

September 1, 2020

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HRMORNING

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HRMorning, part of the Catalyst Media Network, provides the latest HR and benefits and employment law news for HR professionals in the trenches of small-to-medium-sized businesses. Rather than simply regurgitating the day's headlines, HRMorning delivers actionable insights, helping HR execs understand what HR trends mean to their business.

## COVID-19 lawsuits on the rise: Where firms are going wrong

### ■ 4 areas to watch as you reopen, rehire

As feds battle over liability protections for employers in the next coronavirus stimulus package, workplace COVID-19 lawsuits are on the rise, according to top law firm Fisher Phillips (FP).

Of the 283 COVID-19 lawsuits tracked by FP, 43% were filed in June, which it said represents an "exponential" rise in filings (go to [tinyurl.com/FPlawsuits610](https://tinyurl.com/FPlawsuits610) for an updated listing).

#### Employee leave claims

Discrimination, retaliation, work-from-home and employee leave claims

dominate the lawsuits, followed by unsafe working conditions and wage and hour allegations.

Here are steps employers can take to protect their firm from this rash of recent lawsuits.

#### Discrimination/retaliation

In one recent discrimination claim, a pregnant women said she was furloughed due to the pandemic, but was replaced by a nonpregnant employee. In another case, an employee was forced to reveal a

*(Please turn to COVID-19 ... Page 2)*

### ADA ACCOMMODATION

## Court: Is lap band surgery a 'regarded as' disability?

An employer didn't retaliate against a former employee who alleged she was reassigned based on her perceived disability – impairments related to lap band surgery, said an appeals court.

In *Lyons v. Katy Independent School District*, Tanya Lyons filed an EEOC discrimination and retaliation claim against her employer, alleging she was reassigned based on her "procedure." She claimed she should've been protected by the ADA's "regarded as" disability.

#### 'Transitory and minor' disability

However, the 5th Circuit Court in Texas upheld a lower court's

ruling that Lyons' impairment was "transitory and minor" because it was less than two months. Therefore, her employer couldn't have "regarded" her as disabled because the ADA defines a transitory impairment as less than six months.

While the employer won this case, workers can still prevail in court with a "regarded as" disability. It may be enough if they can show their employer "regarded" them as having an "actual or perceived" disability, according to the ADA. The safest path to avoid a lawsuit is to tread carefully when making any employment decisions when workers are impaired.

Info: [tinyurl.com/lapband610](https://tinyurl.com/lapband610)

## COVID-19 ...

(continued from Page 1)

multiple sclerosis diagnosis to justify her accommodation request and was subsequently terminated.

**Take all accommodation requests seriously.** Employees who have disabilities and serious medical conditions are entitled to ADA accommodations.

However, employers should also accommodate employees who request remote work or time off due to underlying health reasons or are aged 65 or older. They're at greater risk of infection.

### Work from home/leave requests

Many COVID-19 leave lawsuits involve a worker who claims to be denied leave or a work-from-home accommodation despite having a legitimate need.

**Follow the FFCRA.** Some employees – who are vulnerable due to a medical condition or are caring for a sick family member – may qualify for extended time to work remotely under

the emergency FMLA leave, part of the Families First Coronavirus Relief Act (FFCRA).

Any employee who has a child with school or child care issues due to the coronavirus also qualifies for leave or telework.

“Employers should not assume that the FFCRA doesn't apply to them simply because they have fewer than 50 employees,” says DavisKuelthau attorney Laurie Meyer. The exception for small firms applies only to requests due to child care unavailability.

### Unsafe working conditions

Several employers have been taken to court over claims of unsafe working conditions. One claim involves an Illinois Walmart being sued by the family of an employee who died after contracting the virus.

**Stay informed.** It's key that employers continue to follow guidance and safety orders from state and local governments, as well as federal agencies, including the CDC, OSHA, EEOC and DOL.

“It's imperative that employers stay on top of the latest guidance as it's changing constantly,” says Vanessa Matis-McCready, director of human resources, Engage PEO.

### Wage and hour claims

Employees at Hair Cattery in New Jersey sued their employer, alleging a FLSA violation for withholding pay for work performed before the nationwide salon's closure in March.

Other COVID-19-related lawsuits allege employees weren't compensated for overtime or extra time necessitated by the pandemic before a shutdown.

