



Mutual

LINK

Fine-Tuning the Minnesota ESST Recordkeeping Rules

Julie Noble, SHRM-PC, PHR, Director of Human Resources, Cain Ellsworth & Company, LLP

We are over half a year into the Minnesota Earned Sick and Safe Time (ESST) law that took effect on January 1, 2024. I doubt anyone has forgotten what this is, but as a quick recap, the ESST law requires that employers provide each employee who works at least 80 hours per year in Minnesota at least one hour of paid sick and safe time for every 30 hours worked, up to at least 48 hours of accrued ESST a year.

As customary with many complex laws, amendments are often made to clarify and clean up the legislation. The amendments to the ESST law, most of which were effective May 25, 2024, have provided much needed clarity. We are going to highlight two notable changes to the ESST recordkeeping and increments of use amendments. Included below is a link to all the amendments for your review.

Recordkeeping

As you may recall, under the initial rules of the ESST, employers were required to provide information about sick and safe time on employees' earning statements at the end of each pay period. When the law went into effect, employers were required to include the following information on earning statements:

The total number of sick and safe time hours available for use by the employee and

The total number of sick and safe time hours the employee uses in the pay period.

In addition, employers must retain accurate records documenting hours worked and ESST time taken by employees for three years.

Effective May 25, 2024, the legislature slightly adjusted the law. The revised law states, "Employers are now required to provide each employee the total number of ESST hours available for use, and the total number of ESST hours used during the pay period on a 'written or electronic record.' If the record is electronic, an employer must allow employees to use an employer-owned device during working hours to access and print their ESST information." As you can see, this is not a significant modification. However, it clarifies that the information does not have to be on the earning statement but can be on any written or electronic record. Employers can choose any reasonable system for providing this information, such as a dedicated section on the company's intranet or an app for tracking paid time off.

Increments of Use

The second amendment we want to address is "Increments of Use." The prior law stated that "Employers were required to provide ESST in the 'smallest increment of time tracked by the employer's payroll system or four hours, whichever is smaller.'" For some employers, this meant non-exempt employees could use ESST time in as little as one-minute increments. The May 25, 2024, amendment provides additional clarity to employers by stating, "ESST may be used in the same increment of time for which employees are paid, but employers are not required to allow employees to use ESST in less than 15-minute increments. An employer cannot require the use of ESST in more than four-hour increments."

We hope this information is helpful as we continue to navigate the Minnesota ESST law. Considering the recent amendments, employers should review their existing ESST and leave policies and, if needed, revise them to ensure compliance.

Link to law changes:

[New earned sick and safe time \(ESST\) law changes | Minnesota Department of Labor and Industry \(mn.gov\)](#)

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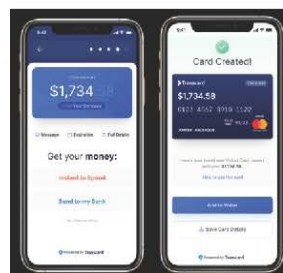
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Mallouk,
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and CEO



When did it start, where is your company located? What services/products do you provide?

Beginning as a small office in Kansas City, **Creative Planning** was founded on the belief that clients deserved a better way to grow and manage their wealth. When President and CEO Peter Mallouk purchased the company in 2004, he made it his goal to see that belief through by establishing a people-first culture and a vision of serving clients through every phase of their financial lives.

BerganKDV recently joined Creative Planning. Creative Planning is most known for being a top tier wealth management firm that provides investment management services and full comprehensive financial planning in-house. Creative addresses all aspects of financial planning from estate planning, tax strategy, and risk management to retirement, education, charitable planning, and business advisory – using all in-house specialists. With the addition of BerganKDV, Creative Planning also able to assist clients with external business services such as payroll, technology support, business tax, and attest work to name a few.

How many employees do you have?

Creative Planning has around 2,300 employees across the United States with close to 300 of those being Business Tax and Audit team members.

What is your company business philosophy/mission statement?

Creative Plannings core values are Character, Passion, Teamwork, and Growth. These values define our work and empower our decision-making to provide an elevated client experience and culture unlike anywhere else.

What are your goals for the company in five years?

Creative Planning's five-year plan would be continuing to help clients with their personal and professional financial needs.

In what ways are you involved in your community.

