



Safetyinsider®

Volume 16, Issue 1
March 2021

Bob's Corner

What an unprecedented year! 2020 starts off with the bang, then fizzles due to COVID - 19. With many non-essential businesses temporarily shut down or at 50% capacity, and the boom in the sales and wearing of masks, we continue to become loners in our own special world, operating away from others, and in home offices or personal spaces detached from others. Domestic violence and suicides are at unprecedented levels and the future is becoming more uncertain than ever. But..... Trucking is definitely the most essential business, especially with food delivery, medical supplies and other key products! Then, in addition to COVID - 19, other issues have hampered America. Oh yes, there was also a presidential election and the aftermath even prior to the transition to the new president. Yes, hindsight is definitely 20-20, but what about foresight? Can we survive in 2021? Only time will tell along with the happenings and focus in America, but also individually with the diversity of our trucking clients.

The FMCSA has the Clearinghouse now in full gear, and if your company is not registered with TLC, please contact Stacy Gibson in our new Valparaiso, IN office. Yes, in the midst of COVID -19, we have moved our screening office (along with other vital client services) from Chesterton. Thank you for your patience in this transition and especially now with many of our employees working from home. The new HOS was implemented September 30. ELD's changed over and new ELD companies are now springing up. Many are becoming easier to install and use, and less expensive. ELD's made it easier and now with fewer violations!

Approximately 20-25% of our clients are now using Dash Cams and many more are now installing them. They have become an asset in the defense of many road accidents, as well as driver claims of injuries. Let us not forget about the liability that is attached to serious accidents and the attorneys that feed off claimants for "nuclear verdicts". TV commercials have intensified their blame of drivers!

We continue to pass on timely Top Dog Newsletters to our drivers, with updates to assist drivers to complete quizzes online. Many address fatigued and distracted driving (the main cause of driver error and many accidents), but others are very timely like Winter Driving. The most recent topic is Driver Wellness (a topic for everyone) on health (yes, good timing for a New Year's Resolution). Safety tips are also e-mailed to drivers twice per month. Prevention is often the most overlooked safety principle. Why? Because if a driver continues to perform unsafe and not get hurt, what will they continue to do? Yes, they will continue to perform "unsafe"! Like jumping out of the truck instead of using 3 points of contact, not properly securing loads, lifting improperly, not using PPE, speeding, non-seat belt use, etc.

Let us know if you need assistance with safety. Most of our client contacts are now by phone, but we also have an online safety training system available to your company through TLC (Infiniti). We are hoping to increase participation but not until the new training software has the bugs removed, and Infiniti completes client instructional tutorials we can share with you. Clients are our most valuable asset at TLC and Drivers are your most valuable asset! Stay Safe in 2021 as we navigate the challenges presented to us with COVID - 19 (will the vaccines work and will there be a cure?). Safety visits will be infrequent until mid-year, but stay in touch when we can assist you.

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Cheers,

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Safety Director

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TLC Benefits Changes in 2021

MetLife and TransAmerica Added to TLC's Voluntary Benefits Package in 2021

MetLife and TransAmerica plans are new to TLC's voluntary benefits package, and these plans replaced existing Dental, Vision, Life, Disability, Accident, Critical Illness, and Hospital Indemnity plans. The new carriers offer similar or better benefits compared to the prior carriers, mostly with the same or better rates. All clients were apprised of the new plans in a letter last October. Eligible employees were informed about the new plans during our 2021 annual open enrollment, held by mail in November-December 2020. All existing enrollments were transferred to the new carriers so employees did not have to take any action to keep their enrollment levels the same as 2020. The exception is the Flex Spending Account (FSA) which requires an annual election for pre-tax healthcare and dependent care expenses.

Individual ID Cards are not Issued for Dental and Vision Plans

Custom ID cards are not issued for either Dental or Vision. The best access to coverage information for enrolled employees - including digital ID cards if desired - is via MetLife's MyBenefits portal (mybenefits.metlife.com, search for sponsoring employer name TLC Companies). Providers verify coverage with the member's SSN and do not need an ID card. We can also send a basic Dental or Vision card for covered employees and family members to use along with the employee's SSN or date of birth - these cards can be mailed or emailed on request.

More Enrollment Options

A new online enrollment portal was also introduced during the 2021 open enrollment, adding one more option and ease of enrollment for employees. With this portal, employees enroll or make changes to their coverage levels online, during the open enrollment window (usually Nov. 15th to Dec. 15th). They can also still enroll or make changes over the phone with the enrollment call center. This is just like the call center we've used for the last several years' open enrollments. Both the online portal and the call center will now also be available year-round for new hires to utilize as they become eligible.

