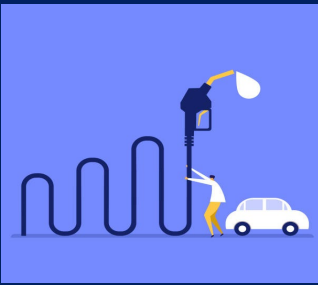




**IRS Increases  
Mileage  
Reimbursement  
Rate Starting July 1**



The Internal Revenue Service (IRS) has announced that its optional standard mileage rate will increase to 62.5 cents per mile driven for business purposes. The increase takes effect on July 1, 2022. In recognition of recent gasoline price increases, the IRS made this special adjustment for the final months of 2022. The IRS normally updates the mileage rates once a year in the fall for the next calendar year.

Use of this rate is optional, though it is widely used by employers as a standard rate for calculating mileage reimbursement for employees who use their personal vehicle for business purposes. If your organization uses the IRS rate to calculate mileage reimbursement, be sure to update your systems to account for this change.

**California Bill Would Require Pay Range in Job Postings**

A proposed bill in California would make pay more transparent. Under the bill, employers with 15 or more employees would have to include pay range in all of their job postings and publicly report how much certain groups of employees are paid. "I give the bill a moderate chance of passing," said Anthony Zaller, an attorney with Zaller Law Group, based in El Segundo, Calif. "If passed, it would be one of the strongest pay transparency laws in the country. Not only does the bill require employers



to report wages for employees across race, gender and position in the company, it also proposes to publish each employer's information on the Internet." The bill

seems to be moving through the Senate quite quickly, but it does have quite far to go before the governor signs it. If it passes, employers will need to implement a consistent protocol to ensure that job ads reflect accurate pay scales. "It will be important for HR professionals to have a compliance system in place to review and approve all job ads to ensure they are legally compliant," Zaller said. "It will also be important to have records of the ads placed and retain these records for the time period required by the bill." That means employers should document pay history for each employee for the duration of their employment plus three years after the employment ends. This effort toward pay transparency is meant to help employers to detect and avoid discriminatory pay patterns. It's still unclear whether the proposed law in California would impact salary negotiations with job applicants. "While it sets a range for the negotiations and gives employees an idea of what the position pays, the ranges could be large, and many employers are currently posting wage expectations to attract qualified employees," Zaller said. "Moreover, California law already prohibits employers from asking employees about prior salary history."



**Similar Bill in New York**

The New York State Legislature recently passed a similar bill that would require employers with four or more employees to include salary ranges in their job ads. Governor Kathleen Hochul has not signed it yet. New York City has a similar pay transparency law that will take effect on November 1. Although employers in New York City won't be fined if they correct a first violation within 30 days, they may have to pay civil penalties of up to \$250,000 for any subsequent violations.

**Pay Data Reporting**

California's proposed bill would expand upon the existing requirement for private employers with 100 or more workers to submit a pay data report to the state's Department of Fair Employment and Housing. If SB 1162 is enacted, employers' reporting obligations will expand. Employers will be required to submit pay data reports that include the median and mean hourly rate within specific job categories, by race, ethnicity, and sex.



SB 1162 will also expand the pay data reporting obligation to employers who utilize labor contractors. Employers with 100 or more employees hired through labor contractors will be required to submit a separate pay data report to the DFEH. And, the new law will require employers to disclose the ownership of all labor contractors used to supply the employees. "Labor contractor" is defined as an individual or entity that supplies a client employer with workers to perform labor within the client employer's usual course of business, including workers providing services through staffing agents. In addition, SB 1162 will require that the DFEH publish each private employers' pay data report on a public website so that the information is accessible and, theoretically, in a manner that does not identify employees by name. If you are a covered employer under this bill, your Centricity team will assist with your filing.

Shepherd, Leah (2022, June) California Proposal Would Mandate Bereavement Leave. Retrieved from <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/california-bereavement-leave-rules.aspx>

# Mental Health, Telehealth Benefit are Post-Pandemic Priority

Mental health coverage and telemedicine or telehealth services are among the most important benefits employers feel they can offer employees in 2022, according to the Society for Human Resource Management's annual benefits survey released June 12.



Of the survey's 3,129 responses, 93% said they offered telemedicine or telehealth, a 20% jump from 2019, when the category was last recorded. Similarly, respondents offering mental health coverage hit a new high of 91%, up from prior to

the pandemic. "The strong prevalence of these benefits, even after businesses have returned to more normal conditions following the COVID-19 vaccine rollout," indicates they're likely to become "permanent fixtures," the executive summary noted.