Every day, Creative Planning is helping clients achieve financial freedom. But there are many individuals and organizations within our communities that are underserved or don't have access to the resources they need. For the last 20 years, our giving has been focused on those among us who need that support while they work through tough times or simply need a little assistance to give them a better chance at success. In spring 2021, Creative Planning and their leadership team opened 'Pathway Financial Education' center. The center offers free classes to small business owners, adults and youth, and many of Creative Planning's employees teach courses in financial planning, tax services, law, business management, and more.

In addition to the thousands of hours our local team dedicates to volunteering in their communities, Creative Planning has provided full-tuition scholarships and mentorships to underprivileged students, built a basic needs distribution center, and provided 30 million meals to those who rely on the school system for food.

Creative Planning is committed to supporting worthwhile causes across the country, particularly those that are close to our clients' and employees' hearts and help contribute toward a better life for those most in need. Every year, Creative Planning give several hundred thousand dollars to charities across the country.

If you had to describe your company in one word what would it be? **'Supporting'**

MAFMIC Annual July 15th Golf Outing

The 2024 MAFMIC Golf Outing

Took place at the Little Crow Golf Resort, Spicer, MN

Contest winners include:

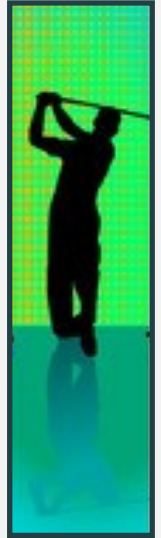
Hit the Green Winner: Josh Lowe

Longest Putt: Linda Jaskowiak

Longest Drive Men: Bill Thompson

Longest Drive Women: Linda Jaskowiak

Closest to the Pin: Pete Rogotzke



*MAFMIC would like to thank everyone for their generosity
and for making it a day full of fun.*

Thank You to Wayne Schluchter for taking Photos.

Second Flight Winners

Mark Fraki, Pete Hellie,
Aaron Grove & Kevin Johanson

Third Flight Winners

Mark Nelson, Scott Mauch, Wade
Boerboom & Bob Schlenner

Fourth Flight Winners

Byran Richter, Mike Wehlage, Jerry
Zabinski & Joe Berling



*Hope to see
you Next
Year!*



This year we hosted 20
teams and 81 golfers at
the MAFMIC Annual
Golf Outing at Little
Crow Golf Resort



2024 ~ 1st place

Jeff Swanson,
Sheldon Wallmow,
Rod Kraft
& Don Hughes



MAFMIC Golf Outing Highlights



**Mark Fraki,
Pete Hellie,
Aaron Grove
& Kevin
Johanson**



**Mark Nelson, Wade
Boerboom, Scott Mauch
& Bob Schlenner**



**Byran Richter, Joe Berling,
Jerry Zabininski & Mike Wehlage**



**Craig Norland, Cory Hubbard
Tom Sloan, & Travis Tjaden**



**Bert Tellers, Dan Rupp
Ben Lohre, & Mike Sagedahl**



Longest Drive Men:

**Bill
Thompson**



**Kerry Knakmuhs,
Cameron Maurer & Brandt
Baldry & Jay Kleven**



**Deb Liden
"Hit the Green" If you can...**



**Caillie Darco
Nope didn't see any
Hole-in-One's this year!**



**Karla Bauer & Karen Weber
"Hit the Green"**



MAFMIC Golf Outing Highlights



Steve Schauer, Linda & Michael Jaskowiak & Dean Kerfeld



Nathan Pelant, Annie Johnston, Steve Galleger & Levi Nelson



Bruce Kinnunen, Tim Iverson, Dan Meier & Steve Storm



Tony Hughes, Brad Kullot, Scott Thole & Justin Pape



Nick Hager, Todd Bossuyt, Steve Schwieters, Gary Swearingen & Mitch Gerdes



Gary Schimbeno, Andrew Quade, Bill Rogotzke & Austin Quade



Joel Peiffer, Hallie Radloff, Andrea Nurmi & Kurt Holst



Josh Lowe, Rhonda Heilmann, Aaron Madison & Sandy Walstrom



Glenn Carlson, John Neal, Larry Johnson & Jim Froberg



Zach Pringle, Dani Hennen, Eric Gesell & Cody Fruin



Mary Christian, Ben Jacobs, Casey Gibbs & Andrew Moch



Daniel Bakker, Tyler Thompson, Dustin Turgeon & Nathan Lange



Jayson Strusz, Steve Knutson, Bill Thompson & Tim Spreiter

MAFMIC Manager/Director ~ Highlights July 16th



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Behavior Signs

- Worrying about things you didn't worry about before
- Loss of interest in thing you used to enjoy (hobbies)
- Poor concentration, confusion, forgetfulness
- Uncertainty or trouble making decisions
- Relationship problems
- Sad mood
- Feeling anxious
- Change in personality, irritability
- Negative thinking
- Wanting to withdraw from people and activities
- Increased smoking/drinking

