



WSSFC 2022

**Quality of Life/Ethics Track –
Session 1**

Implementing Flexible Work Schedules and Maximizing Your Time

JoAnn Gromowski, Erin R. Ogden, Emily L. Stedman

About the Presenters...

JoAnn Gromowski is a solo practitioner at Gromowski Law Firm, LLC in Fond du Lac. She received her undergraduate degree from UW- Whitewater in Public Policy and Administration and her JD from Marquette University Law School. She served as a law clerk at both the County Court and Federal Court. She previously held licenses in Accident & Health insurance, Life insurance, investment licenses Series 6 and Series 66. Ms. Gromowski is a member of National Academy of Elder Attorneys and the State Bar of Wisconsin. Interest includes photography, great white shark diving, flying, T.K.D., traveling, and family history.

Erin Ogden is a trademark and copyright nerd who loves helping businesses grow. Whether helping clients directly or working with other attorneys to help their clients, she helps identify, protect, and monetize intellectual property while looking at the business holistically. She enjoys helping companies identify and protect their intellectual property with trademarks, copyrights, and trade secrets for her clients. If necessary, Erin also helps figure out options available when it comes to disputes starting with cease-and-desist letters all the way up to preparing for litigation. She is also a bit of a nerd when it comes to contract drafting to fit the firm's goal to "keep things as simple as possible, but no simpler" (Thanks, Einstein!). She has helped start-up companies create their first licenses, re-vamped existing licensing protocols, and helped established companies take their first steps into licensing. Erin also works with companies to buy and sell businesses through asset purchases, stock purchases, membership purchases and mergers. Drop her a line or connect on social media. We'll nerd out together!

Emily Logan Stedman has called Milwaukee home since 2013. She obtained her B.A. (Spanish and History) from Wake Forest University and later enrolled at the University of Mississippi School of Law, graduating in 2013 and served as Editor-in-Chief of the *Mississippi Law Journal*. Emily clerked for Judge Pamela Pepper, now Chief Judge of the United States District Court for the Eastern District of Wisconsin and eventually joined Midwest Big Law as an associate at Quarles & Brady. Since then, she's worked as a Senior Associate at Husch Blackwell, where she practices commercial litigation. After experiencing an increase in anxiety and low moods, Emily sought out solace with colleagues, therapy, and meditation, she began talking more openly about the need for improving well-being in the law. She continued this president of the Young Lawyers Division of the State Bar of Wisconsin, then as a committee chair for the Wisconsin Taskforce on Lawyer Well-Being. Most recently, she has built a platform on LinkedIn where she posts regularly on the realities of being a Big Law associate and the need to destigmatize lawyer well-being.

Implementing Flexible Work Schedules and Maximizing Your Time

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Purpose of CLE: Attorneys don't have to do things the way they've always been done. In recent years, moving away from a traditional Monday-to-Friday schedule has gained more traction, and the change can lead to increased job satisfaction and personal (and professional) wellness. In this CLE, we will provide tips on how to increase your own efficiency, how to best manage your time during the workday, and how to protect your health to prevent work from overwhelming you with stress and anxiety. You'll hear the pros and cons of non-traditional work schedules, as well as how to plan for and use them.

First, there are several types of schedule flexibility:

1. Flextime.
2. Compressed workweek.
3. Shift work.
4. Part-time schedules.
5. Job sharing.

There are pros and cons to each of these. Remember: They're not all bad, after all flexible work schedules can be offered as a reasonable accommodation under the Americans with Disabilities Act. In fact, if an employee requests a flexible schedule or remote work as an accommodation for mental impairment—protected by federal or state law—employers should engage in the interactive process: discuss the employee's disability with the employee, the employer, and a health care provider so that each party can share information about the nature of the disability and any limitations on essential duties. This discussion is the foundation of ADA compliance.

Second, if managing or employing others, you'll want to consider what (if any) statutes govern the offerings you provide.

