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What Employers Need to Know About Washington's New Paid Family and Medical Leave Insurance Law

Labor and Employment Legal Update

On Wednesday, July 5, Governor Inslee signed a Paid Family and Medical Leave law with strong bipartisan support. The new state law, one of the most expansive in the country, provides for a total of up to 18 weeks of paid leave to employees who work in the State of Washington. Here's what employers operating in Washington need to know now:

Covered Employers

- Any person or business that employs at least one employee in the State of Washington.

Eligible Employees

- Any person employed by an employer in the State of Washington.
- Self-employed individuals and independent contractors are excluded. However, self-employed individuals may elect coverage if they choose to do so.

Reasons for Paid Leave

- **Family Leave:**
 - Reasons relating to a family member's serious health condition;
 - To bond with the employee's child during the first 12 months after childbirth; or
 - Because of any qualifying exigency or military caregiver leave under the federal Family and Medical Leave Act (FMLA).
- **Medical Leave:**
 - Reasons relating to the employee's own serious health condition.
- **Length of Leave:**
 - Employees may take up to 12 weeks of paid family leave or paid medical leave per year, or a combined total of 16 weeks for family and medical leave.

- Employees may also take an additional two weeks of paid leave (for up to 18 weeks of total paid leave) for a serious health condition related to a pregnancy.
- **Waiting Period:** Paid leave benefits do not take effect until after the first seven calendar days of leave unless leave is for birth or placement of a child.
- **Eligibility:** Employees are eligible for paid leave benefits after working for at least 820 hours (for any Washington employer) during the qualifying period, which is the first four of the last five completed calendar quarters.

Benefit Amounts

- Paid leave benefits will be administered by the state.
- The weekly benefit amount will be a percentage of the employee's average weekly wage.
- Lower income employees will receive a higher percentage of their average weekly wage than higher income employees.
- Benefits are capped at \$1,000/week.

Premiums

- Paid leave benefits will be funded through employer and employee contributions. Premiums will be 0.4 percent of wages.
- Employers will pay 37 percent of the premiums and employees will pay 63 percent via payroll withholdings.
- According to a Senate calculator, an employee who makes \$50,000/year will pay \$2.42/week in premiums, while their employer will pay \$1.42/week. Their weekly paid leave benefit would be \$703.
- Self-employed individuals who elect coverage pay only the employee share of the premiums. Employers with 50 or fewer employees are exempt from paying the employer share.
- Employers who offer paid family leave programs may opt out so long as their programs are at least equivalent to the state program.

Effective Date

- Premiums will start being collected on January 1, 2019.
- Employees may start collecting paid leave benefits on January 1, 2020.

Key Take-Aways

- Employers of all sizes must review their paid time off policies in light of this new law to determine whether to opt out of the new law.

- Employers will need to reconcile this law with the other state and local paid sick leave laws, including the statewide paid sick leave law that becomes effective on January 1, 2018. For more information on the paid sick leave law, view our previous post on the subject.
- Plan now to attend Lane Powell's 35th Annual Labor and Employment Seminar in Seattle on Tuesday, October 17, where we will discuss what employers need to know about this new law in greater detail and provide tips and advice so that you are prepared to comply.

For more information, please contact the Labor and Employment Practice Group at lanepowellpc@lanepowell.com.