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Washington Paid Family and Medical Leave Affects Employers Beginning January 1, 2019, Are You Ready?

by Aaron Goldstein

Many Washington employers recently received a series of email alerts from the Washington Employment Security Department ("ESD") with a reminder that the Washington Paid Family and Medical Leave is about take effect on January 1, 2019. Earlier last year, Dorsey & Whitney LLP issued an alert describing the basic components of the law, here.

Under Washington Paid Family and Medical Leave, eligible employees are entitled to take paid leave for up to 12 weeks (which can be extended under certain circumstances) for qualifying events to care for themselves and their families. The benefits will be administered by the ESD and are funded by employers and employees. Funding begins January 1, 2019. Employees become eligible to take the benefits beginning January 1, 2020.

Employer Requirements Beginning January 1, 2019:

Premiums:

Employers who are not operating under a voluntary plan under the new law need to begin collecting the employee's share of the premium amount via payroll deductions beginning January 1, 2019, including out-of-state employers who have employees based in Washington. The total premium amount for 2019 and 2020 is 0.4% of the employee's gross wages, which can be split between the employee (approximately 63%) and the employer (approximately 37%). Unless employers elect to cover the employee's share, most Washington employees will be affected, including employees whose work is considered "localized" in Washington, or whose services are performed in Washington and (a) whose base of operations is in Washington, or (b) the individual resides in Washington.
Employers with 50 or more employees employed in the state of Washington are also required to remit the employer share of the premium.

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Employers with fewer than 50 employees employed in the state are not required to remit the employer share, but may choose to do so in order to be eligible to apply for small business grants to help cover costs associated with an employee's leave under the law.

Notice:

Employers should give notice to their employees explaining the new deductions they will see on their paychecks. There is a sample notice to include in paychecks on the ESD paid family and medical leave website, here.

Reporting:

All employers, regardless of size, are also required to report employee information to ESD on a quarterly basis. The first report is due April 30, 2019. Employers are required to report the following:
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- UBI number
- Business name
- Total premiums collected from employees
- Name of the individual who prepared the report
- Employee SSN or ITIN
- Employee first name, last name, and middle initial
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- Employee wages paid in the reporting quarter and associated hours.

Things to Consider:
Employers should think about updating their employee handbooks or policies to include a summary of the new benefits for employees.

Employers should also expect more employees to take advantage of leave benefits for longer periods of time when leave becomes available. In addition to the paid benefit, job protection is mandated under requirements similar to FMLA leave, meaning employees will likely have fewer concerns when taking extended family or medical leave from work.

Employers should contact their local attorney for more specific guidance on meeting requirements under the new law.