Physical Signs

- Poor or disturbed sleep
- Weight loss or gain
- Changes in appetite
- Stomach or gastrointestinal problems
- Clenching or grinding teeth
- Chest pain
- Poor hygiene



Do you recognize the signs and symptoms
in yourself or someone you know?



W H A T C A N Y O U D O

Someone You Know

- Listen attentively and without judgement. Try to understand where they are coming from.
- Share your concerns about their behavior, mood, appearance, etc. Ask questions about changes you observe.
- Encourage them to reach out and/or tell a family member.

Yourself

- Reach out to a loved one. Talk about how you are feeling.
- Talk to your friends, clergy, or medical provider.
- Reach out to a mental health counselor.



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Federal Regulators Say Amazon Could be Held Responsible for Faulty Goods Sold on its Marketplace

In a landmark order, the U.S. Consumer Product Safety Commission (CPSC) said the agency unanimously agreed Amazon "fits squarely" within the definition of a distributor of goods and bears responsibility for the recall of faulty items.

Federal regulators have determined that Amazon can be held responsible for defective goods sold by third-party merchants on its online marketplace, rejecting the company's position that it's merely an intermediary between consumers and sellers.

As part of the agency's decision, Amazon is required to develop a plan to notify purchasers and the public about the product hazards, as well as offer shoppers refunds or replacements for the affected products.

Amazon's marketplace, which hosts millions of third-party sellers, now accounts for approximately 60% of the company's e-commerce sales. While the marketplace has helped Amazon bring in record revenue, it has also proven to host counterfeit, unsafe, and even expired goods. The company has previously said it invests hundreds of millions of dollars per year to ensure products sold are safe and compliant.



The decision addresses a thorny issue that's been debated for years. In numerous lawsuits, Amazon has maintained it just serves as the conduit between buyers and sellers on its marketplace and that it's not involved in the sourcing or distribution of products sold by third-party sellers, removing it from liability. It has been a successful defense for Amazon in the past, including in a 2018 case concerning the purchase of a faulty hover-board that exploded and burned

down an Amazon shopper's house in Tennessee. In other cases, federal courts and legislators have said the e-commerce giant should be held liable.

Dating back to 2021, the CPSC sued Amazon to force it to recall hundreds of thousands of products that it deemed hazardous. At issue were 418,818 goods sold through Amazon, including faulty carbon monoxide detectors, hairdryers without electrocution protection, and children's sleepwear that posed a burn risk.

Amazon argued in its response to the agency complaint that it should be characterized as a third-party logistics provider, saying it only receives and transports the products sold through its site.



Still, Amazon removed all the products flagged by the CPSC and prohibited merchants from selling them on its marketplace. The company informed shoppers who purchased the items of the "potential safety issues," told them to destroy the items, and offer a credit.

The CPSC called these actions "inadequate," saying the company should've offered refunds to incentivize consumers to destroy or return the product.

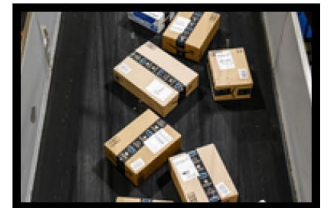


In the July 30, 2024, ruling, the agency said an administrative law judge dismissed Amazon's argument that it should be classified as a third-party logistics provider. The judge pointed to Amazon's Fulfilled by Amazon service, where sellers ship inventory into the company's warehouses, and those products are stored until purchased.

This program gives Amazon "far-reaching control" over the products sold on its platform, the judge said.

"Amazon cannot sidestep its obligations under the [Consumer Product Safety Act] simply because some portion of its extensive services involve logistics," the decision states. "Amazon must therefore comply with the CPSA to protect consumers from injury."

