



Massachusetts Passes Law for Paid Family and Medical Leave

Issue Date: August 2018

Overview

Massachusetts passed a compromise bill on minimum wage, paid family and medical leave and a permanent annual sales tax holiday in lieu of advancing these issues via a ballot initiative in the November 2018 elections. Community and labor groups would have placed these questions before voters via a ballot initiative in November 2018 if the Legislature failed to pass legislation on minimum wage, paid family and medical leave and a permanent annual sales tax holiday. Representatives of business lobbies agreed to join negotiations, and legislators swiftly passed a compromise bill that balanced the concerns of both working families and business owners. The Governor signed the bill into law on June 28, 2018.

The following provides a brief highlight of the paid family and medical leave provisions of the new law to assist clients with employees in Massachusetts.

Which Employers Must Comply?

All private employers must provide paid family and medical leave to covered individuals through the state-run program or a private plan. Employers may opt out of the state-run program by having an approved private plan for the payment of either family leave benefits or medical leave benefits, or both. The benefits and leave durations afforded to covered individuals must be equivalent to or greater than the benefits the covered individuals are entitled to in the state's family and medical leave program.

When Does Massachusetts Paid Family and Medical Leave Become Effective?

Assessment and collection of premiums for covered individuals will begin on July 1, 2019, with payment of benefits commencing by January 1, 2021.

Who Is Eligible?

Covered individuals include current employees and former employees separated from employment not more than 26 weeks at the start of their family or medical leave. Self-employed individuals and independent contractors are excluded. However, self-employed individuals may choose to elect coverage.

What Are the Qualified Leave Reasons?

Family leave qualifying reasons includes care for a family member with a serious health condition, bonding with or placement of a child for the first twelve months, qualifying military exigency, and care for a family member who is a covered servicemember. Medical leave qualifying reasons include a covered individual's own serious health condition, including pregnancy or recovery from childbirth.

How Much Time Will Employees Be Able to Take?

The law will provide employees up to 12 weeks of paid family leave, 20 weeks of paid medical leave, or a maximum of 26 weeks of combined paid family and medical leave in a benefit year. A covered individual taking leave to care for a family member who is a covered servicemember may take up to 26 weeks of family leave.

How Much Will Employees Receive?

Covered individuals will receive a weekly benefit that will vary depending on income. The portion of an individual's average weekly wage that is less than or equal to 50% of the state average weekly wage will be replaced at a rate of 80%, plus an additional 50% of the portion of an individual's average weekly wage that is more than 50% of the state average weekly wage. Benefits will be capped at \$850 per week until December 31, 2021. Every year thereafter, the commissioner shall adjust the maximum weekly benefit amount to 64% of the state average weekly wage, which shall take effect on the following January 1st.

What Are the Anticipated Premiums for This Benefit?

The total premium is initially set at 0.63% of the covered individual's wages, with employers and employees sharing the cost. Beginning October 1, 2021, the contribution rate will be adjusted annually, which shall take effect on the following January 1st.

How Does This Law Interact with FMLA And Other Existing Leave Entitlements?

If an employee's need for leave also qualifies for protections under federal FMLA, an employee's paid leave under the new law will run concurrently with the employee's FMLA absence. The law's job protection provisions do not apply to former employees and self-employed individuals.

What Does This Mean for You and Your Employees?

Massachusetts will be developing regulations to implement the new paid family and medical leave law. These regulations will be published for public comment and hearing by March 31, 2019 and promulgated no later than July 1, 2019. Employers may also want to consult their own counsel, pamphlets, handbooks, and other benefit materials to ensure they fully understand what these changes mean to their employees and associates.

Frenkel will continue to evaluate this benefit and will advise in advance of its effective date any impacts to absence management services or other applicable coverages. We will provide employers with more information after the rules are finalized.

Please be aware that this does not represent legal or tax advice and is only Frenkel's interpretation of the laws, regulations and statutes. It is highly recommended that you seek the advice of your legal and tax professional as to the applicability of this information to your particular situation.