For example, the Fair Labor Standards Act (FLSA) does not address flexible work schedules as separate and apart from regular schedules. Therefore, an employer may change an employee's work hours without giving prior notice or obtaining the employee's consent unless otherwise subject to a prior agreement between the employer and employee or the employee's representative. That means employers should be aware of what they have agreed to in the past:

1. What was offered and accepted in the offer of employment?
2. What is in the employee handbook?

Next, keep in mind that it can be more difficult to track hours when on a flexible or non-traditional schedule. If nonexempt employees are allowed flextime, it is especially important to track their actual work hours to ensure compliance with the Fair Labor Standards Act. For

example, overtime work means all hours of work more than 8 hours in a day or 40 hours in a week. So, you should consider:

1. Do you have premiums?
 - A. Overtime
 - B. Holiday
 - C. Weekend
 - D. Third shift
2. Benefits Compliance
 - A. The Affordable Care Act (ACA) requires large employers to offer employees who work 30 or more hours per week health insurance benefits to avoid employer penalties.
 - B. The “1,000-hour rule” in the Employee Retirement Income Security Act (ERISA) makes employees who have completed 1,000 hours of service in a period of 12 consecutive months eligible to participate in any company retirement or profit-sharing plan that is offered to other employees.
 - C. Vacation, sick leave, retirement benefits, life insurance, disability plans, etc.

You should also consider what flexibility you’re offering similarly situated employees. To protect against employment discrimination claims, similarly situated employees should receive similar options for flexible work. This will help you address questions like, “Why did the company approve a flexible schedule for the 24-year-old paralegal but not the 60-year-old paralegal?”

Fourth, written policies and procedures become even more important when offering flexible schedules to employees. Make sure to consider whether you have proper procedures and policies in place, such as:

1. Are employees expected to provide their own devices (phones, laptops, etc.)?
2. What is the etiquette and dress code for videoconferencing?
3. What security measures are employees responsible for?
 - A. VPNs
 - B. Confidential Information
4. When is something “within the scope of work” or “on the clock”?

- A. Workers Compensation
- B. Insurance
- C. Intellectual Property ownership

Finally, keep in mind what could happen if an employee remains employed and moves out of state.

1. Is your firm now a foreign company?
2. How do obligations for workers compensation shift?
3. Does unemployment insurance change for the new state?
4. Is your firm creating “sufficient minimum contacts” for jurisdiction?

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One Year Later: Compliance Guide for Employers with a WFH Workforce

On January 20, 2020, the first case of COVID-19 in the United States was confirmed in Washington state. By March, many employers began sending their workers home on what was expected to be a temporary basis. Almost one year later, that initial pandemic response has morphed into a long-term or potentially permanent work from home (WFH) arrangement for many employees. Prior to the pandemic, only about 10 percent of the American workforce worked remotely, typically as an accommodation, or a perk offered by tech companies. Now, more than one year after COVID-19 reached the United States, and due in no small part to broadband technology, WFH arrangements have become mainstream and look like they are here to stay.

Consulting firms have forecasted that one-third of businesses expect 50 percent or more of their employees will continue to work remotely.

Managing a WFH workforce poses unique challenges and employers who simply assume it is business as usual, albeit from a location other than the office, may be caught off guard. For example, employers may not realize that an employee who chooses to work remotely from another state can subject the employer to that other state's laws. Employers also may not realize that many of the same employment protections they are required to provide in the office also apply to the employee's remote work location.

Employers should review and revise their policies and practices to ensure compliance with employment laws administered by the state and local jurisdictions where the employees are performing the work, guidance from the Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL), the Occupational Safety and Health Administration (OSHA), as well as state taxing authorities. This

article provides a compliance guide for employers planning to continue with a WFH workforce.

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1. Communication

- As always, a successful compliance strategy requires a successful communication strategy. Communicate with employees that your policies and rules apply to onsite and WFH employees.
- Keep the WFH workforce apprised of changes in policy or practice to support continued engagement.
- Ensure that workplace posters notifying employees about their rights under federal, state and local laws are “posted” so as to be accessible to all employees, including those in WFH status.

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2. State and local law considerations

- Do you know where your employees are located when they are working remotely? Will you need your employees to be able to report to an on-site work location with minimal notice?
- Do you want to place limitations on where your employees can work?
- More and more states and localities have their own laws related to topics like paid sick leave and pay transparency. If your employee is working remotely in one of those states, you will be required to comply with that state’s law.
 - For example, if your employee works remotely from Colorado, he or she will earn paid sick leave at a rate of 1 hour for every 30 hours worked.
 - For example, if you have even one employee working remotely in California or Colorado, you are likely obligated to comply with California’s pay data reporting laws or Colorado’s pay transparency posting laws.

