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Connecticut's New Paid Family and Medical Leave Act Applies to Almost All Employers

On June 25, Governor Ned Lamont signed Public Act 19-25, "An Act Concerning Paid Family and Medical Leave" (the Act), creating a comprehensive system of paid family and medical leave benefits for nearly all employees in Connecticut. The Act also establishes a Family and Medical Leave Insurance Program (the Program) that will be funded by employee contributions, with collections scheduled to begin on January 1, 2021.

Expansion of Connecticut's Family and Medical Leave Act

The Act makes sweeping revisions to the current Connecticut Family and Medical Leave Act (CTFMLA), most of which are effective January 1, 2022. Some of the most notable changes include expanding application of the Act to virtually all Connecticut employers, expanding the definition of "family member," eliminating the minimum number of hours employees must work to be eligible for leave and, perhaps most significantly, providing for paid leave.

Previously, only Connecticut employers with 75 employees or more were subject to the requirements of the CTFMLA. As of January 1, 2022, however, Connecticut employers need to have only *one* employee to be subject to the statute. In addition, sole proprietors and self-employed individuals can voluntarily enroll in the Program.

The Act also will make many more employees eligible for benefits by eliminating the previous requirement that employees work at least 1,000 hours during the preceding 12 months to be eligible. Under the Act, there is no minimum-hours-worked requirement. Instead, employees are eligible for benefits if they have worked for their employer for at least three months prior to seeking leave and have earned at least $2,325 during the employee's highest earning quarter in the past year. Unemployed individuals may apply for benefits if they meet the earnings requirement and were employed anytime within the preceding 12 weeks.

Another change is the amount of leave to which employees are entitled. Previously, eligible employees were entitled to 16 weeks of *unpaid* leave during any two-year period. Under the Act, employees will be entitled to 12 weeks of *paid* leave in any 12-month period, which more closely aligns with the leave entitlements under the federal Family and Medical Leave Act and may simplify leave management for employers subject to both laws. Employees who become incapacitated due to a serious health condition that occurs during pregnancy may take an additional two weeks of paid leave.

The Act also expands the reasons for which eligible employees may take leave. As with the prior statute, employees remain eligible to take leave for their own serious health condition; the birth or adoption of a child; to care for their spouse, child, parent or parent-in-law with a serious health condition; or to serve as an organ or bone marrow donor. In addition, employees may now take leave to care for others with a serious health condition, including their siblings, grandparents, grandchildren, or "any person related by blood or whose close relationship with the employee is the equivalent of a family member."

Importantly, employees will be eligible for compensation during leaves under the Program, which will be funded through employee contributions to a state-administered trust fund. Employees are eligible to receive a maximum weekly benefit of up to 95% of their regular weekly pay, not to exceed 60 times the minimum wage.

Employees may still elect to use any accrued paid time off during covered leaves in order to receive full pay. Similarly, employers may require employees to use any accrued paid time off during covered leaves, but must allow the employee to retain at least two weeks of such paid time off. Employees may receive paid benefits from the state fund concurrently with

any "employer-provided employment benefits" (which is not defined in the Act), but may not receive more than their normal compensation.

Funding for Paid Leave

Beginning on January 1, 2021, employees will be responsible for funding the Program by contributing 0.5% of their weekly earnings through a mandatory payroll tax. Unlike under similar laws in neighboring states, Connecticut employers are not responsible for making any contributions to the Program. Nevertheless, covered employers may seek permission to opt out of the Program and to provide benefits to their employees through a private plan, provided that the benefits of such plan are no less than those offered under the Program.

Notice Requirements

The Act imposes certain notice requirements on employers. Effective July 1, 2022, employers must notify employees, upon hiring and once a year after that, about their entitlement to benefits under the Act. Employers also must notify employees of their rights under the Act, including the prohibition against retaliation for seeking leave or other benefits, and that they may file a complaint regarding any alleged violations with the Connecticut Department of Labor Commissioner.

Conclusion

These significant changes to Connecticut's Family and Medical Leave Act will affect and apply to almost every Connecticut employer, including many small businesses not previously subject to any statutory family or medical leave requirements. Although the payroll tax will not commence until January 1, 2021, employers should plan for these changes well ahead of time.

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