**Employers need to anticipate various FLSA responsibilities,** such as ensuring nonexempt employees working at home adequately report their time, compensation reductions haven't resulted in minimum wage violations or exempt employee salaries haven't been reduced below the overtime exemption threshold.

Info: [tinyurl.com/Fisher610](http://tinyurl.com/Fisher610)

## SHARPEN YOUR BENEFITS JUDGMENT

*This feature provides a framework for decision making that helps keep you and your company out of trouble. It describes a recent legal conflict and lets you judge the outcome.*

### ■ Firm says poor performance got her fired, not FMLA leave

“Hi, Betty,” said Company Attorney Jim Gannon to Benefits Manager Betty Murphy, as he stopped by her office. “Got a minute?”

“Sure, Jim. What's up?” asked Betty.

“Do you remember Jane Meadows?” asked Jim.

“Of course,” Betty said. “She was let go not too long ago for performance issues.”

“Well, she's suing us,” Jim said. “Jane's saying she was fired in retaliation for asking for FMLA leave.”

### FMLA leave or sick time?

“That's not the case. She didn't have an FMLA-approved condition,” said Betty.

“Jane requested time off right before she was fired, correct?” Jim asked.

“Yes, she sent her manager an email, saying she needed some time off because she was stressed out,” Betty replied. “She had a doctor's note recommending she take a few days off to 'get some rest.' But she didn't ask for FMLA leave.”

“Didn't she ask for time off the day before we terminated her?” Jim asked. “The timing looks bad for us.”

“Yeah,” Betty agreed. “But we've been documenting her performance issues for a long time.”

When Jane sued for violation of the FMLA, the company fought to get the case dismissed.

Did it win?

■ *Make your decision, then please turn to Page 6 for the court's ruling.*

HR MORNING'S  
What's New in **BENEFITS & COMPENSATION**

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# Get ready! IRS sending more firms ACA penalty letters due to COVID-19

Just because there's a pandemic, it doesn't mean those IRS penalty notices to employers that didn't comply with the ACA employer mandate will stop showing up.

The IRS began mailing out Letter 226J penalty letters for the 2018 tax year to employers on July 15, 2020, after postponing them because of the coronavirus.

However, the millions of laid-off employees applying for a tax credit through the ACA marketplace this year will trigger the IRS to issue more penalty notices to employers for 2020.

According to a report from the Kaiser Family Foundation, the majority of people who lost their job will be eligible for subsidized health coverage. And with states passing special enrollment periods allowing people to enroll in their health exchanges indefinitely, employers may see more penalty assessments in the mail.

If employees wrongfully receive a tax credit, the burden falls on employers to prove to the IRS the people didn't qualify. That's why

it's key that employers code their employees' annual 1095C forms correctly to prove why the tax credit shouldn't apply.

Any employer with 50 or more full-time employees is required to abide by the Employer Shared Responsibility Provisions rule (the Employer Mandate) and offer "affordable" coverage to 95% of their full-time employees or be subject to the penalty.

### Furloughed employees

To avoid penalties when recalling furloughed employees, anyone who was previously enrolled in coverage must be re-enrolled by the first of the following month of their return. However, if employees returns to work in less than 13 weeks, they must be treated as ongoing employees with uninterrupted coverage.

If your firm receives a penalty letter, submit the response form specifying if you agree or disagree with the letter. If you disagree, submit an explanation as to why and indicate changes needed.

Info: [tinyurl.com/ACA610](http://tinyurl.com/ACA610)

## \$ THE COST OF NONCOMPLIANCE

This regular feature highlights recent case settlements, court awards and fines against companies. It serves as a reminder to keep benefits policies in order.

### ■ Security firms caught off guard in \$942K wage violation

After a group of interrelated security companies in Puerto Rico refused to comply with the FLSA to pay back wages, the court entered a judgment for the back wages, liquidated damages and civil penalties and enjoined them from any further FLSA violations.

**What happened:** The court found Evolution Quality Guard, E.Q.G. Protection Agency & Order, Excellent Quality Guard, Excellent Quality Guard Services and principals Orlando Morales and Joel Cruz were joint employers and misclassified 400 security guards as independent contractors. They also failed to pay any wages to 51 guards, didn't pay overtime to 394 guards and provided false time records.

**Result:** In addition to \$715,685 in back wages and damages, the court ordered E.Q.G. Protection Agency & Order, as well as Morales and Cruz, to pay \$226,442 in civil penalties.