Retirement savings and planning benefits were next, with 82% of employers saying they were important to offer, up from 55% in 2020/21. Most employers offered some type of retirement plan; 94% offered a traditional 401(k), 68% offered a Roth 401(k). Many employers also provided some type of employer match. Just over half (51%) said they automatically enroll new or existing employees in their company's retirement plan, a figure that's held steady since the pandemic's onset.



As reflected in the survey, employer priorities continue to adapt to evolving post-pandemic needs. For example, while nearly all of employers currently offer paid vacation (99%) or sick (96%) leave, the prevalence of leave for new parents, beyond what's required by law, returned to pre-pandemic levels. In particular, the number of organizations offering paid maternity leave dropped to 35% in 2022, down from 53% in 2020; paid paternity leave dropped to 27% in 2022, down from 44% in 2020. The decline could be attributed to direct parental leave needs early in the pandemic, the executive summary explained. "Now that many businesses have returned to a more typical way of operating, employers seem to be dialing back on expanded parental leave opportunities,".

Consistent with the priorities employers now place on mental health coverage, the survey revealed emerging support for mental health leave: 1 in 5 employers said they offered paid mental health days separate from regular sick leave. With the stresses brought on by the pandemic, an employer should ensure that employees know it appreciates what's going on in the world and supports their mental health, the attorney said. Employers can show support by training managers on how to respond to leave requests as well as emphasizing



the importance of using inclusive language. The survey also reflects the pandemic-triggered shifting between in-person and remote work. Hybrid work opportunities continue to be well-represented among benefit

offerings, the survey found. About 2/3 of employments (63%) said they offer most of their workers the opportunity to adopt some combination of remote and in-person work.

Across all organizations, 62% said they reimburse or offer a subsidy to employees for at-home office work or equipment. On average, these employers provided about \$891 to employees to cover the costs of working at home. In developing a hybrid work model, employers need to be intentional and build trust. While company leaders look for models to adopt, they should keep in mind that no one size fits all, the strategist said. The possibility of remote work gives organizations access to wider talent pools, the survey's executive summary noted. Because workers also have more options for where and when they will work, employers face a challenging talent landscape. But benefits can be instrumental in how this plays out, the summary concluded.



## 3 Ways to Reduce Employee Stress in the Workplace

**1. Try to ease workloads and make remote and hybrid work easier.** United States business has notched productivity gains during the pandemic. But employees are feeling the effects of that surge: Research conducted by Principal Insurance in February 2022 found that reduced workload, after increased pay, is the top way to improve their mental health. Beyond providing employees at home with the basic resources and tools usually found in the office (from a comfortable desk chair to dual monitors), also think about what mental and emotional support employees need for the realities of long-term remote work. Have you established more permanent and transparent policies for how employees may customize flexible schedules? Have you accounted for hybrid work in how you onboard employees, compensate them, and support them with certain employee benefits?



**2. Add or expand physical health perks to manage stress.** Over the last generation, companies have gotten much better at building infrastructure around physical health (think organized employee walks or gym access). Now, a similar infrastructure is being built around mental health at the same time physical activity remains a key factor in maintaining it. Can you provide more access to remote exercise classes or offer a company discount for an online program such as Daily Burn? Encourage walking meetings or provide bike storage—or find a similar effort that fits your business—to promote more activity during the workday.



**4. Encourage collaboration on the job.** Be more proactive about supporting new ways to collaborate. Create ad hoc teams among employees to make up for in-person socialization and teambuilding that may not be happening in the same way because of how radically workflows have changed. Have you tried to encourage more mentorship among employees, either through programs to pair junior and senior staff, or more informally with virtual or in-person mixers? Don't be afraid to try a few different models before finding the right fit for your workplace.

# Roe v. Wade Overturned: Employer Considerations

We're receiving inquiries from our clients seeking guidance on how companies can support their employees in response to the U.S. Supreme Court's decision to overturn Roe v. Wade that previously legalized abortion throughout the U.S. In response to the ruling some companies have moved to add coverage of travel expenses to obtain medical procedures, including abortions, not available nearby, or to ensure that parental leave and caregiving benefits meet the needs of new mothers who may be single or economically disadvantaged.



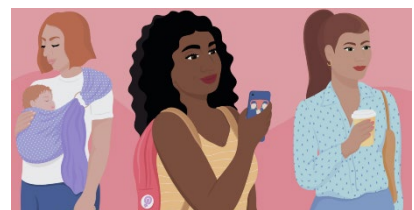
Amazon, one of the biggest private-sector employers in the U.S., will pay up to \$4,000 in travel expenses annually for employees to undergo abortions in states where the procedure is legal, joining the list of large U.S. companies that are enhancing abortion-related benefits. Also, on May 9, Microsoft said it will expand benefits to cover costs for employees seeking abortions and other procedures in different states. While some employers are enhancing abortion coverage under their group health plans, others are providing benefits outside the health plan, for instance by:

- **Creating a relief fund** to pay expenses for employees and dependents who need to travel to another state or making funds available through a health reimbursement arrangement.
- **Offering a one-time bonus** for the travel and procedure costs in a state permitting abortive care.

