

# Compliance Alert!

## Compliance Changes Impacting 2023 and Beyond

This Compliance Alert provides a summary of recent compliance changes, including:

- Form I-9 process for inspecting documents
- How FLSA and FMLA applies to remote workers
- HSA and HDHP limits for 2024
- New federal laws that protect pregnant and nursing mothers

### Form I-9 Document Inspections

The U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced this month that the COVID-19 temporary flexibilities for inspecting documents proving identity and authorization to work in the U.S. will sunset on July 31, 2023. This means that as of August 1<sup>st</sup>, new hire documentation must be physically inspected as virtual or remote examinations will no longer be allowed. In addition, employers must physically inspect no later than August 30<sup>th</sup> all documents that only received a virtual or remote examination under the COVID-19 temporary flexibilities for employees hired on or after March 20, 2020,

### How FLSA and FMLA Apply to Remote Workers

The Department of Labor (DOL) issued a field assistance bulletin, FAB 2023-1, on February 9<sup>th</sup> to clarify how FLSA applies to nonexempt remote workers and how to apply the FMLA hours of service eligibility rules to remote workers.

**FLSA:** Nonexempt employees must be paid for all hours worked regardless of where the work is performed. If an employee takes a break for 20 minutes or less, the break must be treated as compensable time. If an employee takes a bona-fide meal break (typically 30 minutes or more), the break is unpaid provided the employee is completely relieved from duty and told in advance that they can leave the job during their meal break.

Regarding breaks for expressing breast milk, neither the FLSA nor MA Pregnant Workers Fairness Act require employers to pay nursing mothers for the breaks. However, if the employer already provides compensated breaks, a nursing mother must be compensated in the same way other employees are compensated for break time.

**FMLA:** Employees are eligible for FMLA leave if they: (1) have at least 12 months of service; (2) worked at least 1,250 hours during the 12-month period immediately preceding the leave; and (3) work at a location where the employer has at least 50 employees within 75 miles. For FMLA eligibility purposes, an employee’s personal residence is not a worksite. Rather, a remote employee’s worksite is the office to which they report or are assigned or the office from which their assignments are made.

### HSA and HDHP Limits for 2024

The IRS published the Health Savings Accounts maximum contributions and the High Deductible Health Plan minimum deductibles and maximum out of pocket amounts effective January 1, 2024 (IRS Revenue Procedure 2023-23). The table below lists both the 2023 and 2024 limits for comparison purposes.

Limits	2023	2024
HSA Maximum Contributions (Employer + Employee)	Self: \$3,850 Family: \$7,750	Self: \$4,150 Family: \$8,300
HSA Catch-Up Contributions for age 55+	\$1,000	\$1,000
HDHP Minimum Deductibles	Self: \$1,500 Family: \$3,000	Self: \$1,600 Family: \$3,200
HDHP Maximum Out of Pocket	Self: \$7,500 Family: \$15,000	Self: \$8,050 Family: \$16,100

### New Federal Laws Protect Pregnant and Nursing Mothers

President Biden signed the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections for Nursing Mothers (PUMP Act) into law in December 2022. The new laws require employers to make reasonable accommodations for pregnancy and childbirth related conditions, including providing nursing mothers break time to express breast milk. To learn more, see our HR Insights, Issue 20 comparing the two new laws to the MA Pregnant Workers Fairness Act.

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