TLC Benefits at Your Worksite

TLC offers voluntary benefits to all full-time employees at most client worksites. Voluntary benefits include Dental, Vision, Flex Spending Accounts, Life, Disability, Accident, Critical Illness, Hospital Indemnity, and Legal plans. TLC also offers a group major medical plan for qualified participating clients with a minimum of 5 full-time, enrolled employees. There are several ACA-compliant medical plan design options, and minimum participation and contribution requirements also apply. If TLC voluntary benefits are not currently offered at your worksite, and you'd like more information about adding them, or to request a no-obligation quote for group medical, please contact TLC Benefits at 800-825-3832 or tlcbenefits@tlccompanies.com.

2020 ACA 1094/1095-C Update

TLC Benefits recently completed 2020 ACA 1094/1095-C preparation, including mailing 8,000 1095 forms to employees. Depending on the total number of 1095 forms issued, applicable employers must either mail their completed filing to the IRS or have it e-filed. If you're a "print filer" with fewer than 250 1095's, you must print & mail paper copies directly to the IRS – that was due March 1st, and if this applies to you, we sent secure links to you in early February, to the documents to be printed. If you're an "e-filer" with 250 or more 1095's, the full filing is submitted to the IRS electronically – due by March 31st, TLC handles this part for participating e-filer clients, and it has been completed.

Applicable Large Employers (ALEs) must do the 1094/1095-C filing. Your ALE status is determined by your average headcount the previous calendar year – you're an ALE if you have an average of 50 or more Full Time or Full Time Equivalent employees within your company or commonly owned group of companies. If your company or control group is an ALE, you're required to offer minimum affordable coverage to employees and you must do the 1094/1095-C filing. If you have Part Time employees, you need to calculate the total "Full Time Equivalent" hours to determine your applicable headcount.

If your count is close to 50, and you're not sure if you have reached ALE status, TLC Benefits can help determine your applicable Full Time Equivalent headcount. If you need the ACA 1094/1095-C preparation service for 2021, or have any questions about it, please contact us at 877-248-8360 and ask for Benefits, or tlcbenefitsaca@tlccompanies.com.

COVID Emergency Sick Pay

The emergency paid sick and family leave of the Families First Coronavirus Response Act (FFCRA) passed in March 2020 has not been extended into 2021 on a mandatory basis. However, covered employers who voluntarily pay the COVID sick/family pay may still utilize the payroll tax credit to help cover the cost of benefits paid to employees, through 3/31/2021.

We assume most employers want us to continue paying COVID sick/family pay in 2021 voluntarily, since the tax credit offsets the payroll cost. But we'll also check with you when we receive your first COVID sick/family pay request in 2021, before approving or processing it. Our FFCRA leave form and approval process remain the same through 3/31/2021. And TLC will continue to process the applicable payroll tax credit for you on the same payroll invoice as the COVID pay.

There are no changes in the qualifying reasons an employee may take leave or the FFCRA's documentation requirements. There is no change in the limits on the amount of pay employees are entitled to receive, or the total amount of leave employees are entitled to take under the FFCRA between 4/1/2020 and 3/31/2021. During this one-year period, employees are limited to an allotment of 80 hours (2 work weeks) of paid sick leave and 12 weeks of expanded family medical leave whether the leave is taken in 2020 or 2021.

Please contact Benefits at 877-248-8360 or tlcbenefits@tlccompanies.com if you have any questions.

HRConnect® Connects Employees

Employees who register for TLC's HRConnect® have access to their paycheck stubs and more, including a list of TLC Benefits they're enrolled in. Considering the number of changes that were made for 2021 during the last annual open enrollment, we mailed a letter to employees in January reminding them of their current benefits elections, and gave them until the end of January to make any needed adjustments for 2021. We will continue to remind employees, in benefits materials and mailings, that they can look up their enrolled benefits information at www.tlchrconnect.com, under "My Benefits."

International RoadCheck 2021

This year's International Roadcheck is set for May 4-6, the Commercial Vehicle Safety Alliance announced.

Stepped-up enforcement will have a special focus on commercial motor vehicle lighting and hours of service.

Inspectors will ensure the vehicle's brake systems, cargo securement, coupling devices, driveline/driveshaft components, driver's seat, exhaust systems, frames, fuel systems, lighting devices, steering mechanisms, suspensions, tires, van and open-top trailer bodies, wheels, rims, hubs and windshield wipers are compliant with regulations.

Inspections of motorcoaches, passenger vans and other passenger-carrying vehicles also include emergency exits, electrical cables and systems in the engine and battery compartments, and seating, CVSA said.

