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Massachusetts Extends Paid Family and Medical Leave Deadlines

Following last week's agreement with legislative leaders, Massachusetts Governor Charlie Baker signed legislation delaying the start of contributions to the commonwealth's Paid Family and Medical Leave program and making other technical changes. In response, the Department of Family and Medical Leave has announced a new contribution rate and extended the employer deadlines to distribute required employee notices and to apply for a private plan exemption. Employers should factor these into their compliance strategies.

Volume 42

Issue 57

June 17, 2019

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Background

The new Massachusetts family and medical leave program will require employers with at least one employee working in the commonwealth to provide paid leave benefits through a state-administered program beginning in 2021. Benefits under the Massachusetts Paid Family and Medical Leave Law (PFMLL) will be funded through a payroll tax, originally slated to begin on July 1, 2019. (See our [February 28, 2019 For Your Information](#).)

Last week, Massachusetts Governor Charlie Baker, Senate President Karen Spilka, and House Speaker Robert DeLeo announced an agreement to delay required PFMLL contributions for three months and to make technical changes to clarify the paid leave program design. (See our [June 14, 2019 FYI Alert](#).)

New deadlines and contribution rates

On June 13, 2019 Governor Baker signed an emergency bill ([S. 2255](#)) into law, delaying collection of the payroll tax by three months. Additionally, the bill set aside \$3.5 million for the commonwealth's Department of Family and Medical Leave (DFML) and made certain technical changes to the law.

On June 14, the DFML issued [guidance](#) on other important employer deadlines and PFMLL contribution rates. The agency also announced that final PFMLL regulations will be posted on its

website today. (See our [February 28, 2019 For Your Information](#) for a discussion of the draft regulations.)

Required withholding

The start date for required PFMLL contributions has been extended from July 1 to October 1, 2019. Employers will have to remit employee and (if applicable) employer contributions for the October 1 through December 31, 2019 quarter through MassTaxConnect by January 31, 2020.

Employee notices

The prior June 30 deadline for employers to distribute required notices to all covered individuals of benefits, contribution rates, and other provisions under the PFMLL has been extended from July 1 to September 30, 2019. The DFML is expected to provide updated notices on its [website](#) shortly.

Employers that have already provided employee notices will need to distribute an addendum explaining the revised program dates and contribution rates. The DFML has indicated it will provide the addendum this week.

Exemption applications

Employers that offer paid leave benefits that are at least as generous as those required under the PFMLL will have an additional three months — or until December 20, 2019 — to apply for a private plan exemption from the new law's requirements.

Contribution rate increase

To offset the shorter period for collections resulting from the three-month delay, the contribution rate has been increased from 0.63% to 0.75% of employee qualifying earnings. The DFML updated the contribution rate split as follows: 0.13% for family leave and 0.62% for medical leave.

Technical amendments

Along with the three-month delay of payroll deductions and contributions, the emergency bill contained several clarifying amendments to the PFMLL. To better align the commonwealth's law with the federal Family and Medical Leave Act (FMLA), the definition of "serious medical condition" for PFMLL purposes will now have the same meaning as under the FMLA.

The amendments clarify that leave taken intermittently or on a reduced leave schedule will reduce the total amount of leave to which a covered individual is entitled. They also clarify certification requirements for individuals taking leave on an intermittent or reduced leave schedule. Finally, the formula to compute penalties for noncompliance was amended to reflect the increase in the contribution rate from 0.63% to 0.75% and potential rate increases.

In closing

Employers should assess the impact of these changes on their compliance strategies and continue to follow developments.

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