For more information pertaining to this release, please visit the recall pages within the Consumer Product Safety Commission website at <https://www.cpsc.gov/>
Release Number: 24-323



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2024 MAFMIC Short Course

November 20-21, 2024

Holiday Inn & Suites, St. Cloud, MN



This educational seminar is for mutual directors, managers, office staff, agents, adjusters, and inspectors. Registration fee includes attendance at eight sessions, a continental breakfast and hot breakfast buffet, two lunches, breaks, all classroom material, and a social hour. Application has been made for **7.5 hours** of non-company continuing education credits. We *do not give partial credit* for any portion of this seminar. **(APPROVAL PENDING)**

Cost and Registration

Early Bird Registration fee ~ *BEFORE Friday, November 1st*: \$240 per member & \$300 per non-member.

Late Registration fee ~ *AFTER November 1st*: \$260 per member & \$320 per non-member.

One Day Registration fee ~ Please call MAFMIC office for rate.

Meal tickets are included with your registration. Extra meal tickets are available for spouses wishing to attend only the meals. Spouses wishing to attend the sessions must pay the delegate rate and must be registered.

Make checks payable to MAFMIC.

Cancellation Policy

Cancellation notices received ~ *On or before November 8, 2024* ~ 75% refundable.

~ *Cancellations made November 9-14, 2024* ~ 50% refundable.

No refunds are available ~ *After November 14th, 2024.*

A company may substitute a participant at no additional charge. All registration cancellations and substitutions must be made in writing and sent to dani@mafmic.org or *FAX* to (320) 271-0912.

Hotel Reservations

A block of rooms is being held until **October 20th** at the Holiday Inn with the rate of \$139 plus tax. Reservations can be made by calling the hotel directly at (320) 253-9000

2024 SHORT COURSE REGISTRATION

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NAME (Delegate, Spouse)

Email Address

License #

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“Reshuffling in Minnesota Politics” - Adam Axvig, MAFMIC CEO-President

Selection of Tim Walz Creates Potential for Significant Reshuffling in Minnesota Politics



The selection of Tim Walz as Vice President Kamala Harris’s running mate has created a scenario that could trigger a major reshuffling of key players in the Minnesota political arena. If Governor Walz were to be elected Vice President, that would start the clock toward the resignation of his current office as Governor, an action that would automatically elevate current Lieutenant Governor Peggy Flanagan up to the role of Governor. That promotion in-turn elevates the President of the Minnesota Senate, currently Senator Bobby Jo Champion (DFL - Minneapolis), to Lieutenant Governor which would even the balance in the Minnesota Senate back to 33 Republicans and 33 Democrats until a special election could be held to replace Senator Champion in a district that is reliably DFL.

At this time, it seems that Senator Champion *is* interested in that Lieutenant Governor role so that would be the likely scenario should Walz be elected Vice President along with Kamala Harris as President.

The only state-based races on the ballot this fall are for the full Minnesota House of Representatives and one special senate election in the west metro. A Star Tribune analysis of past elections shows an average of a 2.7% bump in the votes for the Vice Presidential candidate’s party in his or her home state. That’s a significant bump in a state where majorities have been decided by margins in the hundreds of votes.

There is a non-zero chance that the Minnesota House of Representatives elections could result in a tie in that chamber, which hasn’t happened since 1979. In the 1979 tie, the Republicans elected the Speaker of the House while the DFL were given chairs and one-vote majorities on both the Rules and Tax Committees as well as the chair of the Appropriations Committee. It remains to be seen how House Democrats and Republicans would share power under a new tie scenario.

One thing is for sure, there is never a dull moment in Minnesota politics.

Remember to get out and vote on November 5th!



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Insured Complaints to the Commerce Department

John J. Neal, Attorney, Neal PLLC

You received a complaint from the Commerce Department. What next? Take a deep breath and exhale.

Most complaints, if actionable, fall within the regulatory requirements of the Unfair Claims Practice Act located at MINN. STAT. § 72A.201. What does that Act cover? For the most part, as related to our mutual members, it concerns claims handling, settlement offers, releases, claims denials, and communications with the Commerce Department.

Let's briefly touch on each, so you feel more confident and prepared should you encounter a complaint in the future.

