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COVID-19: Legislative, HR, and Safety Updates for April 2021

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Agenda

- Workers' Compensation Update
- OSHA Update
- Cal/OSHA Update
- NM Environment Department Update
- CDC Update
- Legal Updates
- Workforce Vaccinations

California Senate Bill 95

Senate Bill 95 requires employers provide an additional 80 hours of COVID-19 supplemental paid sick leave.

- Effective March 29th, retroactive to January 1st, 2021 through September 30th, 2021.
- Qualifiers include time needed to quarantine, isolate, secure/recover from vaccine and caring for family.
- Employee notice required.
- Employee's can determine how many hours they want to utilize.
- The employer will not pay twice and can take credit for COVID-19 leave voluntarily paid on or after 1/1/21.

Workers' Compensation Trends

- Employees contesting medical treatment denials dropped by 26% in 2020 as compared to the prior year.
- Pandemic accelerated the use of telemedicine from close to 0% utilization to 14% in the second quarter of 2020.
- After a steady annual decrease in Opioids, 2020 saw an increase with utilization up 10% in the second quarter.
- The frequency of medical only claims dropped while the rate of indemnity claims increased.
- The average duration of a lost time cases increased by two months.
- Concern of key labor trends & impact on claim frequency.

OSHA Update

- Cal/OSHA's current Chief Doug Parker nominated as Assistant Secretary of Labor for Occupation Safety and Health (Fed OSHA Administrator)
- March 12, 2021 – Updated Interim Enforcement Response Plan for COVID-19
 - Guidance to OSHA officers for handling COVID-19 related complaints, referrals, and severe illness reports
- March 12, 2021 – COVID-19 National Emphasis Program (NEP) Directive (attached)
 - Focuses on protecting high-risk workers from COVID-19 Hazards and Retaliation
 - Targeted Industries – Healthcare, Meat Processing, Supermarkets, General Warehousing, Discount Department Stores, Restaurants, Correctional Institutions, and Manufacturing
 - Accomplished by inspection, outreach to employers and compliance assistance
- OSHA preparing to [issue new short-term COVID-19 regulations](#) to protect workers

OSHA Update

Important Dates for the COVID-19 National Emphasis Program



Cal/OSHA Update

- COVID-19 Emergency Temporary Standards (ETS) – Must be followed by vaccinated employees
- Cal OSHA COVID-19 FAQs Updated March 26, 2021 – Added new Exclusion Pay and Benefits <https://www.dir.ca.gov/dosh/coronavirus/FAQs.html>
- Danger Warning on Face Masks: Graphene
 - Health Canada issued an alert on a specific mask from Chinese manufacturer Shandong Shenquan New Materials (numbered SNN200642)
 - California Department of Public Health recommends N95 respirators instead of KN95 – not aware of NIOSH-certified respirators that contain graphene
- New Proposed CA Bills
 - SB 606 – seeks to apply Fed-OSHA’s “egregious employer” provisions to Cal/OSHA violations
 - AB 1175 – Advance notice of compliant-based inspections
- COVID fatalities continue to decrease substantially

NM OSHA Update

- NM Environment Dept (NM OSHA) Rapid Response
 - Emergency Amendment Refiled 12/3/20
 - Must report positive cases within 4 hours
 - Online <https://nmgov.force.com/rapidresponse/s/>
 - Available 24/7
 - Multiple reports can be filed at one time
 - Enhanced record management capabilities
 - NMED Budget increased 21.3%
 - Staff expanded 1st time since 1981
 - 30,000 COVID-19 Rapid responses conducted

CDC Update

- Ventilation in Buildings
 - Part of “layered approach” including:
 - Physical distancing, masking, hand hygiene, vaccination
- Cleaning & Disinfection
 - Surface survival
 - Best practices guidance (handout)
 - Response to a case in indoor environments

