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New Jersey Expands Paid Family Leave

On February 19, Governor Phil Murphy signed into law a bill that expands coverage and increases benefits under New Jersey's Family Leave Act. Among other things, the new law will increase employee eligibility, raise the weekly benefit for individuals taking qualifying leave and double the maximum duration of benefits. Employers should update their leave policies and payroll practices to ensure compliance.

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Background

Since 2009, the New Jersey Family Leave Act (NJFLA) has allowed eligible employees of covered employers to take up to 12 weeks of job-protected leave during a 24-month period to care for a seriously ill family member or bond with a newborn or newly adopted child. Financed by employee payroll deductions, New Jersey's Family Leave Insurance (FLI) program provides up to six weeks of partial wage-replacement benefits in a 12-month period for employees who take qualifying leave.

Weekly FLI benefits of no more than two-thirds of the eligible employee's pay are available — subject to the same maximum applicable for an individual's own disability under the state's Temporary Disability Insurance (TDI) program. FLI benefits are paid through the TDI program or an approved employer-provided private plan.

Leave benefits expand

A bill to expand coverage and increase benefits under the NJFLA to care for a newborn or seriously ill family member was passed by the state legislature on January 31. Governor Phil Murphy signed the bill into law on February 19.

Expanded coverage

Like the federal Family and Medical Leave Act, the NJFLA currently applies to employers with 50 or more employees. As of June 30, 2019, the NJFLA will also apply to many smaller employers as the employer coverage threshold is reduced to 30 employees for each calendar day of at least

20 calendar workweeks in the current or immediately preceding calendar year. Along with broadening the definition of covered employer, the bill expanded other key definitions under the NJFLA. The following changes are effective immediately:

- Expanded the definition of “parent” to include foster parents and those who become parents via a gestational carrier
- Expanded the definition of “family leave” to include care for foster children and children who are born via a gestational carrier
- Expanded the definition of “family member” to include siblings, grandparents, grandchildren, parents-in-law, domestic partners, any individuals related to the employee by blood, and “any other individual that the employee shows to have a close association with the employee which is the equivalent of a family relationship”

Buck comment. The expanded definition of family member is now consistent with the New York City Earned Safe and Sick Time Act’s definition of a covered family member. (See our November 27, 2017 For Your Information.)

Notably, the bill also adopts the NJFLA’s expanded definition of family member for purposes of leave taken under the New Jersey Security and Financial Empowerment Act (“NJ SAFE Act”) to care for family members who are victims of domestic violence or a sexually violent offense. It also renders employees taking NJ SAFE Act leave eligible for FLI benefits.

Increased benefits

The bill increased the weekly benefit for individuals taking qualifying leave and the maximum duration of benefits. It also increased the availability of a reduced leave schedule and/or intermittent leave.

Wage replacement benefit

Employees who take qualifying family leave beginning on or after July 1, 2020 will be entitled to receive FLI benefits of 85% of their average weekly wage (capped at 70% of the statewide average weekly wage), up from two-thirds of their pay.

Duration

The bill increased the paid family leave allotment from six to 12 weeks in a 12-month period for any period of leave commencing on or after July 1, 2020. It also increased the leave allotment for any period of intermittent leave to 56 days of intermittent leave — up from 42 days — in any 12-month period.

Reduced leave schedule and intermittent leave

The bill doubles an employee’s maximum entitlement to a reduced leave schedule for any one period of leave to 12 consecutive months — up from 24 consecutive weeks. It also allows employees to take intermittent leave for foster care placement, as well as for the birth or adoption of a child, without requiring employer approval.

Other paid time off

While employees may elect to use paid time off (PTO) in lieu of receiving FLI benefits, employers may not require them to do so. Further, using PTO will no longer reduce the amount of FLI benefits available to the employee.

Employee contributions

Currently, employees contribute 0.08% of the taxable wage base — the first \$34,400 in covered wages earned in 2019 — with a maximum yearly contribution of \$27.52. Because the rate is adjusted annually, it remains to be seen how much more New Jersey workers will pay for the expanded paid leave program in 2020.

In closing

The changes will impact New Jersey employers, some immediately and others starting next year. Employers should update existing leave policies and payroll practices to ensure compliance.

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