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3. EEOC considerations

- WFH policies should identify the positions eligible for remote work opportunities, provide a process for requesting and authorizing WFH arrangements, and provide a process for terminating the WFH arrangement. All notices should be in writing.
- Administer WFH policies in a consistent and non-discriminatory manner. Denials of WFH requests must be based on legitimate, non-discriminatory reasons. Document reasons for a denial of a WFH request.
- If WFH arrangements are temporary only, then clearly communicate to employees that WFH arrangements will cease when in-office operations can resume.
- Ensure job descriptions are up to date and they identify the essential functions of each position. Be clear that temporary waiver of one or more essential job functions during WFH arrangements does not permanently change essential job functions.
- If an employee requests WFH as an accommodation due to disability, follow the processes required under the Americans with Disabilities Act or applicable state law.
- Past denials of WFH arrangements based on a belief that essential job functions cannot be performed remotely may necessitate reconsideration if the employee subsequently performs satisfactorily while working remotely and renews their request.
- Comply with all legally mandated training under state law, such as the sexual harassment prevention training mandated in Illinois and California.

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4. Wage and hour considerations

- Accurately track all time worked (and time off, including Family and Medical Leave Act) by employees who are working remotely.
- Ensure that non-exempt employees are being paid overtime.
- Consider applicability of shift differentials in remote work status.
- Comply with state laws concerning meal and rest breaks for non-exempt employees.
- Because working remotely may result in work outside of normal hours, establish a time-keeping method to track and record employees' hours of work, meal and rest breaks, and overtime pay while working remotely.
- Communicate expectations regarding time worked, overtime, advance approval for overtime, reporting all time worked and disciplinary consequences for unauthorized overtime.

- Determine whether paid leave requirements in cities and states from which employees work remotely are different from the non-resident employer's existing leave policies and whether the paid leave requirements are imposed on non-resident employers.
- Plan for how employees are expected to return company property if their employment ends while they are WFH. Evaluate whether it is permissible under federal or applicable state law to deduct the cost of company property from an employee's final pay if the employee fails to comply with the conditions of return. Many states require this kind of wage deduction to be in a written agreement signed by the employee.

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5. Expense reimbursement considerations

- Employees may be entitled to reimbursement of expenses incurred that are necessary to do their job under federal or state law.
- Adopt a policy that identifies reimbursable expenses, the procedure for submitting expenses for reimbursement and the documentation required.
- The DOL issued guidance during the pandemic prohibiting an employer from requiring non-exempt employees who are covered by the Fair Labor Standards Act (FLSA) to pay or reimburse the employer for items that are business expenses of the employer, if doing so reduces the employee's earnings below the required minimum wage or overtime compensation. Additional costs can include internet access or more secure or faster internet access, an additional phone line, a computer and increased use of electricity.
- For exempt employees, deductions from salary of additional expenses related to remote work could be considered impermissible deductions under the FLSA salary-basis test.
- Some state laws also address reimbursement of employers' business expenses and should be considered.
- Employers may not seek reimbursement or require employees to pay expenses related to WFH arrangements provided to an employee as a reasonable accommodation for a disability.

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6. Privacy law considerations

- Remote work arrangements raise concerns among employers about how to monitor productivity, protect intellectual property, and ensure the confidentiality of business information and prevent data breaches.
- Advanced technology increases not only the ability to monitor employees while working remotely, but such increased monitoring comes with potential increased legal liability if employers violate federal, state and common laws by inappropriately monitoring employees.

- Employers are legally permitted to monitor employees who use the employer's equipment and network. Infringement on employees' privacy rights is more likely if employees are using their own equipment and internet connection. But even then, some level of monitoring is permitted if the employer stays within the confines of the applicable laws and provides notice/consent to employees regarding monitoring and privacy expectations.
- Monitoring policies should be consistent with federal and state laws and should balance employer concerns with employees' right to privacy.

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7. Confidentiality considerations

- Adopt and communicate cybersecurity policies and protocols that employees must follow to protect proprietary information and minimize the risk of disclosure or data breach.
- Engage IT departments and implement cybersecurity safeguards such as a virtual private network (VPN) to allow access to an employer's network while reducing security risks to confidential information.
- Require employees to sign an acknowledgement of receipt of their company-owned devices and of their obligation to keep electronic devices and confidential information secure, including obligations under non-disclosure and confidentiality agreements.