As was the case last year, in consideration of COVID-19, law enforcement personnel will conduct inspections following their departments' health and safety protocols during 2021 International Roadcheck, CVSA said.

In addition, inspectors will make every effort to get vaccine shipments to their destination, quickly and safely. COVID-19 vaccine shipments will not be held up for inspection, unless there is an obvious serious violation that is an imminent hazard, CVSA said.

FLSA and Independent Contractors

The U.S. Department of Labor has issued a final rule revising its interpretation of independent contractor status under the Fair Labor Standards Act (FLSA) that it said will "promote certainty for stakeholders, reduce litigation and encourage innovation in the economy."

The final rule explains that independent contractors are workers who, as a matter of economic reality, are in business for themselves as opposed to being economically dependent on the potential employer for work.

"The rule sharpens this inquiry into five distinct factors, instead of the five or more overlapping factors used by most courts and previously the department," the agency announced in a prepublication post on January 6.

The final rule says that, consistent with the FLSA's text, its purpose and the department's experience administering and enforcing the act, the final rule explains that two of those factors — the nature and degree of the worker's control over the work and the worker's opportunity for profit or loss — are more "probative of the question of economic dependence or lack thereof than other factors, and thus typically carry greater weight in the analysis than any others."

The rule said that three other factors can serve as additional guideposts in the analysis. They include: the amount of skill required for the work, the degree of permanence of the working relationship between the worker and the potential employer, and whether the work is part of an integrated unit of production.

"The Department believes this final rule will significantly clarify to stakeholders how to distinguish between employees and independent contractors under the Act," said the agency.

State Paid Leave Laws

NY Paid Family leave

In 2021, employees taking Paid Family Leave will receive 67% of their average weekly wage. The maximum weekly benefit for 2021 is \$971.61. *The weekly PFL benefit is capped at 67% of the New York State average weekly wage, which is \$971.61. New York's information hotline is 844-337-6303.

CT Paid Leave EE contributions started 1.1.2021

On June 25, 2019, Connecticut enacted the Paid Family and Medical Leave Act (PFMLA), which creates a system that will entitle each eligible Connecticut employee to paid family leave. Most critically, employers must begin taking deductions from the pay of Connecticut employees to fund the program on January 1, 2021. See: https://ctpaidleave.org/?language=en_US

For state paid sick leave laws see: <https://www.kff.org/other/state-indicator/paid-family-and-sick-leave/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

Salary Exemptions

Some state white collar exemption salary threshold increases are now in effect. Paying below these levels requires overtime pay to employees. Here are the weekly rate increases we are aware of.

Alaska: \$827.20; California: \$1120 (large employers), \$1040 (small employers); Colorado: \$778.85; Maine: \$700.97; Long Island and Westchester County, NY: \$1050; Rest of New York (not New York City): \$937.50.

We recommend calling your state Department of Labor or checking their website of for specific information.

FMCSA's Red Flag Violations

When investigating a motor carrier, a Safety Investigator (SI) looks at driver history for egregious violations of the Federal Motor Carrier Safety Regulations (FMCSRs). These violations are sometimes referred to as Red Flag Violations and are always investigated as part of a motor carrier investigation. The SI conducting the investigation looks to see if the violation has been corrected. At present, there are 16 such violations, though this list may be updated periodically. These violations are outlined in the table below, along with the Behavior Analysis and Safety Improvement Categories (BASICs) to which they correspond.

BASIC	FMCSR Part	Violation Description
Driver Fitness	383.21	Operating a commercial motor vehicle (CMV) with more than one driver's license
Driver Fitness	383.23(a)(2)	Operating a CMV without a valid commercial driver's license (CDL)
Driver Fitness	383.51(a)	Driving a CMV (CDL) while disqualified
Driver Fitness	383.51A-SIN	Driving a CMV while CDL is suspended for a safety-related or unknown reason and in the state of driver's license issuance
Driver Fitness	383.51A-SOUT	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the driver's license state of issuance.
Driver Fitness	383.91(a)	Operating a CMV with improper CDL group
Driver Fitness	391.11	Unqualified driver
Driver Fitness	391.11(b)(5)	Driver lacking valid license for type of vehicle being operated
Driver Fitness	391.11(b)(7)	Driver disqualified from operating CMV
Driver Fitness	391.15(a)	Driving a CMV while disqualified
Driver Fitness	391.15A-SIN	Driving a CMV while disqualified. Suspended for safety-related or unknown reason and in the state of driver's license issuance.
Driver Fitness	391.15A-SOUT	Driving a CMV while disqualified. Suspended for a safety-related or unknown reason and outside the driver's license state of issuance.
Controlled Substances/Alcohol	392.4(a)	Driver uses or is in possession of drugs
Controlled Substances/Alcohol	392.5(a)	Possession/use/under influence of alcohol less than 4 hours prior to duty
Fatigued Driving (HOS)	395.13(d)	Driving after being declared out-of-service (OOS)
Vehicle Maintenance	396.9(c)(2)	Operating an OOS vehicle

Any driver violations identified and addressed during motor carrier investigations that are not corrected may result in a driver Notice of Violation or Notice of Claim.