Lyft and Uber, which offer ride-hailing services, separately announced that they will cover legal fees for any drivers who are sued under Texas' new abortion law for transporting women to abortion clinics out of state.

## Revisiting Abortion Coverage

Paul Keckley, editor of *The Keckley Report*, a health care industry newsletter, wrote on May 9 that employers such as Amazon, CitiGroup



and others have already notified their employees about policy changes given the likelihood *Roe* is overturned. Primarily, these new benefits are intended to pay expenses to travel for out-of-state abortions. "Clarity about coverage policies, prices, payment options and terms of access will be required of all providers" regarding post-*Roe* abortion coverage, Keckley noted. There also could be more emphasis on coverage of abortion-inducing medications, which may be easier to provide quickly, for instance in states where elective abortion is limited to the first 15 or 20 weeks of pregnancy. Medication abortions represent a growing percentage of all abortions, currently 54 percent, according to research by the Guttmacher Institute. "The bigger context for telehealth services and scope of prescribing by advanced-practice nurses and pharmacists will also get wider attention. Coverage specifications and denial policies in health plans offered by employers and insurers will require compliance with individual state laws [regarding] abortion services, including those offered out of state."

## Health Plan Considerations

Most health plans don't cover travel expenses, and if they do it's usually

to medical centers of excellence that provide high-value services. Employers that operate in multiple states will also need to navigate a patchwork of different rules affecting abortion coverage, depending on where covered employees and dependents live, work, and receive health care. The extent to which a group health plan will be directly impacted by this ruling will depend primarily on whether the plan is fully insured or self-insured. State laws do not regulate self-insured group health plans because such regulation is left to the federal government under the Employee Retirement Income Security Act (ERISA) Your Centricity Team can assist in reviewing your benefit plans and developing any desired changes to existing policies.

## Tax Issues

Generally, the travel reimbursement will be taxable compensation to employees "except to the extent the reimbursements qualify as medical expenses," wrote Benjamin Gibbons, an attorney with Holland and Hart. Depending on what travel expenses are covered and how much is being reimbursed, "some expenses may constitute medical care, and some may not," Gibbons noted. "If the travel reimbursement is considered to be a medical expense, employers will generally need to integrate the benefit with the company's group health plan to ensure compliance with the Affordable Care Act."



## Facilitate Civil Discussions

Keep in mind, when discussing a sensitive topic like abortion, it is likely that someone could get offended or have strong opinions. When announcing any changes to benefits or policy, present the information diplomatically and avoid presenting your personal opinions. Prior to making any policy changes, we recommend consulting legal counsel to ensure compliance.

# California Local Minimum Wage Increases

On July 1, 2022, numerous cities and counties across California will increase their hourly minimum wage. The new rates are as follows, with employee count listed if applicable:

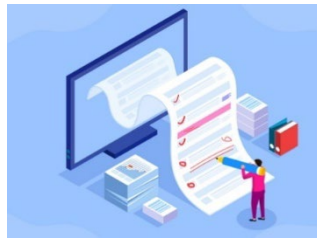
Alameda	\$15.75
Berkeley	\$16.99
Emeryville	\$17.68
Fremont	\$16.00
Foster City*	\$15.75
Los Angeles City	\$16.04
Unincorporated Los Angeles County	\$15.96
Malibu	\$15.96
Milpitas	\$16.40
Pasadena	\$16.11
San Francisco	\$16.99
Santa Monica	\$15.96
West Hollywood (1-49 employees)	\$16.00
West Hollywood (50 or more employees)	\$16.50

\*Note that Foster City's minimum wage is **new** this year and will increase again on January 1, 2023

# Document, Document, Document. But How?

Documenting employee actions and behaviors is a vital responsibility for managers, so much so that one leading employment attorney encourages employers to include it in managers' job descriptions. Allison West, Esq., principal at Employment Practices Specialists in Pacifica, CA explains why and offers guidelines for

the documentation process. "Managers are repeatedly told, 'You need to document,' but too often they don't know exactly what to document and how, and that becomes a problem—particularly if an employee/employer case reaches a trial," West says. Including dates and drilled-down specifics about a worker's performance when it comes to things such as arriving on time, meeting deadlines, behavior toward team members or following any company policies is just as important as avoiding bias, opinions, and accusations. Once managers notice something troubling, they need to start writing it down. "We are often told you need to be consistent in how you document, but that doesn't mean doing it exactly the same for everyone in every case. What it means is that you must do so within a range, be fair and have the documentation over a long period of time, not just the past few weeks or month and whatever you do, don't back-date anything. You'd be surprised, but defense lawyers might subpoena your office's copy machine or hard drives to find out what and when it happened."