Info: [tinyurl.com/security610](http://tinyurl.com/security610)

### ■ Contractor out \$92K after shorting workers on wages

An Idaho contractor failed to pay prevailing wages to dozens of workers repairing a bridge.

**What happened:** JM Concrete, based in Idaho Falls, paid carpenters, truck drivers, power equipment operators and general laborers less than the prevailing wages and fringe benefits on the Lorenzo Bridge Rehabilitation project. This is a violation of the Davis-Bacon and Related Acts that apply to workers on federally funded projects. And JM didn't pay workers weekly.

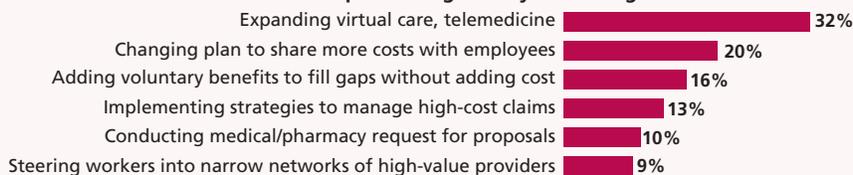
**Result:** The contractor has paid \$92,290 in back wages to 27 employees for violating prevailing wage requirements.

Info: [tinyurl.com/bridge610](http://tinyurl.com/bridge610)

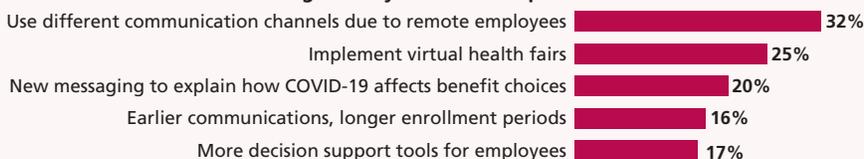
## How will COVID-19 affect open enrollment?

### 2012 open enrollment: Health plan changes

#### What health plan changes are you making?



#### What changes will you make to open enrollment?



Source: Mercer

Firms need to look at health offerings more closely for 2021, balancing costs with increased employee needs – and allow more time for open enrollment.

## More states mandate firms offer IRAs or 401(k)s to their employees

Even if you don't offer a retirement plan, there's a good chance you'll soon have to because state-sponsored retirement programs are cropping up across the country, many of which are mandatory for employers.

Eleven states have passed laws creating these programs. There are also bills introduced in 19 other states, however, now they may be subject to legislative disruptions due to the coronavirus outbreak.

### Auto-IRA plans

In June 2020, Colorado approved a state-sponsored program, which will require employers to auto-enroll employees in IRAs. California, Illinois and Oregon were the first three states to offer these plans, which are auto-enrollment payroll deduction programs that start employees at a 5% contribution rate.

In California, employers with 100 or more employees are now required to offer the plan, and it will be mandatory for employers with 50 or more employees by June 30, 2021.

The average employee contribution

in the Oregon plan is \$142 a month and the state makes the first \$1,000 of contributions readily available to employees.

With auto-IRA plans, firms don't generally match employee contributions. They're responsible for making the deductions but are exempt from fiduciary responsibilities. Employees who don't opt-out are automatically enrolled in the program.

### Multiple employer plan

Some states, including Vermont and Massachusetts, have made it easier for employers to join multiple employer plans (MEP), which are usually 401(k) plans. These plans were set in motion by the passing of the SECURE Act in January 2020 that allowed unrelated small employers (of all sizes) to pool resources to create MEPs, thus reducing costs and administrative duties.

Previously, firms had to share a commonality, such as being in the same industry or members of a trade association.

Info: [tinyurl.com/autoIRA610](https://tinyurl.com/autoIRA610)

### Communications mistakes that can kill your message

Crafting your benefits communications is always a balancing act, and little errors can turn into big miscues. Here are four mistakes you should stay alert for and avoid.

### Why assume your news is bad?

A few people will always find the negative in any news Benefits shares. But most of your employees will see and understand the positive takeaways in your message. Focus on them instead of crafting your messaging for the few naysayers who are always looking to point out what benefits they're not getting.

### Never ignore the elephant!

Of course, you should never avoid addressing uncomfortable benefits changes, but stick to the obvious issues that everyone's worrying about. And make sure your benefits team is ready to respond to those concerns. Workers are going to need to process bad news before they can share it effectively.

Ignoring the tough stuff just looks like you're avoiding the issue – or potentially didn't even recognize it – which is even worse.

