

Unemployment Fraud, COVID-19 Vaccine for Employees Questions, & Classifying and Paying Exempt Employees Webinar

We are here to keep you up to date on the highlights of the month, labor law changes, PBS news, and important tax changes.

Paid Sick Leave & EFMLA Update

Emergency Paid Sick Leave (EPSL) Changes

Here are the key changes to EPSL, in effect from April 1 through September 30, 2021:

- Employees can take EPSL to get the COVID vaccine and to recover from any related side effects.
- Employees can take EPSL when seeking or waiting for a COVID-19 diagnosis or test result if they've been exposed to COVID-19 or if the employer has asked them to get a diagnosis or test. (Previously, time spent waiting on test results was not necessarily covered, which seemed like an oversight.)
- Employees will be eligible for a new bank of leave on April 1. Full-time employees are entitled to 80 hours while part-time employees are entitled to a prorated amount. Unused hours from before April 1 will not carry over.
- Employers can't provide EPSL in a manner that favors highly compensated employees or full-time employees or that discriminates based on how long employees have worked for the employer. (Be aware that any inconsistencies in the granting of leave could potentially lead to a discrimination claim.)



Emergency Family and Medical Leave (EFMLA) Changes

Here are the key changes to EFMLA, in effect from April 1 through September 30, 2021:

- EFMLA can now be used for any EPSL reason, in addition to the original childcare reasons. This includes the two new EPSL reasons noted above.
- The 10-day unpaid waiting period has been eliminated.
- The cap on the reimbursable tax credit for EFMLA has been increased to \$12,000 (from \$10,000). This applies to all EFMLA taken by an employee, beginning April 1, 2020. This change accounts for the additional 10 days of paid time off—the daily cap of \$200 remains the same.
- The law isn't clear as to whether employees are entitled to a new 12-week bank of EFMLA. We anticipate that the IRS, DOL, or both will provide guidance on this question soon. It is possible that an employee will be entitled to additional unpaid protected time off, even if they already received the maximum reimbursable amount during previous EFMLA leave(s). We will update our materials if and when new information is available.

Employers can't provide EFMLA in a manner that favors highly compensated employees or full-time employees or that is based on how long employees have worked for the employer. (Again, be aware that any inconsistencies in the granting of leave could potentially lead to a discrimination claim.)



Unemployment Fraud

Unemployment fraud in the U.S. has reached dramatic levels during the pandemic — the Labor Department inspector general's office estimates that more than \$63 billion has been paid out improperly through fraud or errors since March 2020.

Unfortunately, most people do not know they are a victim until the damage is done.

People typically find out about the problem when they receive benefits-related paperwork in the mail, a call from their employer or when they try to file a legitimate claim for benefits and are denied. In some cases, a criminal may initiate the false claim but the money itself is sent to the victim's account or home. The fraudsters may also build on a legitimate claim by requesting further benefits and nabbing those

Unfortunately, the fraud may have been perpetrated months ago but some people may just be finding out now because of tax season. States are required to mail out a 1099-G form, which reports income from unemployment benefits. People may receive these for benefits they never claimed, sometimes from multiple states. A taxpayer may also discover the issue after they file their federal taxes, only to be alerted later by the IRS that they did not report all their income, due to the bogus claim.

Read more about the Unemployment Fraud issue [here](#)

If you suspect fraud, you can report it [here](#).

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Employee Spotlight

April Employee Spotlight goes to our Tax Specialist, Matt Crowson! Matt joined PBS in 2019 and has been a key member of our Team ever since.

Matt loves being part of our team and we love having him! He spends his free time playing games and playing with his many pets, including a very cute hedgehog. Thanks for all you do, Matt!

[Visit Our Website for Helpful Resources Here](#)

HR CORNER

QUESTION:

Can we ask employees for proof of COVID-19 vaccination?

ANSWER:

You can ask employees for proof that they've received the COVID-19 vaccine, but you need to be careful about how you ask for it and what you do with the information.

You should ask employees to provide proof that only includes their name, the date of vaccine (and whether first or second dose, if applicable), and, if necessary, their provider's name. Asking for anything more than that could turn a simple request into a disability-related inquiry under the Americans with Disabilities Act (ADA) and should therefore be avoided.

You should also ensure that this information is kept confidential, along with any explanations about why an employee is not vaccinated. We recommend against asking employees why they are not vaccinated, but if you are mandating vaccines, this will likely come up when one or more employees indicate that they need an exception to your policy.

Finally, make sure that you don't discriminate against employees who aren't vaccinated because of their religious beliefs or disabilities. Title VII of the Civil Rights Act protects these characteristics and requires that you make reasonable accommodations for employees whose religious beliefs or disabilities prevent them from complying with your policies.

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THE ESSENTIALS

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