Claims Handling

Once an insured has filed a claim with an insurer, the insurer must acknowledge receipt of that claim within ten (10) business days and provide all necessary forms and instructions to complete the claim. The insurer must also provide the name and telephone number of the company representative who will assist the insured with the claim, along with the benefits available under the policy. From that point forward, the insurer must respond to an insured's request about the claim within ten (10) business days.

Once the claim is filed, the insurer must complete its investigation of the claim within thirty (30) days or send notification to the insured as to the reasons why it cannot be completed.

For claims that are unresolved, and where the insured has not retained an attorney, the insurer must notify the insured in writing as to the suit-expiration period at least 60 days in advance of that expiration period.

Once the insured has submitted a proof of loss, the insurer must accept or deny the claim within sixty (60) business days. If the claim is denied, the denial must be in writing. And, if the grounds for the denial stem from a policy provision, the insurer must reference that provision in the denial letter.

Claim Settlements

If an insurer pays a claim, the insurer must explain what the payment, settlement, or offer relates to (*i.e.*, Coverage C, ALE, etc.), what policy provisions apply, and the insurer must issue payment within five (5) business days from the date the agreement is reached.

No settlement offer can be made contingent on the insured settling one part of a claim in exchange for a release of another part of the claim. If an insurer denies a claim, there must be a good-faith basis for it. And, the insurer cannot threaten to cancel, rescind, or nonrenew a policy as part of a settlement offer.

Releases

The insurer cannot request a release that extends beyond the current claim. And, the insurer cannot submit an insurance payment, which states or implies that acceptance of the check constitutes a final settlement of the claim.

Claim Denials

Any claim denial must be supported by a reasonable investigation. A claim denial must include the basis for the denial, the contact information of the company representative, the claim and policy number, and it inform the insured of their right to file a complaint with the Commerce Department.

Continued on page 15

Continued Insured Complaints to the Commerce Department

Communications with the Commerce Department

If an insurer receives a complaint from the Commerce Department, the insurer must respond within 15 working days. The insurer must maintain as a separate file all complaints it has received within the last four (4) years. And the insurer must make all claim files available to the Commerce Department and cooperate with its investigation.

Conclusion

Being prepared to address these topics and having documentation to support your handling of the claim is instrumental in responding to complaints. Keep these things in mind and maintain a protocol that addresses these topics as part of your claims handling. This will assist with staying in compliance if and when you must respond to a future complaint.



UPCOMING EVENTS

2024

Sept 22-25 NAMIC Annual Convention
Denver, CO

Sept 23-24 PIA Education Day
Park Event Center, Waite Park

Nov 20-21 MAFMIC Short Course
Holiday Inn, St. Cloud

2025

Feb. 2-4 MAFMIC 130th Annual Convention
Omni Viking Lakes Hotel,
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Robert C. Seipp Service Award Nominations

The Robert C. Seipp Service Award is awarded at the MAFMIC Annual Convention. Established in 1986 to honor past MAFMIC President Robert C. Seipp, this award recognizes professionalism and service to the Minnesota mutual insurance industry.

A successful nominee will have provided service and generously given his or her time and expertise to promote a professional image for MAFMIC and the mutual insurance industry; be a current or past employee, director, officer, or agent of MAFMIC or a MAFMIC member company; and have provided ten (10) or more years of service to MAFMIC and/or a MAFMIC member company.

If you know someone who is deserving of consideration, please submit a Seipp Service Award Application to the MAFMIC office **No later than October 31, 2024**

The nomination should include:

- Nominee's name, organization, and contact information
- History of nominee's employment and/or offices held within MAFMIC
- Education (industry and other) and professional designations
- Awards and other recognitions
- Participation in MAFMIC and/or NAMIC
- How has the nominee served and enhanced that mutual insurance industry? Why is the nominee deserving of this award?

Contact information and position of person making nomination.

Application is available on the **MAFMIC website**



**Nominations for
Vice-Chairman
& Secretary Treasurer**

The MAFMIC Nominating Committee is asking for nominations from the membership for the offices of *vice-chairman and secretary-treasurer* of the association.

The nominees will be presented to the membership for their approval at the next annual meeting. The nominating committee is chaired by the immediate past-chairman and includes current MAFMIC board members and past-chairmen. If you wish to suggest someone, or be considered yourself, please notify the nominating committee chairman.

No later than October 15th, 2024

Contact: Nick Hager

Nick.Hager@minnvalleymutual.com