provided paid leave. Network companies (like DoorDash, Uber and Lyft) use an online application or platform to connect customers with app-based workers. App-based workers qualifying as employees of covered network companies under the city's regular PSST ordinance (Chapter 14.16) are not considered workers covered by the new ordinance.

The law took effect on May 1, 2023, for food delivery workers in Seattle and will go into effect on Jan. 13, 2024, for all other app-based workers. Here is a summary of the requirements:

- App-based workers accrue one day of PSST for every 30 days of work. Companies can frontload the annual entitlement amount at the start of each year instead of allowing workers to carry over up to nine days of leave. PSST must be available to use within one week after accrual and must be taken in 24-hour increments. Employers can require verification for PSST lasting more than three consecutive days.

- Eligible workers must have worked in Seattle at least once during the preceding 90-day period. Workers who stop using the application or software will be entitled to have their previously accrued PSST restored if they return to work for the company within 12 months of their departure. For those returning within 12 month, prior experience with the company counts in determining eligibility to use accrued leave.
- PSST is available for the worker's or a family member's illness, injury or health condition, as well as various safety reasons (including a school or care facility's closure, domestic violence, sexual assault or stalking).
- The leave benefit equals the average daily compensation for each calendar day worked whole or in part in Seattle during the prior 12-month period, including earnings performed outside Seattle.
- Network companies must provide covered workers a notice of PSST rights.

A penalty scale (up to $6,230.88 per violation) applies for noncompliance. Seattle's Office of Labor Standards is expected to provide a model notice and issue guidance in the near future.

Tennessee

The Tennessee Paid Family Leave Insurance Act (2023 Ch. 91, HB 609 and SB 454) authorizes family leave insurance as a separate group policy or as a rider or an amendment to or other provision in a group disability or life insurance policy. Coverage must include wage replacement for leaves related to:

- Birth, adoption and foster care
- Care for a family member with a serious health condition
- A family member's impending call or order to active military duty

Wage replacement can be a percentage or portion of the employee's income loss due to the leave. Family leave insurance policies can be written for coverage beginning on or after Jan. 1, 2024.

Telehealth

Several states are considering how to enhance telehealth capabilities and access. Recent laws in Idaho, Utah and Wyoming enable out-of-state providers to offer services more easily to state residents. Vermont and Washington have extended key deadlines whose expiration would have restricted telehealth use.

Idaho

Two recent laws make telehealth more accessible in Idaho. First, passage of 2023 Ch. 102 (HB 162) make Idaho latest state to pass telehealth standards that allow establishing a provider/prescriber-patient relationship through virtual technology. Second, the Telehealth Access Act (2023 Ch. 142, HB 61) allows mental or behavioral health providers licensed in another state to provide telehealth services to a person in Idaho. Both laws will take effect July 1. This law builds on Idaho's membership in the Psychology Interjurisdictional Compact (PSYPACT), an interstate compact between states, facilitating the practice of mental health services across state lines.

Utah

One new law (2023 Ch. 278, HB 159) allows nonresident healthcare professionals (not limited to mental or behavioral health) to receive a temporary license to provide telehealth services to patients located in Utah. A second law (2023 Ch. 339, HB 166) amends the Mental Health Professionals Practice Act to prohibit mental health/substance use disorder (MH/SUD) counselors from issuing prescriptions, unless otherwise authorized under an interstate compact like the Psychology Interjurisdictional Compact (PSYPACT). (Utah is already a PSYPACT member.) The law also changes the short-term transitional period for remote MH/SUD counseling from 45 to 90 days. Both laws took effect May 3.

Vermont

2023 Act 4 (HB 411) extends the expiration date by one year — to March 31, 2024 — for several healthcare regulatory flexibilities enacted during the COVID-19 pandemic, including:

- Waiver of compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) rules for telehealth (including dental) connections when not practicable under the circumstances
- Allowance and temporary licensing of out-of-state healthcare professionals (not limited to telehealth) to provide services (including mental health) in Vermont
- Emergency rule-making authority related to expanding health insurance coverage for and waiving or limiting cost sharing related to COVID-19 diagnosis, treatment, and prevention.

