

REPORT

# Workplace Care and Supports



NATIONAL CONFERENCE OF STATE LEGISLATURES

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The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation's 50 states, its commonwealths and territories.

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- Promote policy innovation and communication among state legislatures.
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# Overview

Employers play an important role in promoting the health and well-being of America’s 160 million workers—and taking steps to do so fosters greater productivity and long-term retention. Key [strategies](#) employers may use to support workers’ mental health include building awareness and a supportive culture, providing accommodations to employees with mental health conditions, offering employee assistance programs, and ensuring access to treatment for mental health conditions, including substance use disorder.

This policy brief explores ways to increase these types of workplace care and supports for America’s workers. It reflects intensive deliberation and research conducted by the Mental Health Matters National Task Force, a bipartisan group of policymakers and experts convened by the State Exchange on Employment and Disability (SEED) in collaboration with the National Conference of State Legislatures and The Council of State Governments. The task force explored policy options to address workforce challenges and barriers to employment for people with mental health conditions. Its [preliminary findings](#) outlined policy principles and factors policymakers may want to consider when drafting and evaluating related policies.

## About SEED

The State Exchange on Employment and Disability is a unique state-federal collaboration that supports state and local governments in adopting inclusive policies and practices that lead to increased employment opportunities for disabled people, and a stronger, more inclusive American workforce and economy. SEED is funded by the U.S. Department of Labor’s Office of Disability Employment Policy.

## IN THIS REPORT

The policy options presented in this brief, which were informed by the findings of the task force’s Workplace Care and Supports subcommittee, broadly fall into six categories:

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## Understanding the Challenge

In the wake of the COVID-19 pandemic, America’s workplaces are grappling with a mental health crisis. Workers report experiencing burnout, exhaustion and a sense of hopelessness, yet only [46% of the 53 million American adults](#) with mental health conditions have access to mental health services. According to Mental Health America’s “[The State of Mental Health in America](#)” (2023) report, workers say they need more support from their employers, but they frequently do not know how to obtain assistance within their organization. Given this, states and employers have an opportunity to make workplaces access points to services and support when needed, and doing so is beneficial to organizations, communities and states.

## Develop Stay-at-Work/Return-to-Work Policies and Programs

[Stay-at-Work/ Return-to-Work](#) policies and programs provide individuals who have been injured, on or off the job, with support and services to remain in the workforce, preventing unnecessary loss of employment. Though many work disabilities may be temporary, they may still directly impact an individual’s ability to work. Once a worker leaves the workforce and begins receiving state and federal benefits, re-entering the workforce can be challenging. Providing access to education and supports at work (e.g., service coordination or reasonable accommodations) can increase positive outcomes. Such strategies may keep workers engaged and allow them to return to work sooner.

States may want to consider the following policy options to develop stay-at-work/return-to-work policies and programs:

- Implement these programs focused on employee retention.
- Ensure that employer-focused grant programs and incentives include wage subsidies for returning employees, accommodations, insurance premium discounts, and/or transitional work programs.
- Offer job rehabilitation, job retention or maintenance benefits and services to employees with long- or short-term disabilities.
- Include incentives within state workers' compensation programs to encourage employers to adopt workplace illness and injury programs.
- Create return-to-work programs with partial or part-time work options.
- Establish a return-to-work coordinator role in state government to assist ill or injured workers.

## STATE EXAMPLES



[Virginia SB 560 \(2018\)](#) required the Department for Aging and Rehabilitative Services to administer long-term employment support services and extended employment services to assist individuals with disabilities with maintaining employment.



[Maine Act 612 \(2017\)](#) provided that if an employee is actively participating in a rehabilitation plan, employment rehabilitation benefits must be paid to the employee. Therefore, workers can partially return to work without losing their benefits.



[Delaware Regulation 19 § 2007-20 \(2019\)](#) established a return-to-work program for employees enrolled in its Disability Insurance Program, including assistance from a return-to-work Coordinator.



[Maryland Return to Work Program \(2015\)](#) provides return-to-work as an employee benefit for state employees with work-related injuries who are temporarily unable to fully perform their normal work. The program provides these employees with meaningful and productive temporary transitional duty assignments. Transitional duty provides a bridge to resuming all usual job duties the employee performed prior to sustaining an on-the-job injury. The goal is to return employees to full employment as quickly as medically possible.

## Prioritize Wellness Programs

According to the Centers for Disease Control and Prevention report, [“Mental Health in the Workplace”](#) (2018), workplace wellness programs help identify at-risk employees, connect them to treatment, and establish supports to reduce and manage employee stress. Supporting employee mental health also benefits employers by [reducing employee absenteeism](#) and increasing productivity. According to Mental Health America, for each \$1 spent on treatment for common mental illnesses, there is a [\\$4 return](#) in improved health and productivity.

