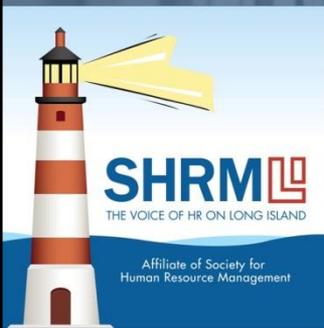


Last Fridays “Lunch and Learn” Webinar:

What’s Cool For The Summer? Updates On New York’s Paid Family Leave Benefits Law

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INTRODUCTORY STATEMENT

THE MATERIALS CONTAINED IN THIS PRESENTATION WERE PREPARED BY THE LAW FIRM OF JACKSON LEWIS P.C. FOR THE PARTICIPANTS' OWN REFERENCE IN CONNECTION WITH EDUCATION SEMINARS PRESENTED BY JACKSON LEWIS P.C. ATTENDEES SHOULD CONSULT WITH COUNSEL BEFORE TAKING ANY ACTIONS AND SHOULD NOT CONSIDER THESE MATERIALS OR DISCUSSIONS THEREABOUT TO BE LEGAL OR OTHER ADVICE.

Let's Recap: What You Know

- ◆ The NY Paid Family Leave (“PFL”) law takes effect on January 1, 2018 for all private employers with at least 1 employee for 30 days in any calendar year.
- ◆ By 2021, it will allow for an eligible employee to receive 12 weeks of paid leave for a qualifying reason.
- ◆ Prepare for a potential administrative nightmare!

How Much Will This Cost?

- ◆ On June 1, 2017, New York State released the contribution rate for PFL.
- ◆ 0.126% of an employee's weekly wage, not to exceed 0.126% of the New York State average weekly wage, may be deducted from an employee's paycheck for PFL.
- ◆ The average weekly wage is reevaluated every March 31st.

So Now What?

- ◆ Based on the formula, the maximum contribution rate for an employee will be \$1.65 per week. The New York State average weekly wage is \$1,305.92.
 - $0.126\% \text{ of } \$1,305.92 = \$1.65.$
- ◆ Contributions may begin on July 1, 2017, for PFL coverage that will start on January 1, 2018.
 - This has become a very hot issue for debate!

Still Evolving . . .

- ◆ On May 24, 2017, the New York State Workers' Compensation Board released updated/revised regulations following the closure of the notice-and-comment period from the original proposed regulations.
- ◆ These revised regulations allowed for a comment period as well. The comment period closed on June 23, 2017.
- ◆ The revised regulations provided some clarification on language from the original regulations, however further clarification is expected following the most recent comment period.

Eligibility Criteria

- ◆ The revised regulations remove the terms “full-time employee” and “part-time employee.” Part-time is no longer individuals who work “fewer than 5 days per week.”
 - Nurses!
- ◆ If regular schedule is over 20 hours in a week – 26 consecutive work weeks
- ◆ If regular schedule is less than 20 hours in a week – 175 days.
 - In a consecutive 52-week period? Unclear!

FMLA Clarification

- ◆ The original regulations presented an apparent inconsistency between FMLA and PFL.
- ◆ Now, when an employee is eligible for leave under both FMLA and PFL, an employer may charge the employee's accrued paid time off in accordance with the FMLA.
- ◆ If leave is only covered under PFL (and not FMLA), employers may not require employees use accrued paid time off.

What About Unions?

- ◆ An employer who provides PFL benefits under a collective bargaining agreement (“CBA”) is relieved from providing PFL if the benefits are at least as favorable as benefits under PFL.
- ◆ Now, a CBA may provide rules related to PFL that differ from the PFL law. But, the time period for eligibility cannot exceed either 26 consecutive work weeks or 175 days.
- ◆ CBA can have union be responsible for time records and payroll deductions.

Employee Waiver of Contributions

- ◆ Originally, employers maintained an affirmative duty to provide employees an option to file a waiver to exempt them from making contributions for PFL coverage if ineligible due to regular work schedule.
 - Applies to employee who works fewer than 26 consecutive weeks or 175 days in a 52-consecutive week period.
- ◆ Revised regulations: “employee of a covered employer may be provided the option to file a waiver” of PFL.
 - Still a best practice to notify employee of waiver option if eligible.
- ◆ Waiver form coming soon. Schedule changes matter!

Intermittent Leave

- ◆ Intermittent leave is permissible.
- ◆ The regulations do not provide for increments of leave less than a day.
- ◆ The revised regulations allow an employer to require employee notice as soon as practicable before each day of intermittent leave.

What Fireworks Are Next?

- ◆ Await the release of comment responses following the end of the comment period on June 23, 2017.
- ◆ Contact your NYS Temporary Disability insurance carrier.
- ◆ Contact your payroll company about the permissive July 1, 2017 deduction.
- ◆ Await release of waiver form, PFL request forms and notice.