The new law also extends the temporary telehealth registration option for of out-of-state healthcare professionals until the state's regular telehealth licensure and registration system is operational. This law took effect on March 29.

Washington

Existing law requires fully insured plans to cover telehealth (when care is otherwise covered for in-person health services), provides for payment parity, and allows real-time audio or video telehealth to establish a patient-provider relationship. The last provision on establishing patient-provider relationships was set to expire Jan. 1, 2024, but a new law (2023 Ch. 8, SB 5036) extends the expiration date for six months until July 1, 2024.

Wyoming

Wyoming has joined two interstate telehealth compacts. With the passage of 2023 Act. No. 6 (SB 26), Wyoming now belongs to PSYPACT, along with more than two-thirds of all states (and Washington, DC). The PSYPACT measure took effect on Feb. 15. Another law (2023 Act. No. 39, SB 10) authorizes Wyoming to join an interstate compact of licensed professional counselors. This law took effect on Feb. 23.

Prescription Drugs

Prescription drug costs are a high priority for many state legislatures in 2023. In particular, insulin affordability is a key concern; Washington and West Virginia have passed laws capping participants' out-of-pocket costs for insulin. Other states may follow suit in the absence of broad federal legislation (other than Medicare's cap) on this issue. Arkansas focused on rebates and insured plans issued in other states. New laws in South Dakota and Wyoming restrict pharmacy benefit manager (PBM) activities, while Indiana has issued regulations implementing a significant 2020 PBM law. Virginia now requires a real-time online preauthorization process for prescriptions that provides information about patient out-of-pocket costs and alternative medications.

Arkansas

The Share the Savings Act (2023 Act No. 333, HB 1481) requires fully insured plans and PBMs to calculate any participant cost sharing at the point of sale. This calculation must use a price reduced by an amount equal to at least 100% of all rebates received or to be received in connection with dispensing the drug. However, the insurer or PBM does not have to publish or otherwise reveal specifics about the rebate amount for a drug or class of drugs.

Another law (2023 Act No. 302, SB 94) expands the definition of a health benefit plan for purposes of PBM licensure and regulation to include plans issued outside the state that cover Arkansas residents. Both laws appear to take effect on or about June 8.

Indiana

Final rules implement a 2020 law's changes for PBMs operating in the state. The rules address:

- PBM licensure and financial requirements
- Application and renewal fees
- Pharmacy claims audits
- Maximum allowable cost pricing
- Annual reporting
- Penalties

The rules, which took effect March 23, appear to apply to self-funded plans. Additional guidance would be helpful.

Oklahoma

The 10th US Circuit Court of Appeals is reviewing an ERISA challenge to a 2019 Oklahoma law, the Patient's Right to Pharmacy Choice Act. In an amicus curiae brief invited by the court, the US government argued that ERISA preempts certain state PBM regulations only to the extent a self-funded plan directly engages in the regulated conduct; the preemption does not prohibit the regulation of a PBM contracted by the self-insured plan. Oral argument is currently set for mid-May. For details on the earlier stages of the litigation and the original law, see Roundup of selected state health developments, second-quarter 2022 (Aug. 22, 2022).

South Dakota

A new law (2023 Ch. 58, HB 1135) makes major changes to the state's PBM law. Effective July 1, the measure:

- Increases PBM pricing transparency and requires timely updates to the maximum allowable cost list
- Prohibits nine types of common PBM fees
- Bans retroactive reimbursement adjustments, except in limited cases
- Requires reimbursing non-PBM-affiliated pharmacies at the same rate as affiliated pharmacies

The law's application to self-funded plans is unclear. A PBM is broadly defined as an entity that "performs pharmacy benefit management, pursuant to a contract or other relationship with a third-party payor." South Dakota does not apply its insurance laws on an extraterritorial basis to fully insured plans issued outside the state.