The Substance Abuse and Mental Health Services Administration’s (SAMHSA) [“Promoting Wellness: A Guide to Community Action”](#) offers a range of recommendations for employers that may be tailored to meet a community’s unique needs.

- States may want to consider the following policy options to prioritize wellness programs:
- Offer workers wellness programs that cover mental health services.
- Mandate that insurance providers cover annual mental health wellness exams.
- Create an income or franchise tax credit for employers who provide wellness programs.
- Provide training and resources to businesses that highlight the importance of mental health in wellness programs.

## STATE EXAMPLES



[Colorado HB 1068 \(2021\)](#) required health insurance coverage for an annual mental health wellness exam performed by a qualified mental health care provider.



[Oregon HB 2469 \(2021\)](#) required the state medical assistance program to provide mental health wellness appointments as prescribed by the Oregon Health Authority.



[Wisconsin SB 73 \(2013\)](#) created an income and franchise tax credit for workplace wellness programs, which can include programs or services around stress management. Employers receive a credit of 30% of the amount they paid to provide a workplace wellness program.



The Nebraska Department of Health and Human Services has taken a number of steps to [expand worksite wellness programs among businesses](#), including by publishing a “[Worksite Wellness Toolkit](#).” The toolkit serves as a guide to organizations in developing workplace wellness programs and suggests that organizations include mention of “mental well-being” in their program mission statements.



The North Dakota Department of Health developed the [North Dakota Worksite Wellness Program](#), which organizes resources and provides trainings to help businesses develop comprehensive worksite wellness programs. In addition, the department has an overarching wellness committee that provides technical assistance support for department worksite wellness programs. The [Employer Based Wellness Program](#) allows participating employers to receive a 1% health insurance premium discount for promoting wellness initiatives for employees at their worksites.



Oklahoma developed [Thrive](#), a wellness program for state employees that includes emotional well-being as one of its key pillars.

## Launch and Strengthen Employee Assistance Programs

An Employee assistance program is a voluntary, confidential program that helps employees (including management) work through various life challenges that may adversely affect job performance, health, and personal well-being to optimize an organization’s success. As with wellness programs, employee assistance programs are beneficial to both employers and employees, because they have been shown to [reduce employee absenteeism](#) and boost overall [productivity](#).

Employee assistance programs services include assessments, counseling and referrals for additional services to employees with personal and/or work-related concerns, such as stress, financial issues, legal issues, family problems, office conflicts, and alcohol and substance use disorders. Employee assistance programs also often work with management and supervisors to proactively plan for situations, such as organizational changes, legal considerations, emergency planning, and response to traumatic events.

- States may want to consider the following policy options to launch and strengthen employee assistance programs:
- Ensure health plans include employee assistance programs with mental health services and supports components.
- Create an advisory council to make recommendations for enhancing state employee assistance program service policies around mental health.
- Incentivize employers to establish employee assistance programs.

## STATE EXAMPLES



[Illinois](#) offers its state employees an employee assistance program for various behavioral health issues.



[Iowa's](#) employee assistance program offers no-cost, confidential resources and services to help state full- and part-time employees and family members address challenges that may impact job performance, affect well-being, and take a toll on overall health.



[Oklahoma HB 1555 \(2017\)](#) provided an employee assistance program to state employees and established an advisory council to advise on policy issues and provide support to expand and improve program services that are available to state employees and their families.



[Wyoming SB 112 \(2023\)](#) provided an employee assistance program to state employees with short-term counselling, legal benefits, financial benefits counselling and work-life benefits consultations. The bill also mandated the confidentiality of communications and counselling sessions by peer support specialists.

## Establish Drug-Free Workplaces, Including Diversion Programs

Employers, including state and local governments, can foster a supportive workplace culture for those with substance use disorders and reduce stigma by developing a written drug-free workplace policy and implementing employee and supervisor trainings that recognize substance use disorders as a health condition. [Recovery-ready workplaces](#) may provide numerous benefits for employers, employees and the broader public, including reducing turnover, improving productivity, reducing health care costs, expanding the labor force and promoting overall worker well-being and recovery.

States may want to consider the following policy options to establish drug-free workplaces:

- Permit (but not requiring) employers to offer employees who fail drug screenings an opportunity to retain employment if they participate in drug education and addiction treatment programs.
- Fund treatment alternatives and diversion programs.