### Don't treat them like kids

When your communications talk down to employees like they're children, expect them to react like children. Give the news to them straight and don't assume your employees won't "get it." They will, as long as you do them the courtesy of explaining things in the clearest, most jargon-free way possible.

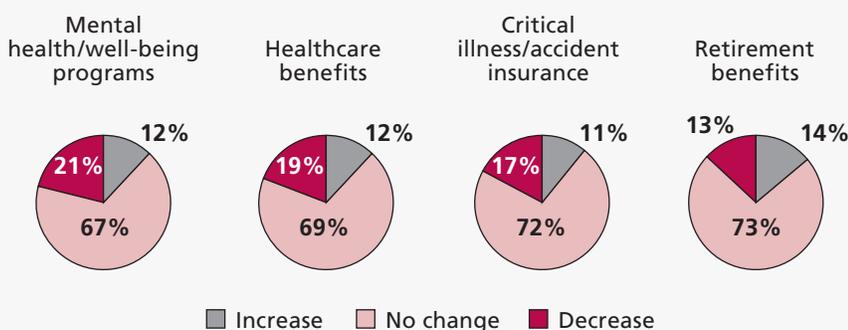
### Leave no doubt

Repeat important news, especially open enrollment instructions that carry a deadline. Announce the thing, remind them about the thing, then remind them one last time a few days before the deadline.

Info: [tinyurl.com/mistakes610](https://tinyurl.com/mistakes610)

## Has COVID-19 changed your employee benefits package?

### Employee benefits Firms making them top priority



Most firms, even small ones, appear reluctant to make benefits cuts now, choosing instead to look for more creative ways to recover from the pandemic.

**O**ur readers come from a broad range of companies, both large and small. In this regular section, three of them share success stories you can adapt to fit your needs.

## 1 **The benefits of total salary transparency**

When I first started my company, it was founded under these core values: equity, belonging and impact.

I wanted my employees to thrive and feel a sense of ownership in everything they did, and I realized the key to this was transparency.

I began sharing company revenue and business strategies with my employees and, in turn, everyone's salary would be known.

This was a bit of a radical idea, and I knew if we were going to put

everyone's pay out in the open, we had to be able to justify what everyone made.

So, we came up with a fair compensation model.

First, there was a guaranteed base pay, which was the same for everyone in similar positions. On top of that figure, we added team pay, which was based on collective results for each team.

### **No pay inequity**

Finally, we added individual rewards based on each employee's

personal goals. How did someone contribute to our overall success?

Every single employee has access to their colleagues' job descriptions, goals and salaries, so no one has to wonder why someone is making more than them.

Fairness and equity is another benefit of salary transparency. We have no issues with pay inequity based on gender or race. Everyone knows they are compensated fairly.

*(Kimberlea Kozachenko, CEO & Founder, Kolmeta, as presented at the ERE Digital 2020 Conference)*

**REAL  
PROBLEMS  
REAL  
SOLUTIONS**

## 2 **Keeping our team healthy at home**

When we look at our benefits offerings, we think about the "four pillars" covering all aspects of employee health: physical, mental, financial and what we think of as social and purpose.

And that's been our template for sending out various care packages to everyone who is now working at home due to the pandemic, with helpful hints and little wellness reminders.

We're also addressing mental health

issues with our team. We're covering all costs for Cariloop, an app that connects employees to care coaches and other resources.

We also offer webinars five days a week, touching on various aspects of the "four pillars."

### **Regular cadence**

It's important for us to make sure communications go out with a regular cadence, so everyone knows what we're thinking about and working on.

But we also know everyone is

being bombarded with so much right now, so we're careful not to hit them too frequently or with too much information.

We always double-check that any information we do share is accurate.

And we remind our teams to take breaks from the news and to be very careful about where they get their information to help reduce stress from inaccurate stories.

*(Misty Guinn, Director of Benefits and Wellness, Benefitfocus, Charleston, SC)*

## 3 **Candidates get perks before we hire them**

We're located in a rural, low-income area, which results in a local candidate pool that lacks both education and skill.

Most employers would take their talent search elsewhere, but we pride ourselves on our desire to help our community. Our local citizens need jobs as much as we need employees.

So, we decided to work with nontraditional applicants that many companies typically overlook. These

often include candidates with little education or troubled pasts.

To help them succeed, we gave them all the tools they needed.