Source: <https://csa.fmcsa.dot.gov/HelpCenter/FAQs#>

Ancillary Products

TLC Companies has an array of ancillary products that could be a fit for your company through these unprecedented times:

TLC Exchange®

Alternative Health Plans - Partnered with Enrollment First

- Single source solution: Health Insurance, Wellness/Rewards, Life, ADD/LTC, Dental/Vision
- On-line enrollment and electronic data interchange
- Aggregated billing and reconciliation

TLC FuelVantage®

Over the Road Fleet Fueling Program - Partnered with WEX FleetOne

- Accepted at all Tier 1 and Tier 2 Fuel providers
- Negotiated discounts at select merchants like Pilot-Flying J, T/A-Petro, Speedway/WilcoHess
- Client specific customized reporting down to level 3 detail
- Additional rebate programs with FuelVantage pre-negotiated programs at an additional 2,200 locations

TLC ScreenPlus®

Pre-employment, Random, and Post-Accident screening services - Partnered with FSSolutions

- Track results and receive status updates
- Locate one of the 2,100+ convenient collection sites on-line including Quest Diagnostics & LabCorp Facilities
- Random generation (DOT and Non-DOT)
- All DOT custody and control forms delivered to your location

TLC AdvancePlus™

Provide access to our client base for a competitive, flexible factoring business

- Funds for equipment purchases
- Raise down payment for new purchases
- Pay debts on time
- Improve cash flow

Contact Joe Noonan at 763-585-7015 or jnoonan@tlccompanies.com for more information regarding these products.

2021 Top Dog® Program

April 1, 2021 will kick off the new 2021 Top Dog Award Program. If your drivers have not been participating in this monetary program, now is the time. The Grand Prize continues to be \$10,000, and one driver will be awarded the prize money in May from our 2020 program year.

The eligibility requirements are quite simple:

1. Complete and pass one quiz a quarter and receive a \$20 safety bonus from TLC. Only one \$20 safety bonus is paid per quarter.
2. Stay accident and injury free throughout the program year.

TLC also has an additional \$250 quarterly bonus where we randomly select 10 drivers who have submitted and passed each month's quiz in any given quarter.

The newsletter comes in payroll envelopes but not all drivers look or see this information. If you print checks onsite, we encourage you to print and have copies of the newsletter and quiz available wherever your drivers congregate.

Watch for the June Driver Newsletter for the 2020 Grand Prize winner.

Social Media in Crash Litigation

Missing or improper documentation of driver training can play a significant factor in litigation. Plaintiff attorneys put a lot of effort into painting truckers in a negative – if not outright violent picture, but among the defense tools motor carriers have at their disposal is their own reputation and how their companies are perceived.

One of the things a motor carrier can do to define its public perception is to refine its web footprint, because the Internet will be the first place litigators and jurors look post-crash. A fleet's reputation is often cultivated first via Google search, and taking a proactive approach to controlling the results should be every motor carrier's priority.

A motor carriers' involvement in their local communities – like donations to the American Heart Association, for example, or the local little league – should also be promoted and put that on your website so that people can see that you're a good community citizen. It's just a good way to behave in an affirmative manner that projects a good image that jurors could see.

Much of website work is contracted out to companies and it's important for motor carriers to review their online presence with a more critical than artistic eye. At least once a year review content that sends a message that "we'll get it there under any circumstances type scenario." Instead, be mindful of your company mission statement and promote any involvement in local initiatives that show your company in a positive light.

A driver's social media can play a role in a motor carrier's overall look, and it can also be brought into court. Explaining to drivers the process that follows an accident and what the expectation will be of them on the scene. Post-crash pictures taken by a driver, or any type of conversations or discussions of any sort, should never be posted publicly. Don't talk about it. Don't share about it. All that public perception, the more that is posted, the more it can be used against a motor carrier.

It's important that motor carriers educate drivers on how their personal social media is used in the context of truck crash litigation. A driver who posts a meme that portrays the "you cut off a tractor trailer, you're asking for an 80,000 pound suppository." "If they put that up, what they're really doing is subjecting themselves to potential personal civil or criminal liability. Because some of those things can go toward state of mind, and it's just a dumb thing to do."

