

Michigan's New Paid Medical Leave Act

Michigan's outgoing governor last month signed into law the Paid Medical Leave Act. The new law, which will go into effect on March 21, 2019, requires employers with 50 or more individuals to grant paid medical leave to eligible employees.

The term "eligible employee" does not include employees classified as non-exempt under the Fair Labor Standards Act, employees that work fewer than 25 weeks in a calendar year, or employees that work on average fewer than 25 hours per week. Thus, the new law will not apply to employees classified as exempt under the Fair Labor Standards Act, temporary employment, and many part-time positions.

The Paid Medical Leave Act requires that an employer shall provide 40 hours of paid medical leave to each of the employer's eligible employees that work in the state. The law allows an employer to factor the leave under one of two methods: an accrual method or a front-loaded method.

Under the accrual method, an eligible employee must accrue paid medical leave at a rate of at least one hour of paid medical leave for every 35 hours worked. An employer may limit the employees' rate of accrual to no less than 1 hour of paid medical leave in a week, and an employer may limit the employees' annual accrual to an amount no less than 40 hours per benefit year. Employers must allow eligible employees to carry over their unused accrued paid medical leave from one benefit year to the next, but the carry over may be limited to an amount of not less than 40 hours. Lastly, under the accrual method, an employer is not required to allow an eligible employee to use more than 40 hours of paid family medical leave in a single benefit year.

As an alternative to the accrual method, an employer may front-load at least 40 hours of paid medical leave to an eligible employee at the beginning of a benefit year. If an employer elects the front-load method, the employer is not required to allow the eligible employee to carry over any of that paid medical leave to another benefit year. For eligible employees hired during a benefit year, an employer operating under the front-loaded method may prorate the paid medical leave.

Under the new law, paid medical leave can be used for mental or physical illness, injury or health condition; or medical diagnosis, care, or preventative medical care of the eligible employee or a family member. Additionally, if an eligible employee or family member is a victim of domestic violence or sexual assault, paid medical leave can be used for medical care, counseling services, relocation, or related legal proceedings.

The Paid Medical Leave Act does not require an employer to provide financial or other reimbursement to an eligible employee for accrued leave that was not used before the end of the benefit year or before an eligible employee's termination, resignation, retirement or separation from employment.

The new law is enforced by the Michigan Department of Licensing and Regulatory Affairs (LARA), and allows for fines up to \$1,000 for employers that fail to provide medical leave in violation of the law.

As is common with many other federal and state employment laws, the Paid Medical Leave Act requires that employers shall display a poster in conspicuous places, accessible to employees, at each place of business. LARA will create and make available to employers, at no cost, posters that contain the required information under the law.

The Paid Medical Leave Act does not prohibit an employer from providing more paid medical leave than is required, and does not diminish, preempt or override any terms or rights already provided under a collective bargaining agreement in effect prior to the effective date of the law.

There is a growing trend among states to implement paid medical leave laws. Employers conducting business in multiple states should pay attention to similar bills in legislatures of the states in which it operates.

Please contact Dean & Fulkerson if you have questions as to how to implement and/or modify your existing policies to ensure compliance with the Michigan Paid Medical Leave Act.

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