### **Molding, training applicants**

The idea was to mold applicants to fit the jobs rather than find people who were already perfect fits.

But before we could begin to train candidates, we had to make sure their basic needs were taken care of. Many locals have issues making it to job interviews or work due to lack of child care or transportation. So, we assist in

helping them pay for these things.

We offer coaching to help candidates prepare for interviews, and after that, we offer training for basic entry-level jobs to give the candidates experience they may be lacking.

All of the effort and money we put forward helps us improve our community and create a friendly, supportive work environment.

*(Sharon Dodson, Workforce Development Manager, Choctaw Nation, as presented at the ERE Digital 2020 Conference)*

## CORONAVIRUS LOCKDOWN

### Time to rethink your vacation policies?

An increasing number (42%) of employers are making changes to their PTO and vacation policies, due to employees being reluctant to take days off during the unstable times of the pandemic.

As unused vacation days pile up, some employers (16%) are requiring employees to take time off to reduce the year-end build-up, according to a Willis Towers Watson survey.

#### Paused vacation plans

Many employees have halted their vacation plans this year, according to a Robert Half survey:

- more than one-third (37%) plan to save vacation for later in the year
- 22% are too worried about money to take a vacation, and
- 28% will take fewer days off than they did last year.

“Many employees have paused upcoming vacation plans, not only for fear of traveling and keeping their families safe – but, in many cases, because they’re anxious about job security as well,” said Jamie Coakley, VP of People at tech firm Electric.

According to HR software firm Zenefits, employees submitted a

relatively low level of time-off requests for July and August.

#### Encourage PTO

Because vacations are happening differently or less frequently this year, employers need to rethink their PTO and vacation policies:

**Remind employees of your policy.** The Insurance Market in Laurel, DE, is reminding workers of their “use it or lose it” policy, since it’s ruled out letting them carry over time. But any policy needs to be clearly communicated to workers.

**Nudge employees to take time off.** Employers might need to encourage employees to take a staycation. “Everyone needs to reset at some point,” says Coakley.

If your company has down times throughout the year, remind staffers to take off during those periods.

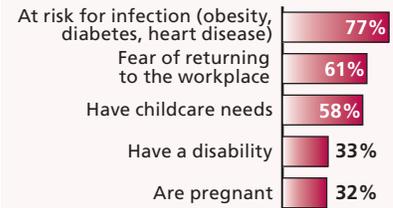
**Extend the holiday.** Employers could force employees to unwind by closing early on Fridays or making Labor Day weekend, for example, a four-day weekend.

Consumer lending company Affirm made Memorial Day a four-day weekend and “it had a powerful

## WHAT BENEFITS EXECS SAID

### Reopening & remote-work accommodations

Why are employees asking?



Source: Xpert HR

As firms reopen, many are offering a remote option to meet most accommodation requests. It’s key to know COVID-19 accommodations need to be handled consistently and in compliance with the ADA.

*(Each issue of WNB&C contains a current survey to give benefits officers insight into what their peers nationwide are thinking and doing.)*

effect,” said Affirm’s Chief People Officer Jude Komuves.

**Offer PTO payouts.** “You don’t have to pay out 100% of the bank,” says Ulises Orozco, co-founder, PTO Genius. Offer employees the ability to cash out a portion of their accrued PTO, he says.

A few days converted into cash could help a cash-strapped employee and go a long way toward company loyalty.

Info: [tinyurl.com/PTO610](https://tinyurl.com/PTO610)

## SHARPEN YOUR JUDGMENT – THE DECISION

(See case on Page 2.)

Yes. The company won when a court dismissed the employee’s case.

Her attorney argued that since she was fired the day after asking for a few days off, the company clearly retaliated and discriminated against her because of her request. The attorney said she was protected by the FMLA, and the company should have known that.

But the court disagreed. It said the company had been having issues with the employee for a long time and had documented all her shortcomings. One email described her “overall attitude” as “indifferent, aloof and uncommitted,” and urged her to “show positive changes immediately.”

Not only that, but the court decided her request for a few days off didn’t trigger FMLA protections. The

employee’s doctor said nothing about her having an FMLA condition or needing extended time off – the doctor merely recommended she take “sick leave” because of a “stressful work environment.”

Therefore, the employee’s firing was for legitimate performance reasons, and she wasn’t protected under the FMLA.

### Analysis: Ensure performance issues are documented

While it never looks good to terminate employees right after they request any type of leave, in this instance, the company did everything right to protect itself. The employee’s performance issues were well-documented.