Drivers are the first, best and only investigator on behalf of the company that we're ever going to have at the accident scene, "because by the time you can get accident recon or an adjuster out there, the trucks are going to be moved."

CDL/CLP Medical Examination

FMCSA issued another extension to the previous CDL/CLP and Medical Examination waivers that were set to expire the end of this month. This waiver becomes effective on March 1, 2021 and expires on May 31, 2021. Please read the specific provisions below, as the dates and applicability vary. As with the previous extensions, state drivers licensing agencies (SDLAs) have the authority to exercise discretion in extending these dates, consistent with the outline below. Motor carriers and drivers should check with the SDLA to confirm their state's expiration periods.

For CDL/CLP Drivers, the waiver will:

- Waive until May 31, 2021, the maximum period of CDL validity for CDLs due for renewal on or after March 1, 2020;
- Waive until May 31, 2021, the maximum period of CLP validity for CLPs that are due for renewal on or after March 1, 2020, without requiring the CLP holders to retake the general and endorsement knowledge tests;
- Waive until May 31, 2021, the requirement that CLP holders wait 14 days to take the CDL skills test;

Medical Requirements for CDL/CLP and non-CDL drivers:

- This notice will waive, until May 31, 2021, the requirement that CDL holders, CLP holders, and non-CDL drivers have a medical examination and certification, provided that they have proof of a valid medical certification and any required medical variance that were issued for a period of 90 days or longer and that expired on or after December 1, 2020.
- This notice will also waive, until May 31, 2021, the requirement that, in order to maintain the medical certification status of "certified," CDL or CLP holders provide the SDLA with an original or copy of a subsequently issued medical examiner's certificate and any required medical variance, provided that they have proof of a valid medical certification or medical variance that expired on or after December 1, 2020.

For State Driver License Agencies (SDLA):

- This notice waives, until May 31, 2021, the requirement that the SDLA change the CDL or CLP holder's medical certification status to "not certified" upon the expiration of the medical examiner's certificate or medical variance, provided that they have proof of a valid medical certification or medical variance that expired on or after December 1, 2020. Additionally, the notice waives certain requirements with regards to SDLAs downgrading a driver's CDL or CLP upon expiration of the medical examiner's certificate or medical variance, provided the SDLAs have proof of a valid medical certification or medical variance that expired on or after December 1, 2020.

NOTE—in the notice, FMCSA reiterates that the extension "permits, but does not require" states to extend the validity periods and processes referenced above. This ultimately means that a SDLA may choose not to extend the validity periods, based on the operational status within their state. The full waiver notice can be found at <https://www.fmcsa.dot.gov/emergency/waiver-response-covid-19-national-emergency-states-cdl-holders-clp-holders-and-2>. Motor carriers and drivers should review this waiver, and confirm with the SDLA, to ensure all terms, conditions, and restrictions are met.

Additionally, FMCSA also announced extension of waivers related to CLP holders operating with a CDL driver in the front seat, out of state CDL applicant testing, and third-party knowledge testing.

Behind the Scenes @ TLC

Online Safety Training

TLC has a relationship with Vertical Alliance for online driver safety training. Over 850 videos are online, updated periodically and accessible to drivers. The website also contains many other resources and documents. Our safety team is excited to introduce you to this training system. The advantage is these videos are typically 4-8 minutes in length, but also include a test to help drivers to learn and to document the training. This is a comprehensive learning system that can also be used to defend drivers and your company in the event of serious accidents and associated liability. Let us know and we can review this in more detail with you on our visits or anytime by phone or email.

Updated I-9 Form

Employers should use the updated Form I-9 with an expiration date of 10/31/2022.

Please email chereception@tlccompanies.com with any questions.

CDL Legal

DOT regulations have never been more restrictive than they are today. As a result, more tickets and fines are being issued. In addition, drivers are difficult to recruit and retain. Protect your drivers against the violations that could affect their CDL and your company's CSA Status.

Because of this, TLC offers the most comprehensive CDL Legal plan for drivers. Some of the key benefits are the following:

- 95% success rate defending moving and non-moving violations
- Timely citation claim reports to our clients
- CSA challenges through Data Q
- Use local attorneys and pay in advance
- Driver discounts and roadside assistance

TLC transitioned to CDL Legal on August 1, 2019 due increased benefits and improved customer service, all at the same cost to drivers.

To learn more, please go to www.cdllegal.com/TLC for more information and for easy driver sign-up.