

Employee Benefit ■ Plan Review

New Law Expands Covered Sick Time Under Massachusetts Earned Sick Time Law

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The Massachusetts law, An Act Promoting Access to Midwifery Care and Out-of-Hospital Birth Options (the Act), provides comprehensive access and coverage for midwifery, birth centers, doulas and related screening and treatment. It also expands coverage for eligible employees under the Massachusetts Earned Sick Time Law.¹

NEW COVERAGE UNDER THE ACT

Beginning November 21, 2024, under the Act, an employee may use earned sick time for these events: a pregnancy loss, unsuccessful assisted reproduction such as in vitro fertilization (IVF), or a failed adoption or surrogacy, as well as to address both physical and mental effects of such an event on an employee or the employee's spouse.

Prior to November 21, 2024, the permissible statutory reasons for an employee's use of earned sick time are as follows:

1. Care for the employee's child, spouse, parent or parent of a spouse who is suffering from a physical or mental illness, injury or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care;
2. Care for the employee's own physical or mental illness, injury or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care;
3. Attend the employee's routine medical appointment or a routine medical appointment for the employee's child, spouse, parent or parent of spouse; or
4. Address the psychological, physical or legal effects of domestic violence.

Effective November 21, 2024, the Act amends the Massachusetts Earned Sick Time Law to allow a covered employee the specific right to use earned sick time to "address the employee's own physical and mental health needs, and those of the employee's spouse, if the employee or the employee's spouse experiences pregnancy loss or a failed assisted reproduction, adoption or surrogacy." Although the pre-amendment law previously may have encompassed some aspects of the newly added permissible uses, the Act is explicit in its words and intent to expand support for employees and their spouses undergoing pregnancy loss or failed IVF, adoption or surrogacy.

The Act does not alter the scope of covered employers, eligible employees or accrual of time under the Earned Sick Time Law.

NEXT STEPS

Employers that have not already done so should consider taking the following steps in response to the Act:

- Review existing sick leave policies and procedures to identify necessary updates and ensure that policies and handbooks are in full compliance with the expanded law.
- Train human resources personnel and managers on the specifics of the new law, how to address requests for sick time related to the newly covered events and how to maintain confidentiality and sensitivity while handling these requests.
- Inform employees of available resources employers may

offer that could coincide with a request for sick time under the expanded reasons, including counseling, support groups or mental health services.

IN SUMMARY

- Effective November 21, 2024, the permissible statutory reasons for which eligible employees may use available earned sick time under the Massachusetts Earned Sick Time Law are amended through the law, An Act Promoting Access to Midwifery Care and Out-of-Hospital Birth Options (the Act).
- The Act specifically entitles eligible Massachusetts employees to use earned sick time to address

the employee's or the employee's spouse's physical or mental health needs related to pregnancy loss or a failed assisted reproduction, adoption or surrogacy.

- In passing the Act, Massachusetts joins a number of other states enacting similar legislation in recent years, including California, Colorado, Illinois and Minnesota. 🌐

NOTE

1. Massachusetts General Laws c. 149 § 148C.

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