## What's Considered 'Important'?

Managers are told to document what's important, West says. "But even that isn't exactly clear. One guidepost would be to document the things that happen more than once and being able to pinpoint when they happened first." She suggests that managers avoid these words in documentation: weakness, shortcomings, inadequate, failure, failing and fail. "Those words can be construed as opinions, and they have different meanings to different people," she said. "Describe the conduct, not the individual." Instead, offer facts and details about what happened. Being vague or nonspecific is a losing proposition. Be sure to describe employee expectations. For this, managers may use phrases from the employee handbook, job description, or policies and procedures manual. For example, instead of writing "Show up on time," write, "Your job begins at 8 a.m., at which time you are expected to be at your desk and ready to answer customer calls." Avoid slang and absolute words such as always, every time, never or invariably.

## Include All Perspectives

Effective documentation includes both sides of the issue. "Always get the employee's explanation about why the expectations aren't being met," West says. "This shows that you had a two-way conversation, were fair, and it could give you a chance to correct the situation based on new facts that are presented." When devising an action plan, be sure it is loaded with details and that the employee signs off on it in agreement, she said. It also should include a timeline for when the new directives should be met and how the manager will evaluate the progress. Avoid using specific time frames such as 30, 60 or 90 days, because then the employee could hold the manager to that exact date. And don't say it must begin "immediately" or "right away." Instead present a realistic timetable for it to be carried out. Also include any further discipline or consequences if the specific improvements are not met.

# LGBTQ and Religious Rights Clash in the Workplace

Religious freedom protections and civil rights protections for LGBTQ people are two areas of U.S. law that have evolved considerably over the past two decades, creating a variety of compliance challenges for employers in 2022. Employers will need to understand where the nation's courts and various levels of government are going to prepare for those situations. Two recent cases demonstrate how protections for religious beliefs, sexual orientation and gender identity intersect in the workplace.

The first, *Brennan v. Deluxe Corporation*, involved an evangelical employee who refused to complete his employer's diversity training program because "the answers that the course sees as 'correct'" contradicted his religious beliefs. Specifically, the course presented employees with a scenario in which a co-worker is undergoing a gender transition and directed employees to company policy around using pronouns that reflect the sex with which a person identifies. A jury sided with the employer in *Brennan*. Bunting said that a key exhibit in the case was an email sent to the plaintiff by the employer's HR manager describing Deluxe Corporation's stance as an all-inclusive employer and the rationale behind its compliance course.



"It is important that as an employee of Deluxe you recognize that we do not expect you to change your values or beliefs but rather, as an employee, your behaviors at work are expected to uphold Deluxe's standards and values," the HR manager wrote. The manager's message pointed to an important aspect of the federal laws governing the intersection of LGBTQ discrimination and sincerely held religious beliefs that may conflict with evolving standards. Employees, she noted, "don't have to agree" with their employers' policies around subjects like pronoun use, "but they've got to abide by it at work."

In an ongoing case, *EEOC v. The Kroger Co.*, the U.S. Equal Employment Opportunity Commission has filed a lawsuit against an Arkansas Kroger store alleging that the employer discriminated against two employees with sincerely held religious beliefs when it declined their accommodation requests and subsequently fired them over uniform policy violations. The employees refused to wear employer-provided aprons that featured embroidered rainbow hearts because they viewed the logos to be supportive of the LGBTQ community, which Kroger disputed. Regardless of how the Kroger suit plays out, employers must engage in the interactive process and consider accommodations when cases involve a clash between LGBTQ rights and religious freedom.

Additionally, employers may rely on past guidance from EEOC on which religious accommodation requests constitute an undue hardship. Namely, the agency has said that an accommodation would pose an undue hardship if it would impose more than a de minimis cost on the operation of an employer's business. Courts also have found undue



hardship in cases where the accommodation diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs worker safety, or causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work.

Opposite Page-- Miller, S. (2022, June) Employers Likely to Revisit Abortion Coverage. Retrieved from <https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/Pages/employers-likely-to-revisit-abortion-coverage-other-benefits-if-roe-overturned.aspx>  
Bergeson, P. (2022, June) Document, Document, Document. But How? Retrieved from <https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/Pages/document-document-document-but-how.aspx>  
Gonzales, M. (2022, February) Effects of LGBTQ Wage Gap Lingers. Retrieved from <https://www.shrm.org/resourcesandtools/hr-topics/behavioral-competencies/global-and-cultural-effectiveness/Pages/effects-of-lgbtq-wage-gap-lingers.aspx>