



Legal Alert: New Jersey Governor Signs Paid Family Leave Law

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On May 2, 2008, New Jersey Governor Corzine signed the “Paid Family Leave Law,” which makes New Jersey the third state in the country to provide paid family leave benefits to employees. The law takes effect July 1, 2009. This Alert briefly discusses some of the significant features of the new law.

The Paid Family Leave Law amends New Jersey’s temporary disability benefits law to provide eligible employees with up to six weeks of paid “family temporary disability leave” during any twelve-month period to care for a newborn or newly adopted child or a family member with a serious health condition.

The Law Covers Essentially all New Jersey Employers

The new law applies to all employers covered by the New Jersey unemployment compensation law (essentially all employers in New Jersey, other than certain exempt government agencies). Employees are covered by the law if they have worked at least 20 weeks in covered New Jersey employment or earned at least 1,000 times the applicable minimum wage.

What Benefits Does the Law Provide?

Under the new law, eligible employees may collect up to two-thirds of their weekly salary for up to six weeks during any twelve-month period (capped at \$524 per week). The benefit is subject to a one-week waiting period. If the leave is taken consecutively with personal disability leave, the one-week waiting period is waived. The law permits employers to require employees to take up to two weeks of paid sick leave, vacation time, or other leave at full pay before the employee is eligible for disability benefits for family temporary disability leave.

The Paid Family Leave law does not grant employees a right to reinstatement following the leave. Note, however, that employers who are also covered by the New Jersey Family Leave Act (NJFLA) or the federal Family Medical Leave Act (FMLA) generally are required to reinstate employees returning from covered leave; thus, employers should ensure they are in compliance with all applicable laws when making a decision on reinstatement.

Notice Required by Employers

The New Jersey Commissioner of Labor will issue a notice of benefits available under the law, which employers will be required to post and distribute to all employees within 30 days of its issuance. Additionally,

employers will be required to provide a written copy of the notice to employees when they are hired; when an employee notifies the employer he or she needs time off for circumstances covered by the law; and when notice is requested by an employee.

The employer will also be required to provide certain information to the New Jersey Division of Temporary Disability Insurance and to the employee when the employee begins a period of leave covered by the law.

Notice Required From the Employee

Employees who request leave to care for a newborn or newly adopted child must give the employer 30 days notice of the need for the leave or forfeit two weeks of paid benefits, unless unforeseeable circumstances prevent providing such notice. Employees who request leave to care for a seriously ill family member must give the employer notice in a reasonable and practicable manner, unless unforeseen circumstances preclude such prior notice. Additionally employees seeking leave to care for a family member must make a reasonable effort to schedule the leave so as not to unduly disrupt the employer's business operations. Employees who request intermittent leave to care for a seriously ill family member must give 15 days notice, unless unforeseen circumstances preclude such notice.

Definitions Under the New Law

The law defines serious health condition identically to the NJFLA: "an illness, injury, impairment or physical or mental condition which requires: inpatient care in a hospital, hospice, or residential medical care facility; or continuing medical treatment or continuing supervision by a health care provider." Under the law, "family member" includes: a child, spouse, domestic partner, civil union partner, or parent of a covered employee. Note that this is broader than the NJFLA, which does not include domestic partners.

Interaction with the NJFLA and the FMLA

If an employee is eligible for leave under the NJFLA and the FMLA, leave taken under the new law will run concurrently with leave taken under these laws, if it also meets the requirements of these laws.

How is the Leave Funded?

The leave will be funded through an employee payroll tax. Although the law does not take effect until July 1, 2009, employees will begin paying the tax on January 1, 2009. The cost to employees in 2009 is estimated to be \$25 per year; the employee cost in 2010 is estimated to be \$33 per year.

Employers' Bottom Line:

Employers should begin taking steps now to ensure their leave policies comply with the new law as well as existing state and federal leave laws. Additionally, employers should ensure that supervisors and human resources personnel are familiar with the law's requirements and conduct any necessary training before the law takes effect.

If you have any questions regarding this law or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you

usually work.