Virginia

Amendments to the state's insurance laws (2023 Ch. 474, HB 1471, and 2023 Ch. 475, SB 1261) require insured plans and PBMs to establish an electronic process for preauthorization of a prescription drug at the point of prescription. In addition, real-time, patient-specific benefit information, including out-of-pocket costs and more affordable medication alternatives, must be provided at the point of prescription, either through the e-prescribing system or the electronic health record system.

These requirements will apply to insurers and PBMs, starting July 1, 2025. Virginia generally does not apply its insurance laws on an extraterritorial basis to fully insured plans issued outside the state, but the law may apply to PMBs contracting with self-funded plans.

Washington

Existing law — capping insulin cost sharing at $35 per 30-day supply — was set to expire Jan. 1, 2024. An amendment (2023 Ch. 14, SB 5729) removes the expiration date, making the insulin cost-sharing cap permanent. Washington generally applies its insurance laws on an extraterritorial basis to fully insured plans issued outside the state.

West Virginia

2023 Ch. 193 (SB 577) reduces the copay cap on insulin from $100 to $35 in the aggregate (e.g., for covered individuals prescribed more than one insulin drug). The law also implements a $100 copay cap (in the aggregate) on covered insulin devices. Both caps apply for a 30-day supply. Testing equipment may be purchased without a prescription. This law will take effect Jan. 1, 2024. West Virginia does not apply its insurance laws on an extraterritorial basis to fully insured plans issued outside the state.

Wyoming

Amendments (2023 Act No. 90, SB 151) to the state's PBM law (WY Stat. §§ 26-52-101 *et seq.*) significantly expand restrictions, including pricing and pharmacy reimbursement, limitations on mail order, and affiliated pharmacy steerage. The amendments also broaden the definition of a PBM and ban pharmacy fees and spread pricing. Whether the law applies to self-funded plans is unclear. The amendments will take effect on July 1.

Insurance

More states are looking at HIV-related drug coverage mandates; Illinois and New York enacted laws in this area (as well as other insurance coverage requirements). Virginia passed laws on continuity of care and multiple employer welfare arrangements (MEWAs). The state also issued regulations on association health plans (AHPs), a type of multiple-employer welfare arrangement (MEWA). New Mexico and West Virginia enacted laws that clarify insurance issues for MEWAs and high-deductible health plans (HDHPs).

Illinois

A new law (2023 Pub. Act 102-1117, HB 4664) expands access to abortion and gender-affirmation services, enhances protections for healthcare providers, and makes other changes. The measure amends the state's Reproductive Health Act (RHA) (775 IL Comp. Stat. 55/), the insurance code (215 IL Comp. Stat. 5/) and related state laws. New health plan coverage requirements include:

- Coverage of abortion medications, HIV prevention and treatment medication (preexposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP)), and gender-affirming medications without cost sharing
- Coverage of abortion medications, regardless of whether a policy provides prescription drug benefits and without requiring proof of pregnancy
- Coverage of out-of-network services as in-network services when the in-network provider raises moral objections to providing the service

The first requirement above will take effect for plan years starting on or after Jan. 1, 2024. The other two requirements took effect on Jan. 13, 2023. The coverage requirements do not apply to self-funded ERISA plans. Illinois does not apply its insurance laws on an extraterritorial basis to fully insured plans issued outside the state.

The law also expands access to reproductive healthcare by:

- Broadening the definition of reproductive healthcare to include assisted reproduction
- Authorizing advanced practice registered nurses and physician assistants to perform certain surgical abortions
- Authorizing pharmacists to dispense hormonal contraceptives pursuant to a standing order by a local health department or the state Department of Health
- Permitting licensed birth centers to offer reproductive healthcare beyond childbirth-related needs of pregnant persons

Enhanced healthcare provider and patient protections include provisions:

- Shielding individuals from out-of-state subpoenas, summons, or extraditions related to reproductive or gender-affirming care that is lawful in Illinois
- Exempting healthcare providers, related facilities and pregnant persons from wrongful death claims related to lawful abortions (the exemption previously was limited to physicians and medical institutions)
- Prohibiting professional discipline of healthcare providers and pharmacists based solely on participation in a healthcare service that is lawful in Illinois or based solely on another state's discipline for the same conduct

New Mexico

A new law (2023 Ch. 68, HB 255) confirms that health coverage offered by an employee leasing contractor can be a group health plan and a MEWA. These plans must be fully insured. These entities must count both employees and leased workers when determining group size (i.e., small group covering 2–50 or large group covering 51 or more employees and leased workers).

New York

Three new laws affecting fully insured plans amend New York's Insurance Code:

- **2023 Ch. 79, SB 825.** This law requires large group medical plans to cover PrEP and PEP for HIV infection without cost sharing if the drugs have an "A" or "B" rating from the US Preventive Services Task Force (USPSTF). The coverage requirement previously applied only to policies with prescription drug coverage and did not impose cost-sharing limitations. This law took effect on March 3. PrEP is an ACA-mandated preventive health service but currently subject to litigation. See Texas judge pares back ACA preventive services coverage requirement (March 31, 2023).
- **2023 Ch. 63, AB 2200.** This law requires insurers and PBMs in the state to furnish cost, benefit and coverage data on request to a participant, a participant's healthcare provider or an authorized third party, including a HIPAA business associate. The law will take effect on or about June 28.
- **2023 Ch. 62, AB 1975.** This law removes creative arts therapy (as defined by state law) from a list of mandated covered services for fully insured plans in New York. The law took effect Jan. 1, 2023.

These laws do not apply to self-funded ERISA plans or on an extraterritorial basis to fully insured plans sitused in other states.

Virginia

Amendments to the state's continuity-of-care (COC) requirements for insured plans (2023 Ch. 490, HB 2354) establish a minimum 180-day COC period for life-threatening conditions. In addition, the standard 90-day COC period for a pregnancy will apply at any stage of a confirmed pregnancy; the pregnancy-related COC requirement previously applied only after a woman entered the second trimester. The amendments will take effect on Jan. 1, 2024.

Two identical laws (2023 Ch. 514, HB 2201, and 2023 Ch. 515, SB 1171) allow insured AHPs in the large group market to base premium rates on a community-rating methodology that considers all participant claims, while utilizing each employer-member's specific risk to establish each employer-member's rates. This new provision of the AHP law will take effect on July 1.

On the regulatory front, final rules for self-funded MEWAs establish new requirements for licensure, reporting, disclosures, financial conditions and solvency.

West Virginia

SB 594 amends the Insurance Code's requirements for fairness in cost-sharing calculations (which apply to prescription drug claims paid partly or fully by a third party). The revised provisions now include an exception for HSA-eligible HDHPs. Beginning March 3, the requirement for insurers and PBMs to include amounts paid by the insured and on behalf of the insured by another person in the cost-sharing calculation is suspended until after the deductible is met if implementing this provision would result in HSA-ineligibility. The exception does not apply to preventive care items and services that may be covered on a predeductible basis.

Other benefit-related issues

New Jersey's new pay equity law requires employers to offer comparable pay and benefits to temporary employees. North Carolina expanded Medicaid eligibility. New York and San Francisco recently updated information related to annual reporting requirements. Virginia passed an unpaid organ donation leave law. Washington provided updated PFML and long-term care (LTC) resources.

New Jersey

The Temporary Workers' Bill of Rights (2023 Ch. 10, AB 1474) requires employers to pay temporary employees in certain labor classifications at least the "average rate of pay and average cost of benefits, or the cash equivalent" provided to comparable employees in jobs requiring "equal skill, effort, and responsibility." This law is limited to temporary employees placed by a staffing agency into these occupational categories designated by the federal Bureau of Labor Statistics (BLS):

- Other protective service workers
- Food preparation and serving-related occupations
- Building and grounds cleaning and maintenance occupations
- Personal care and service occupations
- Construction laborers
- Helpers, construction trades
- Installation, maintenance and repair occupations
- Production occupations
- Transportation and material-moving occupations
- Any BLS-designated successor categories

The law does not apply to employers that directly hire a temporary employee instead of using a staffing agency.

