e-Alert

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More States Pass Paid Family and Medical Leave Plan

Background

Paid job-protected family and medical leave (PFML) offers employees the opportunity to take care of their family and/or medical needs while maintaining employment. While on leave, workers still need to afford basic expenses to keep their families afloat, and PFML provides the security to meet these basic financial obligations. The chances of having a paid family and medical leave on the federal front are dwindling, however, we are seeing many states implement their own paid family and medical leave plans, the most recent being Colorado, Maryland, and Oregon.

Summary

Many states already have PFML plans in place. Employers with employees in the states listed below should have already set up payroll tax contributions. If not, they will need to adjust leave policies to be in compliance with the state PFML laws. This could present a challenge for employers operating in several of the following states:

- **California**
- **Connecticut**
- **District of Columbia**

- Massachusetts
- New Jersey
- New York
- Rhode Island
- Washington

Below is a brief overview of the most recently adopted PFML laws in the following states:

Colorado

Beginning January 1, 2023, employers with ten (10) or more employees must provide a premium of 0.9% of employee wages to the Division of Family and Medical Leave Insurance. This premium is split between the employer and employee and collected via wage deduction. Employers can opt-out of the program provided they have an approved private plan.

Covered employers are those that have paid $1,500 in wages during any calendar quarter in the preceding year or those who have employed at least one employee for a minimum of 20 weeks in a year.

Employees are eligible for benefits under the PFML program if:

- They perform labor or services for the benefit of another; and
- They have earned at least $2,500 during the first four of the last five completed calendar quarters immediately preceding the first day of their benefit year.

The PFML program provides up to twelve (12) weeks of paid leave per year, or sixteen (16) weeks for a serious condition related to pregnancy or childbirth complications. Beginning January 1, 2024, eligible employees will be able to use PFML for the following reasons:

- To care for a new child during the first year after the child's birth, adoption, or foster care placement;
- To care for a family member with a serious health condition;
- For the worker's own serious health condition;
- For a qualifying exigency; or
- If the worker has a need for safe leave related to domestic violence, sexual assault, stalking, or harassment.

Maryland

Beginning October 1, 2023, employers with fifteen (15) or more employees must contribute to the fund. The state Secretary of Labor will set the contribution rates, for both employers and employees, by June 1, 2023. Employers can opt-out of the program provided they have an approved private plan.

Covered employers are those that employ at least one (1) employee in the state however, those with fewer than fifteen (15) employees are not required to contribute to the program.

Employees are eligible for benefits under the PFML program if they have worked at least 680 hours during the 12-month period prior to the start of the leave.

The PFML program provides up to twelve (12) weeks* of leave per year. Beginning January 1, 2025, eligible employees will be able to use PFML for the following reasons:

- To care for a child during the first year after the child's birth or placement through foster care, kinship care, or adoption;
- To care for a family member with a serious health condition;
- For a serious health condition of the employee that prevents them from performing the functions of their position;
- To care for a service member who is the employee's next of kin; or
- For a qualifying exigency arising out of the deployment of a service member who is the employee's family member.

*An additional twelve (12) weeks within the same year may be granted if an employee needs to be on leave for their own serious health condition or to bond with a child.

Oregon

Beginning January 1, 2023, employers with more than twenty-five (25) employees must contribute to the program. The Oregon Employment Department will set the rate at no more than 1% of the employee's salary. Employers are required to contribute 40% of the total rate and can deduct the remaining 60% from employees or opt to pay the employee's portion as an employer-paid benefit. Employers can opt-out of the program provided they have an approved private plan.

Covered employers are those that employ at least one (1) employee in the state.

Employees are eligible for benefits under the PFML program if they have earned at least $1,000 in the first four of the last five quarters preceding the benefit year.

The PFML program provides up to twelve (12) weeks of leave per year or up to sixteen (16) weeks per year if combined with unpaid leave. Beginning September 1, 2023, eligible employees will be able to use PFML for the following reasons:

- To take care of a new child during the first year after the child's birth, adoption, or foster care placement;
- To care for a family member with a serious health condition;
- For the worker's own serious health condition;
- For reasons related to domestic violence, sexual assault, stalking, or harassment (safe leave).

Employer Next Steps

- Employers should ensure they clearly understand the regulations and know how to administer leaves appropriately.
- Review current leave policies and make adjustments, as necessary.
- Work with your payroll team to ensure any necessary payroll tax contributions are set up correctly.
- Work with your benefits team to determine if you will contribute to a state plan or choose a private plan that meets or exceeds the state mandate requirements.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy please **email us**.

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