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8. Safety law considerations

- Workers' compensation laws may apply to work-related injuries experienced by WFH employees.
- Review workers' compensation policies to ensure coverage of injuries that occur while working remotely in another state.
- OSHA does not require employers to inspect worksites in employee's home offices according to a 2002 OSHA directive, and OSHA typically will not inspect workers' home offices and will not hold employers liable for workers' home offices.
- OSHA will inspect other types of home-based worksites, such as home manufacturing operations. Employers are responsible for hazards at home worksites caused by materials, equipment or processes provided or required by the employer to be used in workers' homes.
- Continue to maintain appropriate 300 logs related to injuries experienced by remote workers and train WFH employees to report work-related injuries. Employers who are required under the OSH Act to keep records of work-related illnesses or injuries, must maintain appropriate 300 logs for work-related injuries or illnesses that occur in a remote workplace or office if they meet the recordability requirement of 29 CFR 1904.

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9. State and municipal tax considerations

- As a general rule, businesses are subject to state tax laws if the business has a nexus to the state, which can include the presence of a single employee who works remotely from the state.
- Due to pandemic-induced WFH arrangements, employers may be subject to different withholding and payroll obligations and other state and municipal tax requirements based on the geographic location of employees' remote worksites, regardless of the employer's physical location. For example, many employers in Kansas City, Missouri, have employees who have worked remotely from home in Kansas, raising questions about the applicability of the Kansas City, Missouri, earnings tax.
- Some states have issued telecommuting tax policies or guidance on income-sourcing for state tax purposes and exemptions based on reciprocal agreements with other states that prevent double taxation. But state decisions on income-sourcing issues regarding employees working remotely from a different state during the pandemic are not uniform. State taxation of employees working remotely has spawned not only new tax obligations for employers and employees but also litigation among states.
- Employers also are subject to state unemployment tax obligations which may be affected by WFH arrangements.
- Employers should take the following steps regarding state and municipal tax obligations:
 - Determine the states and municipalities from which your employees are remotely working.
 - Determine the nexus and withholding rules related to each state and municipality in which an employee works remotely.
 - Determine potential state and municipal tax withholding obligations related to each WFH employee and register for payroll taxes in appropriate additional states and localities.
 - Determine which state unemployment taxes must be paid for each WFH employee.
 - Provide information to employees on any additional, applicable withholding obligations.
 - Stay abreast of evolving state rules, regulations and FAQs on this topic.

Contact us

If you would like guidance on remote workforce solutions or monitoring of these evolving employment issues, contact Barbara Grandjean, Julianne Story or your Husch Blackwell attorney.

Tracey Oakes O'Brien, Legal Content and Knowledge Manager, is a co-author of this content.

CARES Act, COVID-19 & Return-to-Work Guidance

Husch Blackwell provides guidance regarding COVID-19 updates, the CARES Act, and rapidly changing state-by-state orders, including those that impact stay-at-home and return-to-work protocols. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.

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Labor and Employment Law Insights

Employers with Out-of-State Employees: Method for Assessing Differences in Wage & Hour Obligations

By Tracey O'Brien & Thomas Cedoz on May 16, 2022



In the last quarter of 2021, 69% of the 2,050 employees surveyed by Global Workplace Analytics and Owl Labs reported working remotely during the pandemic. One third of employees expressed a strong preference for continuing to work remotely, including

changing jobs if necessary. Clearly with help from technology, working remotely is rapidly becoming the new normal for many employees. In response to employee preferences in a tight labor market, employers are pivoting to incorporate remote work into their business models. The pivot can morph into a legal hurdle, though when an employee's remote work location is outside the state in which the employer is located (employer's home state).

Typically, employers must comply with the laws of the jurisdiction in which the employee is located (foreign state). This is particularly true in the context of wage and hour laws which 1) apply immediately and 2) with at least one employee working in a foreign state on an extended or permanent basis. Consequently, employers should definitively identify the state in which the employee is working at the outset of the remote employment relationship to avoid potential penalties under foreign state law.

Process for compliance obligations regarding payment of wages

Wage and hour laws and other laws addressing compensation, such as expense reimbursement and unemployment compensation rules, vary by state and address a wide range of compensation issues. In order to quickly assess differences in employer wage and hour obligations in the employer home state and the foreign state, employers should assess obligations using the following methodology:

- Exempt and non-exempt status. Verify the exempt/non-exempt status of remote out-of-state employees by reviewing the foreign state threshold for the executive, administrative and professional exemption (EAP exemption). Be prepared to increase the income of the out-of-state employee to maintain exempt status if the EAP exemption is higher in the foreign state than in the employer home state. Also note that some states do not have a specific exemption for Highly Compensated Employees;
- Minimum wage rates and required breaks. If the out-of-state employee is non-exempt, verify compliance with the foreign state minimum wage rate; and requirements for overtime, and meal, rest and lactation breaks. State overtime laws can differ from the federal Fair Labor Standards Act (FLSA) overtime rules by expanding the definition of covered employees and adopting different calculations to determine the regular rate of pay. Employers should also be aware

of local minimum wage rates that differ from state minimum wage rates.

