

NEW EMPLOYER OBLIGATIONS IMPOSED BY G.L. c. 175M, PAID FAMILY AND MEDICAL LEAVE – PART 2

Benefits and Employer Contributions (Applicable Only to Those Employers Subject to the Act)

The recently enacted Massachusetts Paid Family and Medical Leave Act (“Act”), G.L. c.175M, requires “employers” within the state to provide paid time off to employees to care for the employee’s own medical needs or the medical needs of their family members. Although the Act is only applicable to municipalities, districts, political subdivisions, or their instrumentalities if the legislative body, or, when no legislative body exists, the governing body, accepts its provision, questions concerning the Act continue to be relevant. This memorandum summarizes the key provisions of the Act.

Employers subject to the Act must make quarterly contributions, based on the number of individuals they employ, to the Family and Employment Security Trust Fund (“Trust”), which will fund the benefits for any employee taking leave provided by the Act. As of July 1, 2019, employers will be required to make a contribution equal to 0.75% of the “qualified earnings” paid to their covered employees. Employers must submit to the Department an “employment and wage detail” report including the name and social security or tax identification number of each employee, and wages paid to each covered individual, and the Department shall, in turn, calculate the required contribution based on that report. The first contribution payment is due January 1, 2020, based on wages paid from October 1, 2019 through December 31, 2019. The director of the Department of Family and Medical Leave shall establish a new rate annually, not later than October 1st of each year.

Employers may partially fund their contribution through certain payroll deductions. Beginning October 1, 2019, employers may deduct up to 40 percent of the medical leave contribution and up to 100 percent of the family leave contribution from each covered employee’s wages. Employers with more than 25 employees are required to pay whatever portion of each contribution they do not collect from employee wage deductions; employers with fewer than 25 employees do not make the employer contribution, but still deduct the employee contribution from each employee’s wages and remit that amount to the Trust. Employers may implement differing contribution splits and deduct differing percentages from different groups of employees. Accordingly, Employers of partially-unionized workforces may immediately implement the maximum payroll deductions affecting their non-union employees, and then bargain over the contribution split with each union during collective bargaining.

Beginning January 1, 2021, employees whose employers are subject to the Act are eligible for up to 26 weeks, in the aggregate, of paid family and medical leave. As of January 1, 2021, covered individuals are eligible for up to 20 weeks of paid medical leave in a benefit year if they have a serious health condition, up to 12 weeks of paid

family leave in a benefit year for bonding with a newborn child or managing family affairs arising from a family member's active duty in the armed forces, and up to 26 weeks of paid family leave in a benefit year in order to care for a family member who is a covered service member as defined in 458 CMR 2.02. The remainder of the leave benefits become available on July 1, 2021, when covered individuals are eligible for up to 12 weeks of paid family leave in a benefit year to care for a family member with a serious health condition. While on leave provided by the Act, the employee's benefit amount is determined by his or her average weekly earnings, but shall not exceed \$850.

Notice Requirements

Employers subject to the Act must post this [poster](#) (Notice of Benefits Available Under M.G.L. Chapter 175M: Paid Family and Medical Leave) in a conspicuous location on the Employer's premises to advise employees of their rights under the Act. Employers must post the poster in English as well as any other language which is the primary language of at least five (5) individuals employed at that workplace.

Additionally, by September 30, 2019, employers subject to the Act must provide separate written notice to each of its employees and any independent contractors with whom they are engaged. The Department of Family and Medical Leave has provided the following notices for employers to give to their [employees](#) and to [independent contractors](#) respectively. Department regulations, 458 CMR 2.00 et seq., require that each employee or independent contractor must return to the employer a signed "Acknowledgment" indicating their receipt of the required notice. If an employer provided the required notice and received any acknowledgements prior to June 14, 2019, any such employer must issue an addendum of that notice to those employees, which addendum informs those employees of the revised dates and contribution rates detailed above.

If you have any questions regarding the posters or notice forms referenced herein, or the applicability of new obligations under the Paid Family and Medical Leave Act, G.L. c. 175M, please contact Attorney Timothy Zessin (tzessin@k-plaw.com) or any member of the KP Law Labor and Employment Practice Group at 617.556.0007.

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