California Update

- COVID-19 Vaccinations
 - *If an employer requires employees to obtain a COVID-19 test or vaccination, the employer must pay for the employee's time, including travel time.*
- Employers may mandate that employees be vaccinated.
- Employers must engage in the interactive process and provide reasonable accommodations for both disabilities and sincerely-held religious beliefs.
- [Request4ReasonableAccommodationPackage.pdf](#) (ca.gov)
- Employers need not reasonably accommodate employees who object for reasons not related to disability or religion.
- Employers may discipline employees who refuse to be vaccinated.
- If an employer administers its own vaccination program, it may ask only questions that are "job-related and consistent with business necessity."
- Employers may require proof of vaccination.
- [DFEH Employment Information on COVID-19](#) (ca.gov)

California Update

- Mandated Retirement Plans for California Employers
 - An employer is not required to participate in CalSavers if it sponsors or participates in a retirement plan such as a 401(k) plan or pension plan.
 - Employers with 50 or more employees still have a deadline of June 30, 2021, and employers with 5 or more employees have a deadline of June 30, 2022.
- Right to Recall: SB 93
 - Applies generally to hotels, private clubs, event centers, airport hospitality operations, and airport service providers, while also applying specifically to janitorial, building maintenance and security services provided to office, retail and other commercial buildings.
- Pending Legislation:
 - Assembly Bill 701: Warehouse requirement to provide written description of each quota employee is subject and failure to do so would prohibit adverse action against the employee
 - AB1179: would require employers of 1,000 or more employees, the state, political subdivisions of the state, and municipalities, including charter cities. To provide up 60 days of paid backup childcare to employees

Federal Updates

- EEO-1 Data collection to open Monday April 26, 2021/Will close on Monday July 19, 2021 <https://eeocdata.org/>
- **FFCRA extended through September 30, 2021**
 - optional for eligible employers (those with fewer than 500 employees)
 - Additional offerings: Leave for receiving a vaccine; time off for side effects of vaccine.; leave for waiting for diagnostic test or medical diagnosis
 - Resets the clock back to zero as of April 1, 2021
 - Allow paid family leave from 10-12 weeks; 2 weeks of sick leave, 12 weeks of family leave
- **6-month COBRA Subsidy**
 - Subsidized COBRA coverage for employees and their family members.
 - Employers reimbursed through quarterly payroll taxes: Special enrollment starts April 1 ending 60 days. Allows employees who did not elect COBRA to enroll.
 - But does not exceed time frame of COBRA program ends September 30, 2021.
- **Handbook Standards**
 - If you revised your handbook since 2017, you may need to may need to consider speaking with your counsel as likely standards will revert back to the pre-2017 requirement for speech in the workplace.

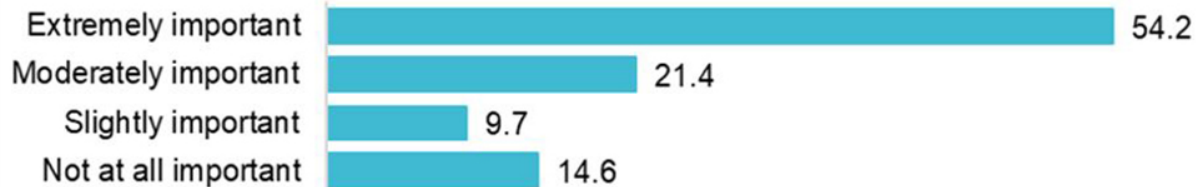
Workforce Vaccination Updates

- Biden Administration announced a tax credit for employers offering vaccine-related paid leave
 - Businesses and nonprofits with fewer than 500 employees
 - Covers paid leave for up to \$511 per day for up to 10 work days, or 80 work hours taken between April 1 and September 30, 2021
 - [IRS Fact Sheet](#)
- [Request4ReasonableAccommodationPackage.pdf](#)

