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Heads-Up: Oregon Paid Family Medical Leave Premiums Starting 2022!

By Nicole Elgin

Under Oregon's Paid Family Medical Leave law, employers are required to start collecting and remitting premiums beginning January 1, 2022. How, you might ask? That's the catch – because we do not know yet! The Oregon Employment Department is tasked with creating the rules surrounding this insurance-type program and requesting a final rulemaking date of September 22, 2021.

However, there are a few things we do know, and employers can begin preparing for this new program now. Oregon's Legislature passed this Paid Family Medical Leave Insurance (PFMLI) program back in 2019. The law requires the Oregon Employment Department to create the rules that will govern the program as well as to administer the program throughout the state. As you may know, the Oregon Employment Department has been overrun with unemployment issues due to the pandemic. As a result, the Department recently issued an update that it was requesting an extension to its rulemaking and implementation timeline.

PFMLI benefits will be available for eligible Oregon workers who need time off for:

- Bonding with a child during the first year after birth, adoption, or foster placement;
- Caring for a family member who has a serious health condition;
- Taking medical leave for an employee's own serious health condition; or
- Taking safe leave for an employee experiencing issues related to domestic violence, harassment, sexual assault, or stalking.

Employees who are covered by the program are generally those who earned $1,000 or more in the year prior to claiming their benefit. If an employee is eligible, the employee would receive a weekly benefit payment and the amount of the payment depends on the employee's average weekly wage. Lower wage earners may even be eligible for 100% wage replacement. Up to twelve weeks of this paid benefit may be available to eligible employees, depending on their need for leave. In some cases, employees may be eligible for more benefits such as due to pregnancy or childbirth.

The benefits are funded through payroll-based contributions of no more than one percent. The contribution rate is shared by both employees and employers. The Employment Department will determine the annual contribution rates after it is able to estimate program costs. Employees will contribute 60% and employers will contribute the remaining 40% of the determined contribution amount, though employers can opt to pay some or all of the employee's portion. Employers with fewer than 25 employees are not required to pay the 40% employer contribution. However, if those small employers do choose to pay the 40% contribution, they may be eligible to receive assistance grants through the state.

Employers who currently maintain an "equivalent plan" for employees can apply to the state to opt out of the program. This pre-approval process will be more defined in rulemaking, but will likely have tight deadlines by which employers would have to submit their plans to the state for pre-approval.

Overall, this is a complex program with many additional rules and requirements. Employers should begin preparing by reviewing whether they currently have similar plans in place for which they will seek pre-approval. Additionally, employers can participate in the Employment Department's rulemaking process by providing public comment. The Employment Department also has a newsletter that employers can sign up for to receive updates about PFMLI.

For questions on compliance with Oregon Paid Family Medical Leave or other labor and employment matters, contact Barran Liebman attorney Nicole Elgin at nelgin@barran.com.