Employers must pay employees the highest applicable rate;

- Payment of wages. Determine and comply with state requirements regarding the frequency and timing of the payment of wages;
- Notice regarding payroll deductions. Determine state notice requirements for employee pay reductions and provide the amount of notice required under state law and in the format required, if any;
- Wages due at termination. In the event of termination of an employee in a foreign state, verify compliance with rules related to payment of wages at the time of termination of employment. The definition of wages that are due at the time of termination can include accrued benefits. If necessary, employers should delay termination to ensure accurate determination of wages owed and timely payment;
- Employee reimbursement of expenses. Federal law requires employers to reimburse employees only if the unreimbursed work-related expenses reduce the employee's earnings below the minimum wage. Several states, however, require reimbursement of necessary expenses paid by employees that are incurred in connection with their employment. In most states, if an employee chooses to work remotely and employees are not all fully remote, the expenses would not be considered "necessary." As a best practice, employers should adopt a policy for the types of expenses that are reimbursable and the procedures for submitting expenses.
- Unemployment compensation fund. Workers' compensation insurance covers employees for work-related injuries, including employees working remotely. Employers with out-of-state employees should ensure their policies cover employees working in foreign states and should comply with any state law that obliges employers to contribute to the state unemployment insurance fund.

What this means to you

Working remotely can mutually benefit employers and employees, if the employer is prepared, understands their compliance obligations in the foreign state and has adopted a remote work policy that defines the remote employment relationship and

implements the necessary parameters and processes that protect the employer from unexpected compliance obligations.

Contact us

Our Labor and Employment team can help assess obligations under state law and develop a comprehensive remote work policy. For assistance, contact **Tracey O'Brien**, **Tom Cedoz** or your **Husch Blackwell attorney**.

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Labor and Employment Law Insights

COVID-19 Employment Accommodations: Three Tips for Adapting to Circumstances

By Laura Higbee on April 21, 2022



On Tuesday, April 19, the **American Bar Association's Labor and Employment Law Section** hosted the panel "Navigating the New Normal: Accommodations in the Pandemic Era." The panel members were Alex Breland of CDK Global in Chicago, IL;

Pamela Devi Chandran of the Washington State Nurses Association in Seattle, WA; and Jackie Gessner of Barnes & Thornburg LLP in Indianapolis, IN. Carolyn Wheeler of Katz, Marshall, & Banks LLP in Washington, DC served as moderator. Their consensus was that, although vaccines have (thankfully) lowered Covid-19 infection and death rates, workplace challenges related to Covid have not gone away. They have only changed.

Here are three tips for employers to continue adapting to changing circumstances:

Remember that accommodations based on disability and accommodations based on religion have different frameworks.

For example, under the **Americans with Disabilities Act**, a reasonable accommodation must enable an employee to perform the “essential functions” of a job. **Title VII of the Civil Rights Act**, which governs accommodations for an employee’s religious beliefs or practices, does not take the essential functions of a job into account.

The statutes also have different definitions of “undue hardship” on an employer. For ADA purposes, “undue hardship” means “requiring significant difficulty or expense.” For Title VII purposes, “undue hardship” is only “more than a de minimis cost.” As a result, the employer burden under the ADA is heavier than it is under Title VII.

Be flexible.

Don’t be afraid to think big. Some accommodations need not be limited to the employees requesting them. Is implementing a hybrid model for all employees feasible? If not, what about for certain departments? A hybrid model reduces in-person contacts and therefore potential Covid transmissions. What about adjustable or staggered work schedules? Fewer people coming and going at the same time also reduces in-person contacts. Guaranteeing every employee will be protected from Covid while on the job is impossible. That said, take advantage of the opportunity to make work safer for everyone, not only those who proactively seek accommodations.

Rely on the experts.

On the micro level, an employee’s treating physician knows that person’s situation best. Use their documentation when engaging in the interactive process. On the macro level, the **EEOC has guidance regarding both types of accommodations on its**

website. And of course, if you have legal questions, **Husch Blackwell** is always here to assist with your **Labor & Employment** needs.

