Paid Family Care Leave in California Becomes Effective in 2004

Insights
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The Family Temporary Disability Insurance Act (FTDI), otherwise known as California's "Paid Family Care Leave Act" provides a maximum of six weeks of partial wage benefits to eligible employees who take time off work to care for a seriously ill child, spouse, parent, or domestic partner, or to bond with a new child. Employees may apply for benefits under FTDI beginning July 1, 2004. Here is a brief summary of how this law affects you as a California employer.

Overview

Despite its name, FTDI is not a "leave" program; it does not provide an employee with any entitlement to leave. Rather, it allows employees to receive compensation for lost wages while they are out on leave under the Family and Medical Leave Act or the California Family Rights Act (or on leave pursuant to an employer's own leave policy not required by law) to provide care to an immediate family member. The FTDI program is funded by employee contributions through mandatory payroll tax withholdings, which begin January 1, 2004. California's Employment Development Department's Disability Insurance Branch (EDD) is in charge of administering FTDI benefits.

How Employees Obtain FTDI Benefits

Before employees can receive FTDI benefits, they must file a claim with the EDD, along with a certification form from a treating physician or practitioner, that establishes that an immediate family member has a serious health condition that warrants the care of the employee. Where an employee takes leave to bond with a new child, FTDI benefits are available only during the first year after the birth, adoption, or foster care placement of a child. Employees must file a separate certificate with the EDD for benefits associated with the birth, adoption, or foster care placement of a child.

FTDI Coverage And Benefits

If an employee satisfies these requirements, the employee may receive a maximum of six weeks of FTDI benefits within a 12- month period. The 12-month period begins on the first day an employee submits a claim for benefits and runs for 365 days from that date. Once the 365 days elapse, the employee's allotted six weeks of benefits expire, regardless of whether the employee has exhausted all six weeks. Any claims submitted to the EDD after the 365 days will initiate a new 12-month period.

An employee may collect FTDI benefits for six consecutive weeks or on an intermittent basis, but must wait seven days before benefits begin. For example, if an employee is out on leave for four must wait seven days before benefits begin. For example, if an employee is out on leave for four weeks and requests FTDI benefits for this time, the first week will serve as the seven day waiting period. The employee will begin to receive FTDI benefits the beginning of the second week through the fourth week. If five months later the employee requests another four week leave, the employee must serve the seven-day waiting period again, and then will receive benefits the beginning of the second week through the fourth week. Alternatively, employees may serve the seven day waiting period over a period of time, for example, where an employee takes one day off every other week to help a parent with chemotherapy treatment. Beginning the eighth day the employee cares for the parent, the employee may begin receiving benefits.

You may require that employees use up two weeks of accrued but unused vacation prior to receiving FTDI benefits. The first week of vacation will be applied to the requisite waiting period. Employees may also elect to use their paid sick leave during their leave. FTDI benefits, however, will be reduced by the amount of sick leave wages the employee receives.

Employees are not eligible to receive FTDI benefits for any day that another family member is ready, willing, able and available to provide care for the ill family member. Also, employees may not receive FTDI benefits while receiving State Disability Insurance, Unemployment Insurance or Workers' Compensation benefits.

Your Obligations

Employers must begin making proper withholdings for their employees' FTDI contributions effective January 1, 2004. California employers should receive information from the EDD regarding the additional amount to be withheld, but no additional employer reports or withholding forms will need to be submitted. In addition, you must provide a Notice of Rights to all new employees hired on or after January 1, 2004, and to all employees who miss work on or after July 1, 2004 due to pregnancy, non-occupational sickness or injury, or the need to provide care for any sick or injured family member, domestic partner or new child.

Employers can obtain a copy of the Notice of Rights they need to distribute, as well as claim forms from the EDD's website at www.edd.ca.gov.

For more information about how this new law affects you or your company, contact an attorney at any of our California offices.