Employees don’t have to use the term “FMLA” when asking for leave, but they must inform the employer that their time off is for an FMLA-qualifying reason.

Cite: *Gardiner v. City of Philadelphia*, U.S. Ct. of App. 3rd Circ., No. 19-2620, 4/23/20. Dramatized for effect.

## Using a software-based 'chatbot' helped introduce a new HDHP

### ■ Provided anytime, anywhere healthcare advice

Our HR team needed an effective way to provide personalized benefits education to our remote workers, who make up about 36% of our 638-person workforce.

While we cover 100% of health insurance premiums for our employees, our benefits team knew education and decision support would be vital for our team members facing important health insurance choices.

A big part of that was helping decide whether to take advantage of a new high-deductible health plan (HDHP) we were rolling out along with a health savings account (HSA). We also needed a new platform to reach our remote workers.

#### New benefits platform

We're a small company with limited bandwidth to deploy and manage Benefits software. But we were confident in our choice of a new platform we were implementing – Jellyvision's ALEX platform.

It's used by more than 1,500 companies of all sizes, and it helps make benefits information accessible anytime and anywhere for employees.

We thought it would be great for our off-site sales force. That's because it features a "chatbot" that supports lifelike interactive conversations to help employees choose the best benefits for their needs and their wallets.

#### Sharing experiences

While we were initially focused on how to support our remote teams with the new platform, it turned out the whole company quickly started benefiting from it. Our employees were telling their co-workers about their experiences and the whole thing just took off.

As a result, ALEX now delivers Benefits communication and advice to

our on-site coworkers as well as our remote teams.

And we tracked 434 visits to our Benefits information site by the end of the first enrollment period after rolling out the platform. In a survey we conducted as part of the rollout, 94% of our employees found the new Benefits communications platform to be helpful.

#### Beyond open enrollment

The platform uses clear language and a little humor to help our coworkers digest all the information we're throwing at them. They're better informed about the benefits choices available and can choose what works best for them.

After the success of our open enrollment campaign, we expanded the platform

#### Case Study:

**WHAT WORKED, WHAT DIDN'T**

### We knew decision support would be vital for staffers.

to support our onboarding process as well.

We've replaced a lot of our in-person Benefits orientation meetings and given new hires the ability to complete orientation tasks on their own schedule, often before their official start date.

That's freed up Benefits and HR to focus on specific issues and provide top-notch service to our whole team.

*(Evie Tyrrell, Benefits Steward, New Belgium Brewing Company, Fort Collins, CO)*

### TEST YOUR KNOWLEDGE

#### ■ More states ban salary history questions: Will you be ready?

Maryland just became the 19th state to ban salary questions as part of job interviews. Will you be ready to answer leadership's questions about the impact of this change when your state acts?

*Test your knowledge:* Decide whether the following statements are *True* or *False*. Then check your responses against the answers below.

1. Eliminating salary history from interviews improves diversity and wage fairness, helping attract qualified candidates.
2. All salary history bans require employers to proactively inform applicants they shouldn't discuss previous pay rates.
3. Without an ability to ask for salary history, employers report hiring lower-quality employees and seeing higher turnover.

### ANSWERS

1. **True.** Research shows salary transparency creates a culture that's open and welcoming for employees, helps attract a greater diversity of candidates and reduces the pay gap for women and people of color.
2. **False.** Some states explicitly allow for applicants to voluntarily reveal salary history, while others allow employers to ask for salary history once an offer has been made. No state's reg prevents employers from asking about desired salary. And nothing prevents highly paid job applicants from volunteering their current salary.
3. **False.** Data shows that turnover rates haven't increased in states with salary history bans in place nor has turnover increased for new hires who were relatively underpaid in previous jobs.
- Info:** [tinyurl.com/payhistory610](http://tinyurl.com/payhistory610)

#### ■ Answers to the quiz

## **EEOC: New programs help resolve dispute before a suit**

With two brand new six-month pilot programs, the EEOC's attempting to reduce the number of workplace bias allegations that end up in court:

- **Conciliation Pilot Program:** This compliance assistance program, which began May 29, aims to settle discrimination claims *before* a lawsuit's filed. The EEOC submits its assessment of a grievance to the firm to help resolve complaints.

- **Mediation "ACT" Pilot Program:** The "Access, Categories, Time" program, which began July 7, allows for mediation throughout the entire charge investigation.

