Massachusetts Announces 2 Major Changes to Paid Family and Medical Leave: What Do Baystate Employers Need to Know?

Insights
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Massachusetts recently announced major changes to the Paid Family and Medical Leave Act, including changes allowing employees to “top off” PFML benefits with accrued paid time off and a sizeable increase in contribution rates. Changes to the “topping off” rules are effective November 1 and the new contributions rates will start on January 1. What does your company need to know about these changes?

PFML Refresh

Massachusetts Paid Family and Medical Leave allows employees to take paid time off work for qualifying family or medical reasons. This program is funded by both employer and employee contributions. While similar to the federal Family and Medical Leave Act, there are significant differences:

- PFML provides Massachusetts employees with up to 26 weeks of job-protected and paid family and medical leave each benefit year;
- Every Massachusetts business may be subject to PFML, even if not subject to FMLA;
- Employees may not be required to exhaust other forms of paid leave before utilizing PFML benefits;
- PFML expands the definition of “family” to include parents-in-law, domestic partners, grandchildren, grandparents, and siblings; and
- There is no employee tenure requirement to be eligible for PFML benefits.

Since 2021 employers have had the option to opt out of the state PFML plan and create a private plan for their employees. The private plan has to meet several requirements in order to be approved by the Department of Family and Medical Leave (DFML). Among these requirements are:

- Offering the same or more generous paid leave benefits than the state plan;
- Providing the benefits to employees at a cost less than or equal to the state plan; and
- Offering the same job protections as the state plan.

Those who received an exemption from DFML and were allowed to offer their own private family and medical leave benefits to their employees also had the option of allowing employees to supplement or "top off" their pay with accrued paid time off, but this option was not a requirement for employers to provide. Conversely, topping off was not available to those receiving benefits under the state plan.

Changes to "topping off" policies

Effective November 1, all employees under both private and state PFML plans will be allowed to top off their benefits with accrued paid leave.

While it is now a requirement to offer this option to employees, the choice to top off PFML, or analogous private benefits, is solely at the discretion of the employee. The employee may choose to use their accrued leave to top off their benefits, or they may choose to keep their accrued paid leave to use at another time. Employers do not have discretion in approving or denying an employee's choice to top off their benefits.

Increased Contribution Rate

For 2023, the contribution rate was .63% of an employee's wages for any employees of an employer with 25 or more employees, and .318% of wages for any employees of an employer with 24 or fewer employees.

Effective January 1, 2024, the contribution rate will increase to .88% for employers with 25+ employees and .46% for employers with fewer than 25 employees.

For employers with 25 or more employees, the contribution rate breaks down as follows:

- .70% for medical leave
  - .42% of the employer's share
  - .28% of the employee's share
- .18% for family leave
  - 0% of the employer's share
  - .18% of the employee's share

For employers with 24 or less employees, the contributions omit any employer contribution, and breaks down as follows:

- .28% for medical leave
  - .0% of the employer's share
  - .28% of the employee's share

- .18% for family leave
  - 0% of the employer's share
  - .18% of the employee's share

Increased Benefits Amount

Employees will also see a change in the maximum weekly benefit, which increases from $1,129.82 to $1,149.90 in 2024.

What's Next?

Employers should be on the lookout in the coming weeks regarding guidance from DFML on how to best comply with these new changes, including a new rate notice that must be issued to employees on or before December 2.

We will continue to monitor further developments and provide updates on this and other labor and employment issues, so make sure you are subscribed to Fisher Phillips' Insight System to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our Boston office.

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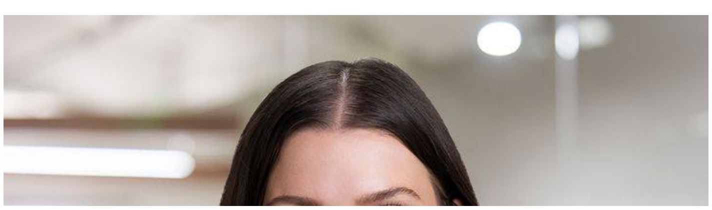

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