## STATE EXAMPLES



[Indiana Public Law 195 \(2018\)](#) permitted (but did not require) employers to offer employees who fail drug screenings an opportunity to retain employment if they participate in drug education and addiction treatment programs.



[Iowa Code 4 § 125 \(2021\)](#) declared that persons with substance use disorders be afforded the opportunity to receive quality treatment and be directed into rehabilitation services. The policy encourages substance use education and prevention and coordination of activities among relevant state agencies and specified qualifications of service providers. It also requires that the director of the substance use council develop a written report and maintain data on substance use disorders programs in the state. [Iowa law](#) also requires plans to cover services for all mental health conditions and substance use disorders for veterans.

## Expand Telemental Health Services

State policymakers and employers play an important role in enhancing employee access to health care services, including telemental health. Telemental health uses telecommunications or video conferencing to deliver mental health services. It enables employees to seek care at a time that suits them best, with shorter appointment waiting periods and less time away from work. It may also increase access to culturally competent or specialized care, which may be difficult to access in person in some communities due to a lack of providers and/or transportation options.



Access to telemental health services is often dependent on an employee’s specific insurance plan. According to the Kaiser Family Foundation, at least [39 states and the District of Columbia](#) have established payment parity for at least some services delivered via telehealth as compared to face-to-face services.

The National Conference of State Legislatures’ toolkit, “[The Telehealth Explainer Series: A Toolkit for State Legislators](#),” contains briefs covering key topics, opportunities, and challenges related to state telehealth policy. According to [American Health Information Management Association](#), addressing telehealth privacy and risk factors are critical to ensuring that telehealth is successful. These factors may be broken down into three categories: patient’s environments, operational considerations, and technological factors, e.g., monitoring systems and patient access.

States may consider the following policy options to expand telemental health services:

- Develop telehealth parity standards for health plans operating in the state.
- Expand the type of health care providers that can deliver telehealth services to include behavioral health providers, licensed professional counselors, psychologists, licensed clinical social workers.
- Join behavioral health compacts, which permit out-of-state mental health providers to render telehealth, provided they are licensed in at least one member state.
- Establish policies that provide state employees with a minimum number of no-cost telehealth visits with a doctor, psychiatrist, or therapist.
- Ensure continuation of state Medicaid policies established during the pandemic that allow patient reimbursements for telemedicine-based behavioral and mental health services.

## STATE EXAMPLES



[Arkansas HB 1176 \(2021\)](#) ensured Medicaid reimbursement continued after the COVID-19 public health emergency for certain behavioral and mental health services provided via telemedicine.



[Illinois Executive Order 2020-09 \(2020\)](#) defined “telehealth services” to include all health care, psychiatry, mental health treatment, substance use disorder treatment, and related services provided to a patient regardless of the patient’s location via electronic or telephonic methods, including, for example, FaceTime, Facebook Messenger, Google Hangouts or Skype.



[Louisiana HB 449 \(2020\)](#) allowed behavioral health providers (licensed professional counselors, psychologists, licensed clinical social workers, etc.) to see patients via telehealth.



[Maryland SB 402 \(2020\)](#) allowed for certain telehealth transactions—including the secure collection and transmission of a patient’s medical information, clinical data, clinical images, laboratory results, and self-reported medical history—to take place asynchronously or over mediums that do not necessarily support “real time” transactions of information. Additionally, [Maryland SB 3 \(2021\)](#) amended the state’s telehealth law to promote coverage for mental health and SUD services.



[Oregon HB 2508 \(2021\)](#) prescribed requirements for reimbursement by the Oregon Health Authority and coordinated care organizations of health services delivered using telemedicine.



[Utah HB 313 \(2020\)](#) required certain health benefit plans to provide coverage parity for telehealth and telemedicine services. [Utah SB 41 \(2021\)](#) also made some emergency actions permanent, such as coverage for telephone-based mental health services.



[Minnesota Executive Order 20-28 \(2020\)](#) allowed out-of-state mental health providers to render telehealth aid and permitted certain licensing boards to provide license and registration relief during the COVID-19 emergency. Minnesota also established a fund to help small to midsize businesses provide accommodations, including those for mental health, for employees.



The Kentucky [LiveHealth Online Medical and Behavioral Health](#) tool allows state employees to have video visits with a doctor, psychiatrist or therapist at no cost.



Nevada's Public Employees' Benefits Program offers [Doctor on Demand](#), which connects plan members with licensed psychologists through live video on their smartphone, tablet or computer.



Pennsylvania [guidance](#) (2020) allows any practitioner who provides necessary behavioral health services to utilize telehealth.

