

# Employment, Labor and Benefits Alert: Employers Must Provide Paid Leave to New Jersey Employees Effective July 1, 2009

6/23/2009

As of July 1, 2009, the New Jersey Family Leave Insurance Law (the Paid Leave Act) requires covered employers to provide their covered New Jersey employees up to six weeks of paid family leave (or 42 days of intermittent leave in any 12-month period) to care for sick family members, including a child, spouse, domestic partner, civil union partner, or parent suffering from a serious health condition, or to care for a newborn or newly adopted child within the first year after the birth or adoption.<sup>1</sup> The Paid Leave Act does not entitle employees to take paid leave to care for their *own* serious health conditions.

## Newly Granted Paid Benefits under the Paid Leave Act

The Paid Leave Act entitles covered employees taking paid leave to receive two-thirds of the employee's weekly pay or a maximum of \$524 per week (or \$74.85 per day for intermittent leave), whichever is smaller. An employee is covered by the Paid Leave Act if he or she (1) works at least 20 calendar weeks and earns at least \$143 per week, or (2) earned at least \$7,200 in the prior year. Employers may substitute up to two weeks of accrued company-provided paid leave benefits (*e.g.*, paid vacation days) for Paid Leave Act benefits, and they may also require that the six-week paid leave period run concurrently with any federal- or state-mandated unpaid family or disability leave period, including concurrently with the New Jersey Family Leave Act and the federal Family and Medical Leave Act, which both require employers with 50 or more employees to provide employees with up to 12 weeks of unpaid leave.

## Employer Coverage

The Paid Leave Act applies to all employers covered under New Jersey's Unemployment Compensation Law (generally, those with one or more employees), but it is funded entirely by employee contributions through payroll deductions that commenced on January 1, 2009. These funding and tax requirements are similar to those imposed under the New Jersey Temporary Disability Insurance Benefit Law, which entitles injured employees to partial wage replacement.

The Paid Leave Act does not grant employees the right to reinstatement following their paid leave, but employers subject to the New Jersey Family Leave Act or the federal Family Medical Leave Act must continue to reinstate employees returning from covered leave to the extent required by those statutes.

# Notice Requirements for Both Employers and Employees

## *Employer Notice Requirements*

Employers should note that the new Act also contains posting and other notice requirements, including:

- requiring employers to conspicuously post a notice regarding the Act in the workplace (a form notice is available [here](#));
- providing a written copy of the notice to each employee;
- providing a written copy of the notice upon the hiring of any employee;
- providing a written copy of the notice to any employee notifying the employer of a need for paid leave; and
- providing a written copy of the notice upon the first request by an employee.

## *Employee Notice Requirements*

In order to receive the maximum level of benefits under the Paid Leave Act, an employee must provide adequate notice to the employer regarding a request for paid leave. Specifically, employees must provide at least 30 days prior notice when requesting leave to care for a newborn or newly adopted child. Employees must also provide notice in a “reasonable and practicable manner” when requesting leave to care for a sick family member. Finally, employees must provide at least 15 days notice when requesting intermittent leave. Employees may avoid these notice requirements where the circumstances are unforeseeable, but in those cases, must provide notice as soon as practical.

## **Action Items for Employers**

Employers subject to the Paid Leave Act should take the following actions:

- Ensure that you have been in compliance with the Paid Leave Act’s funding requirements.
- Ensure that you are in compliance with the Paid Leave Act’s notice requirements.
- Revise your employment handbooks to provide for a paid leave policy for your New Jersey employees, including specific information on whether paid leave will run concurrently with other unpaid leave entitlements.
- Implement procedures for administration of paid leave requests

by employees.

\* \* \*

*Please feel free to contact us with questions or for advice of employment counsel to help comply with the Paid Leave Act.*

---

## **Endnotes**

<sup>1</sup> The Act has been in effect since last year, but did not require employers to provide paid leave until July 1, 2009. For more information regarding employers' obligations under the Paid Leave Act, see [Mintz Levin's June 2008 Alert](#).

---

*Employers should seek the advice of employment counsel to help comply with the Paid Leave Act. If you have any questions regarding the subject covered in this Alert, or any related issue, please feel free to contact any of Mintz Levin's Employment, Labor and Benefits attorneys.*

### **David R. Lagasse**

(212) 692-6743

[DRLagasse@mintz.com](mailto:DRLagasse@mintz.com)

### **Jennifer F. DiMarco**

(212) 692-6260

[JFDiMarco@mintz.com](mailto:JFDiMarco@mintz.com)

### **Jessica W. Catlow**

(212) 692-6843

[JCatlow@mintz.com](mailto:JCatlow@mintz.com)

### **David M. Katz**

(212) 692-6844

[DKatz@mintz.com](mailto:DKatz@mintz.com)