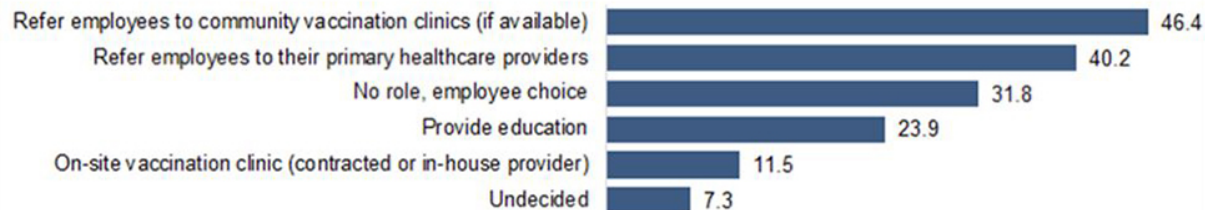
Workforce Vaccination Updates

- Wisconsin Department of Public Health conducted an anonymous survey with 4,451 employer-respondents

Employer views on importance of workforce vaccination

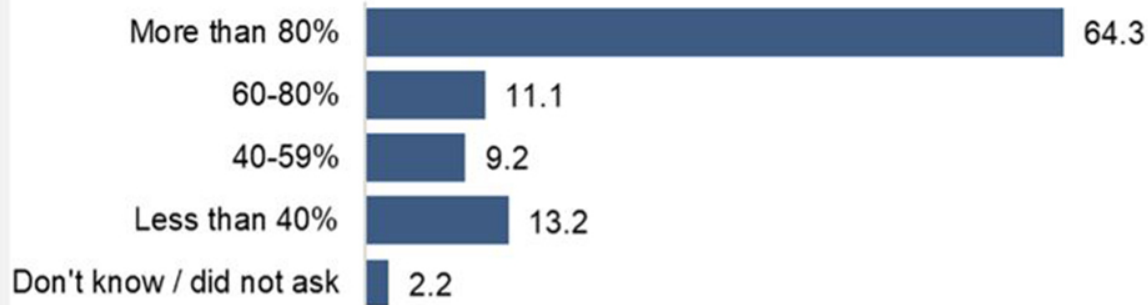


Role of employers in vaccination

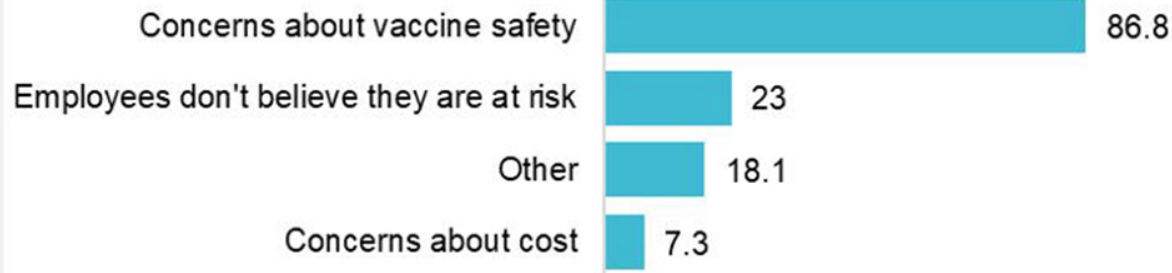


Workforce Vaccination Updates

Percent of workforce willing to be vaccinated
(of employers who conducted worker surveys, n=859)



Major drivers of vaccine hesitancy



Workforce Vaccination Updates

- How can employers encourage vaccination among employees?
 - **Educate:** Utilize trusted messengers (health care providers, DHS/CDC, company management), address vaccine efficacy and safety concerns, use multiple communication channels (flyers, meetings, company intranet,) and account for differential reading levels and languages spoken.
 - **Reduce Barriers:** Support paid leave to allow employees to get vaccinated, support paid leave for employees with side effects, host employer-sponsored vaccine clinics.
 - **Offer Incentives:** Studies show that offering a financial incentive to get vaccinated can reduce unvaccinated workers by as much as 30%.
- [CDC COVID-19 Vaccine Toolkits](#)
- Expecting new EEOC guidance on incentive programs

Questions

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