## Promote Awareness of Reasonable Accommodations

Employers should engage in an informal interactive process with employees when providing employees with reasonable accommodations and workplace supports. Such engagement helps ensure accommodations meet an employees' needs and enable them to perform essential job functions without placing undue hardship on the employer.

The following are examples of reasonable workplace accommodations for people with mental health conditions:

- Grant remote work or telework options, which allow workers to complete their duties in an environment they find conducive for work.
- Provide personal leave, disability leave, or some other form of leave that can allow someone to recuperate or bond with family. Additional days off may also help employees manage various conditions.
- Make temporary changes to workload or specific assignments, changing only non-essential aspects of the job. It's important to note that an employer is not required to eliminate essential job functions. An employee must be able to perform essential job functions (either with or without accommodation) to be qualified for the job, but removing marginal functions can be a [reasonable accommodation](#).
- Allow additional time to complete tasks. Like any accommodation, this should be discussed with the employee and decided by the supervisor.
- Adjust travel requirements. This may reduce stress and provide employees flexibility to accommodate health care appointments.
- Make changes to the way information is communicated. For example, some people work better with written (rather than verbal) communication. Another example is permitting the use of recording devices and/or transcription services during meetings, which allow an employee to review what was said.
- Provide white noise devices, noise-canceling headphones or a private (or less noisy) workspace to enhance concentration and minimize disruptive environmental conditions.
- Create areas with more natural lighting in the workspace.
- Permit food and/or drink in the workplace, if not already allowed. This type of accommodation can alleviate the side effects of certain medications.
- Allow an emotional support animal in the workspace.
- Give advance notice of upcoming changes and new assignments. This can ease stresses associated with change.

For more information on reasonable accommodations visit ODEP's [Job Accommodations Network \(JAN\)](#).

# Utilize Infrastructure, Toolkits and Training to Increase Access to Behavioral Health Resources

The effectiveness of policy solutions may be limited without adequate behavioral health care infrastructure to meet increased service demand. To better understand where gaps exist, policymakers can assess the current state of behavioral health resources through legislative studies. Tracking reported violations can also provide additional information to assist in gauging the parity law enforcement.

In addition to policy changes, cultural changes can be encouraged at the individual employer level. People with mental health conditions may not seek treatment to avoid [stigma](#). Employers can take steps to build an [inclusive workplace culture](#) so that employees feel supported and seek mental health treatment. Education on mental health conditions, especially for supervisors, can help workers feel equipped to support their colleagues who may be experiencing mental health challenges.

States may want to consider the following policy options to increase access to behavioral health resources:

- Establish state infrastructure, technical assistance, and training programs around employment and mental health.
- Create a fully independent Office of the Ombudsman at the Department of Human Services, or similar state agency, to assist residents and track behavioral health parity law violations.
- Encourage state entities to develop employer-focused resources and tools that support individuals with mental health conditions.
- Develop guidance that requires employers of first responders and emergency workers to provide mental health services and supports.

## STATE EXAMPLES



[Arkansas HB 1689 \(2021\)](#) created the Legislative Study on Mental and Behavioral Health. The purpose of the study was to assess the strengths and weaknesses of the mental and behavioral health resources and care currently available in the state of Arkansas and to recommend legislation to the General Assembly regarding best practices and improvements in the area of mental and behavioral health care for consideration during the 2023 Regular Session.



[Colorado HB 18-1357 \(2018\)](#) created the Office of the Ombudsman within the executive director's office at the Colorado Department of Human Services. This fully independent office assists Coloradans to access behavioral health care services and tracks complaints of violations of state and federal behavioral health parity laws. In 2021, Colorado enacted [HB 1097](#), which established a behavioral health administration and [HB 1005](#), which created the health care services reserve corps task force in the Department of Public Health and Environment. The task force was authorized to consult with stakeholders with expertise in mental health needs or state residents.



The Kentucky Personnel Cabinet published a [Mental Health First Aid Guide](#) to help state employees and supervisors feel more confident in assisting a coworker or employee they supervise who is experiencing a mental health concern. [Mental Health First Aid at Work](#) is a mental health training program that “teaches participants how to notice and support an individual who may be experiencing a mental health or substance use concern or crisis in a work environment and connect them with appropriate employee and community resources.”



[Nevada AB 96 \(2021\)](#) created the Emergency Response Employees Mental Health Commission, and prescribed the duties of the commission relating to emergency response employees who are experiencing mental health issues because of the nature of their work. It also provided, with certain exceptions, that communications between an emergency response employee and a peer support counselor remain confidential and not be admissible in certain proceedings. Nevada also enacted [AB 315 \(2021\)](#), which requires the employer of a police officer, firefighter, or correctional officer to make available certain information and counseling relating to mental health issues.

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