

Washington Becomes 5th State with Paid Family Leave

On July 5, Washington joined four other states and the District of Columbia in providing a paid family leave benefit. Under the state’s new insurance program, workers will be eligible for up to 12 weeks of paid family or medical leave per year starting in 2020. Employer and employee contributions will fund the benefit, but businesses with fewer than 50 employees in the state will not be required to pay the employer portion. Employers should begin planning to integrate the new entitlement into their current leave programs and payroll practices.

Background

Three states – California, New Jersey and Rhode Island – already require private employers to provide paid family leave through state-administered programs. Last year, New York enacted a law that will require employers to provide paid family leave as part of the state’s temporary disability insurance program, starting in 2018. (See our [April 26, 2016 For Your Information.](#)) Earlier this year, the District of Columbia approved a paid family leave law that is slated to take effect in 2020. (See our [February 21, 2017 For Your Information.](#))

Although Washington approved a paid family leave program in 2007 that would have required businesses to offer five weeks of paid time off to workers who were new parents, it was never implemented due to lack of funding. However, two years ago, the state [received](#) federal grant funding to begin designing a program.

Washington’s Paid Family Leave Law

On July 5, Washington became the fifth state to adopt a paid family leave law when Gov. Jay Inslee signed [Senate Bill 5975](#). The new law creates a state-administered family and medical leave program covering private and public employers (other than the federal government) that will go into effect January 1, 2020.

Paid Leave Benefits

Under the new program, paid medical leave benefits will be available for the employee’s own serious health condition. Paid family leave benefits will be available for:



- Care of a “family member’s” serious health condition
- Bonding with a child after birth or placement
- A qualifying exigency under the federal Family and Medical Leave Act (FMLA)

For these purposes, “family member” is broadly defined as an employee’s child, grandchild, grandparent, parent, sibling or spouse. The term “parent” includes the biological, adoptive, *de facto*, or foster parent, stepparent, or legal guardian of an employee or employee’s spouse, or an individual who stood *in loco parentis* to an employee when the employee was a child.

Employees become eligible for the program after working 820 hours during the “qualifying period” – the first four of the last five calendar quarters or, if eligibility is not established, the last four calendar quarters immediately preceding application for leave.

Beginning in 2020, employees may receive up to 12 weeks of benefits per year for qualifying family or medical leave. While the combined total of paid family and medical leave generally will be limited to 16 weeks per year, an additional two weeks of leave (or 18 weeks in total) may be allowed for pregnancy-related conditions.

Comment: Similar to the FMLA, Washington’s [Family Leave Act](#) (FLA) currently provides up to 12 weeks of leave in a 12-month period for eligible employees for: the birth or placement of a child for adoption or foster care; care of an employee’s family member with a serious health condition; or the employee’s own serious health condition. While leave under both the FLA and FMLA is job protected, it is also unpaid.

Benefits under the new program generally will be payable after a seven-day waiting period, but there will be no waiting period if leave is for the birth or placement of a child. While on covered leave, employees may receive up to 90% of their wage or salary, with a maximum weekly benefit of \$1,000.

Funding

The new family and medical leave benefits will be funded by both employer and employee contributions. Starting on January 1, 2019, employers and employees will pay a total premium for both benefits of 0.4% of the employee’s wages into a state insurance account. One-third of the total premium will be allocated for family leave benefits, and two-thirds for medical leave benefits. Employees will be responsible for 63% of the premium and employers liable for the remaining 37%. However, employers may opt to pay all or a share of the employee’s premium for one or both benefits. Employers may seek a premium waiver for employees based out-of-state, employed in-state on a limited or temporary basis, and not expected to work in-state for at least 820 hours in a qualifying period.

Although employers with fewer than 50 employees in Washington will not be required to pay the employer portion of the premiums for either type of leave, they can still opt in. Businesses with fewer than 50 employees who pay into the program will be eligible for \$1,000 to \$3,000 grants to cover the cost of an employee on leave. Employers that have a comparable plan may opt out of the program if they pay a fee to have the plan evaluated to ensure its comparability.

In Closing

Employers will want to consider how best to integrate the new entitlement into their leave programs and payroll practices as further details emerge.

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