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COUNSELLORS AT LAW

EMPLOYMENT LAW ALERT (OCTOBER 19, 2020)

MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE ACT REQUIREMENTS GO INTO EFFECT JANUARY 1, 2021

The leave of absence and wage replacement benefit provisions of the Massachusetts Paid Family and Medical Leave Act (the “PFML”) go into effect on January 1, 2021 (except that leave to care for an employee’s family member with a serious health condition does not go into effect until July 1, 2021). Effective January 1, 2021, employers are required to provide employees PFML leave in a variety of different scenarios; and a new state agency, the Massachusetts Department of Paid Family and Medical Leave, will begin accepting employees’ claims for PFML wage replacement benefits. The Department is in the process of developing and implementing an online system, similar to the unemployment claims process in Massachusetts, which will accept, process, and pay employees’ claims for PFML wage replacement benefits. The Department has issued regulations which provide information regarding implementation of PFML leave and PFML wage replacement benefits, although many questions remain. We anticipate that the Department will issue forms and guidance in the coming months which may address outstanding questions.

Employers should take certain actions before January 1, 2021, including:

- Adopt a new PFML leave policy which provides employees information about PFML leave, the wage replacement benefit, and the other terms and conditions of PFML leave (please contact us if you would like a sample PFML Policy).
- Review and revise your existing leave of absence policies to integrate PFML leave into those policies, including making sure that various available leaves run concurrently with PFML and considering whether to modify the definition of the “benefit year” used in your FMLA policy to match the “benefit year” used in the PFML (FMLA requires 60 days’ advance notice of any such change). (The PFML defines an employee’s “benefit year” as the 52 weeks following the Sunday before the employee first takes PFML leave; and the employee is entitled to an aggregate amount of 26 weeks of PFML leave during that 52-week period.)
- Review your existing time off and wage replacement benefits (such as PTO, sick time, short-term disability insurance and long-term disability insurance) to assess how to integrate those benefits with paid PFML leave and whether any modifications of those benefits should occur.
- Review your existing health insurance benefit to ensure appropriate benefit continuation during PFML leave.
- Consider training your managers and supervisors regarding the new PFML leave that will be available and how it will impact the workplace, including attendance policies and performance management.

Please feel free to contact us if you have any questions. Stay safe.

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