The law does not clearly define which specific benefits are required, although the preamble refers to "employer-sponsored retirement and health benefits." A separate provision requires staffing agencies to obtain a $200,000 surety bond to cover violations, including those related to "fringe benefits." The law makes no distinction between fully insured and self-funded benefits and is not limited to fully insured plans issued in New Jersey.

Covered workers must receive a detailed notice (in English and an employee's primary non-English language) prior to a placement. The law includes anti-retaliation protections and prohibits businesses from using an unregistered staffing agency.

A staffing agency and third-party client are both liable for violations, which are subject to an individual right of action and are enforceable by several state agencies. Notice and anti-retaliation provisions will take effect on May 7. All other provisions (including pay and benefits) will take effect on Aug. 5.

New York

New York's Department of Health has posted its 2023 regional covered-lives assessment (CLA) rates and percentage surcharges for graduate medical education (GME) under the Health Care Reform Act (HCRA). The annual GME CLA/percentage surcharge along with an indigent care surcharge are two distinct payments the HCRA imposes on health claim payors, including self-funded plans. For more details, see New York announces 2023 HCRA covered-lives assessment rates (Jan. 24, 2023).

North Carolina

Session Law 2023-7 (HB 76) makes North Carolina the 40th state to opt into Medicaid expansion provisions of the ACA. The effective date is conditioned on the later of two dates: approval of the expansion program by the federal Centers for Medicare & Medicaid Services (CMS) and approval of the state's 2023–2024 fiscal year budget.

San Francisco

May 1 marked this year's deadline for Annual Reporting Form (ARF) reporting, generally applicable to employers subject to the Health Care Security Ordinance and/or Fair Chance Ordinance. Employers must report if they employed five or more (previously 20 or more) employees nationally, as long as at least one employee worked at least 104 hours in a quarter of 2022. The ARF deadline (normally April 30) is subject to the weekend rule. Reporting requires a business account number, which can looked up here. For more details, see the OLSE resource page. Noncompliance penalties are $500 per quarter.

Washington

Washington's Employment Security Department recently provided new tools related to PFML and LTC insurance:

- **PFML.** A website has documents reflecting changes implemented in January, including a toolkit, voluntary plan guide, wage report template, paycheck insert and required poster. These tools are also available in Spanish.

- **LTC.** A new toolkit helps employers prepare employees for the launch of the WA Cares Fund in July. This toolkit includes messaging, videos and a month-by-month calendar. LTC salary-reduction contributions start in July.

Virginia

With the enactment of 2023 Ch. 751 (SB 1086), Virginia joins a small but growing number of states to require private employers to offer unpaid leave for organ (including bone marrow) donations. Many states limit this mandate to state and local government employees.

Starting July 1, employers with at least 50 employees must provide up to 60 business days of unpaid organ donation leave in a 12-month period. Eligible employees must have worked at least 12 months with the same employer and at least 1,250 hours in the prior 12-month period. Before leave starts, employees must show documentation that the donation is medically necessary.

The information contained herein is for general informational purposes only and does not constitute legal or tax advice regarding any specific situation. Any statements made are based solely on our experience as consultants. Marsh McLennan Agency LLC shall have no obligation to update this publication and shall have no liability to you or any other party arising out of this publication or any matter contained herein. The information provided in this alert is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the agency, our lawyers or our clients. This is not legal advice. No client-lawyer relationship between you and our lawyers is or may be created by your use of this information. Rather, the content is intended as a general overview of the subject matter covered. This agency is not obligated to provide updates on the information presented herein. Those reading this alert are encouraged to seek direct counsel on legal questions. © 2022 Marsh McLennan Agency LLC. All Rights Reserved.