Info: [tinyurl.com/EEOC610](https://tinyurl.com/EEOC610)

## **Program helps employees with chronic pain, cuts costs**

What if there was an affordable way to help workers with chronic pain – without surgery or pain pills – and help your firm cut medical costs? Now there is: ATIFirst is a new program for employers that offers physical therapy for chronic musculoskeletal (MSK) issues through direct contracting.

A pilot program, conducted by Prisma Health employees, saw a 50% reduction in imaging and 52% reduction in prescriptions, with a 48% increase in full function after six weeks of physical therapy.

Info: [ptfirst.com](https://ptfirst.com)

## **Fired because she couldn't keep her 'kids quiet'?**

A remote account exec has filed a lawsuit against her former employer, alleging she was fired because her supervisor felt she was "unprofessional" for not keeping her kids quiet on business calls.

Drisana Rios, who was working from home due to the pandemic, is suing insurance broker Hub International, alleging discrimination and wrongful termination. After

another supervisor said he was "tired of accommodating" her, Rios went to HR only to be let go days later.

Hub didn't comment on the suit except to say it "successfully transitioned 90% of its 12,000-plus employees to working remotely" throughout the pandemic.

Info: [tinyurl.com/firedmom610](https://tinyurl.com/firedmom610)

## **Employers, get prepared for new fiduciary rule**

The DOL's proposed fiduciary rule – a replacement for its vacated Obama-era rule – is closer to becoming law.

The rule, which aims to help employees get the best investment advice about their retirement plans, restores the original five-part test to determine who is a fiduciary. It also allows a new exemption giving fiduciaries more flexibility to provide advice with respect to IRA rollovers.

Public comments on the proposed rule – now in the Federal Register – have ended. But the National Assn. of Personal Financial Advisors has asked the DOL to extend the comment period until Oct. 5, 2020.

Info: [tinyurl.com/DOL610](https://tinyurl.com/DOL610)

## **DOL's asking: What's your 'ideal paid leave program'?**

Here's something benefits pros might want to participate in: The DOL's asking for your input on paid leave programs and potential changes to FMLA leave.

The agency has published two requests for information in the Federal Register and is asking for comments on:

- **Paid leave:** You can describe your "ideal paid leave program," including duration and funding ([tinyurl.com/paidleave610](https://tinyurl.com/paidleave610)) until Sept. 14, 2020.
- **FMLA leave:** Employers can address challenges with FMLA eligibility, as well as intermittent leave ([tinyurl.com/FMLAleave610](https://tinyurl.com/FMLAleave610)), until Sept. 15, 2020.

## HOT WEBSITES

### ■ Legal resource for small firms

HR pros at companies with 100 or fewer employees can get help with their compliance and liability questions. *SHRM LegalNetwork* offers affordable, legal resources.

Click: [tinyurl.com/SHRMlgNtwk610](https://tinyurl.com/SHRMlgNtwk610)

### ■ Health check app for staffers

Staff returning to the office? A health check app by WorkJam can reduce the risk of spreading COVID-19. It can be customized for federal, state and local regs.

Click: [tinyurl.com/hlthchck610](https://tinyurl.com/hlthchck610)

### ■ Podcast: Leading during crisis

In her inaugural podcast, Ellen Kelsay, the new president and CEO of Business Group on Health, discusses the challenges of leading during a pandemic and required changes.

Click: [tinyurl.com/podcastKelsay610](https://tinyurl.com/podcastKelsay610)

*If you have a benefits-related question, email it to Lynn Cavanaugh at: [lcavanaugh@hrmorning.com](mailto:lcavanaugh@hrmorning.com)*

## LIGHTER SIDE

### ■ The grass is greener on the other side ... of New York?

New Yorkers may not have a lot of grass to enjoy, but some are finding peace or sanity – outside.

#### Stop and smell the flowers

Yep, some NY folks have relocated their desks to the great outdoors:

- Arina Zanin calls the shade of a willow tree near W. 70th Street her new job search central.
- A beach mat in Tompkins Square Park is Andrew Miller's new serene work space.
- Molly Birnbaum and Michael Linares used AstroTurf, flowers and furniture to transform their Fort Greene fire escape into an office oasis.

Maybe a new return-to-work benefit can be an outside desk!

Click: [tinyurl.com/outdoors610](https://tinyurl.com/outdoors610)