Newly Created Massachusetts Agency Issues First Guidance On Paid Leave Law

Insights
11.19.18

As the ramp-up towards Massachusetts' paid family and medical leave continues, the newly created Department of Family and Medical Leave (DFML) just launched its website and issued its first guidance documents. As discussed previously, the July 1, 2019 date for starting contributions looms in the not-too-distant future, while benefits under the paid leave programs will begin in January 2021. What do employers need to know about this development?

Employers Receive Guidance From New Agency

In its first action, the DFML delivered two sets of frequently asked questions, one set for employers and another for employees. On the employer side, the DFML reiterated the key statutory provisions:

- Business with one or more employees are covered by the law, but those with fewer than 25 employees are not required to contribute the employer's share;
- Employers with paid family and medical leave programs that are more generous than what is provided by statute may apply for annual exemptions from the law;
- Independent contractors who work for a business that issues IRS-1099s for more than 50 percent of its workforce will be covered individuals, and the business must make contributions as if the independent contractors were employees;
- The contribution rate is 0.63 percent on an employee's first $128,400, and employers must remit the entire contribution (employer plus employee portion) directly to DFML;
- Employers may recover employee contributions from the employee's wages; and
- The apportionment rate between the family and medical leave will be determined each year, with the first breakdown being determined "in the coming months" and published before the July 1, 2019 deadline; and

The agency also said that more substantive regulations will be published for comment in advance of March 31, 2019; that's the deadline for the agency to issue formal regulations under the state's administrative procedures act.

Department Also Provides Guidance To Workers

In the guidance directed at employees, the DFML highlighted the eligibility requirements and what employees should expect as the paid leave law comes online. Employers should also take notice of

Copyright © 2024 Fisher Phillips LLP. All Rights Reserved.

employees should expect as the paid leave law comes online. Employers should also take notice of eligibility requirements to ensure compliance with the nascent entitlement program, as outlined below:

- Employees must have approximately 15 weeks or more of earnings history and have earned at least $4,700 in the 12-month period before applying for leave;
- Unemployed individuals are eligible as long as they've been unemployed for less than 26 weeks and have met the earnings requirements;
- Employees may be required to pay up to 40 percent of the medical leave contribution and 100 percent of the family leave contribution;
- The benefit is calculated as a percentage of the employee's earnings, up to a maximum of $850 per week;
- Medical leave is capped at 20 weeks and family leave is capped at 12 weeks per benefit year; and
- The maximum total leave is capped at 26 weeks per year.

Conclusion

Employers should continue to watch this space as we await draft regulations in the lead up to the July 1, 2019 contribution date. Now is the time to start revising handbooks to be compliant with the new law and to draft required notices to new and existing employees.

If you have any questions about this new law, please contact any attorney in the Boston office of Fisher Phillips at 617.722.0044.

This Legal Alert provides an overview of specific new state guidance. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

Related People

Joshua D. Nadreau

Copyright © 2024 Fisher Phillips LLP. All Rights Reserved.

Regional Managing Partner and Vice Chair, Labor Relations Group
617.722.0044
Email

Service Focus

Employee Leaves and Accommodations

Counseling and Advice

Copyright © 2024 Fisher Phillips LLP. All Rights Reserved.