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Labor and Employment Law Insights

Employer Compliance Guidance: Remote Worker Eligibility for FMLA Benefits

By Barbara Grandjean & Tracey O'Brien on May 25, 2022



Not surprisingly, simple solutions to complex issues are often elusive. Yet on rare occasions, the solution is in plain sight. Doubtful? For employers struggling with the issue of a remote employee's eligibility for job-protected leave under the federal Family and Medical Leave Act (FMLA), there is a very simple answer. And, unlike the

analysis we discussed in our **commentary** about wage and hour issues for remote employees, the answer does not depend on the location of the remote employee.

Most employers are familiar with the first two of the three employee eligibility requirements under the federal FMLA. It is the third eligibility requirement that may throw employers of remote employees for a loop. An employee is eligible for FMLA leave if the employee:

1. Has been employed by the employer for at least 12 months, and
2. Has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and
3. **Is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.**

The third eligibility requirement

Few employers were concerned with the third requirement when most employees worked at the employer's physical location (worksite). However, as remote work becomes more of the rule than the exception, many employees are working at locations other than the employer's physical worksite, often even in a different state. How is an employer to determine whether a remote employee is employed within 75 miles of a worksite where 50 or more employees are also employed?

A review of the U.S. Department of Labor (DOL) regulations reveals that the DOL has considered this very issue and defined the term "worksite" as it relates to remote employees. The regulations state, in relevant part:

An employee's personal residence is not a worksite in the case of employees, such as salespersons, who travel a sales territory and who generally leave to work and return from work to their personal residence, or employees who work at home, as under the concept of flexi-place or telecommuting. Rather, their worksite is the office to which they report and from which assignments are made.

The regulations clearly state that a personal residence is not an employee's worksite. Instead, for the remote employee, the worksite is the location to which the employee reports and from which assignments are made.

Therefore, to determine a remote employee's eligibility for leave under the FMLA for the third requirement of the eligibility test, employers must determine:

1. The worksite location to which an employee reports and from which their assignments are made; and
2. Whether that worksite has at least 50 employees, including all remote workers assigned or reporting to that worksite.

Related considerations

Eligibility under federal FMLA may not be the end of the analysis regarding family and medical leave benefits. Employers must also consider the employee's eligibility for benefits under applicable state family and medical leave laws. State laws often have different eligibility requirements from federal law as demonstrated by the new Maryland and Colorado family and medical leave laws described below.

Effective June 1, 2022, Maryland has a new state paid family and medical leave insurance program, the Time to Care Act (TTCA), with employees eligible for state family and medical leave insurance benefits in 2025. Maryland's TTCA applies to a person that employs at least one individual in the state. Employees who have worked at least 680 hours over the 12-month period immediately preceding the date on which leave is to begin are covered employees. The TTCA does not include a requirement that workers be within a specified distance of the worksite to be eligible for benefits, although regulations have not been issued yet.

In contrast, Colorado voters approved a ballot initiative in 2020, the Paid Family and Medical Leave Insurance Act, a paid family and medical leave program (Colorado FAMLI) that will provide family and medical leave insurance benefits for certain employees beginning January 1, 2024. Colorado FAMLI applies to employers who employ at least one person for each working day during a specified period of time. Most employees located in Colorado are covered if they earn at least \$2,500 in wages, subject to premiums, during the applicable base period. Coverage of remote workers under FAMLI depends on where the work is localized or wages are reported. Final regulations have not been issued on this topic yet in Colorado either.

A final thought

More and more businesses are making the decision to permit their employees to work remotely for any number of reasons. Business leaders need to stay on top of the new or different compliance obligations their decision may create. When it comes to family and medical leave (paid or unpaid), employers need to make sure they understand the rules for eligibility for their remote employees under federal or (sometimes conflicting) state law. In the case of family and medical leave, it is important for employers to understand the workflow of the business and to keep track of the correct “worksite” for all employees, including the remote ones.

Contact us

Our Labor and Employment team can help assess compliance obligations with respect to out-of-state or remote employees under federal and state employment laws and develop a comprehensive remote work policy. For assistance, contact **Barbara Grandjean, Tracey O’Brien**, or your **Husch Blackwell attorney**.

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Implementing Flexible Work Schedules and Maximizing Your Time



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Types of Flexible Work Schedules



Laws & Regulations



Policies and Procedures



Employee Moving Out of State



Implementing and Practical Considerations



Over Communicate with Everyone



Conclusion

