

New Jersey Paid Family Leave



William Gallagher Associates
Phone: 888.261.8884
www.WGAins.com

New Jersey has become the third state to offer paid family leave. The bill, recently signed by Governor Corzine, is similar to the current state mandated disability benefit, becomes effective July 1, 2009.

Currently, New Jersey provides state mandated disability benefits for almost all employees working in the state. Eligibility for this benefit is being extended to cover workers for up to six weeks (during any 12 month period) to care for a child after birth, to care for a child placed for adoption or to provide care when a family member has a serious health condition. The benefit is similar to the current TDI (temporary disability insurance) benefit; providing one third of wages, up to \$524 per week. Employees must satisfy a one week

waiting period before benefits begin. The cost of the new benefit will be funded through employee payroll deductions. Contributions begin on January 1, 2009, will equal 0.09% of wages in 2009 and increase to 0.12% of wages in 2010. Deductions will be calculated on the first \$27,700 of wages and is estimated to cost employees no more than approximately \$25.00 in 2009 and \$33.00 in 2010.

The eligibility requirements for an employee mirror the state's unemployment compensation laws. This translates into shorter waiting periods for initial eligibility and the potential for extended leaves beyond the six weeks outlined in the legislation. For example, an employee could be eligible for the new paid leave, but not eligible for FMLA or NJ FLA. An employee takes the six weeks of paid leave, later becomes eligible for FMLA leave (12 months and 1,250 hours) and takes 12 additional weeks of leave (unpaid). However, if an employee is eligible for FMLA and NJ FLA, the paid leave runs concurrently. Employers may also require or allow employees to take up to two weeks of sick leave, vacation time or any other 'fully paid' leave provided by the employer. The employer paid leave may then reduce the state paid six weeks. Most importantly, this law does NOT require an employer to return the employee to the same or equivalent position. Employees have no right to take action against an employer that does not restore their job at the end of the paid leave. Please note: if the employee is eligible for FMLA or NJ FLA, the rights granted by those leaves will provide job protection.

Definitions for applicable covered parties in the proposed law are similar to the current NJ FLA descriptions. "Serious Health Condition" is defined as:

"an illness, injury, impairment or physical or mental condition which requires: inpatient care in a hospital, hospice, or residential medical care facility; or continuing medical treatment or continuing supervision by a health care provider"

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The definition of “family member” however, is expanded to include domestic partners:

“child, spouse, domestic partner, civil union partner, or parent of a covered” employee

Finally, the definition of child has also been expanded from the NJ FLA description to include biological, adopted or foster child; stepchild; legal ward; or child of a civil union or domestic partner. The child must be younger than 19 years of age or incapable of self care due to mental or physical impairment.

Since funding of this new benefit is through employee deductions, the requirements of the employer surround notification. Employers must post a notice of benefit rights (to be created by the Commissioner of Labor). This notice must be posted and distributed within 30 days of its issuance. It must also be distributed to newly hired employees, whenever an employee notifies the employer he will be taking the leave, and when the notice is requested by the employee. In addition, employers are required to submit a “printed notice” to the individual requesting the leave and to the Division of Temporary Disability Insurance. This notice must be provided by the ninth day of the leave being taken. Details of this form will be provided by the Division of Temporary Disability Insurance.

Employees must notify the employer of the intention to take leave. Scheduling leaves and the subsequent timing are determined by the reason for the leave. For a newborn child or newly adopted child, employees must notify the employer at least 30 days in advance of the leave, or lose two weeks of paid benefits (there is an exception for “unforeseeable circumstances”). When caring for a sick family member, the leave must be requested “when possible” to reduce employer disruption. For intermittent leave, employees should provide 15 days of notice “if possible”. Intermittent leave is considered a maximum of 42 days within a 12 month period, with no apparent consideration for requesting less than full days. Employees must file a notice and claim for benefits with the Division of Temporary Disability Insurance within 30 days following the start of the leave. Additional information is required for care of a family member in the form of a health care provider certification.

WGA will continue to provide more information as it becomes available. In meantime, contact your Account Executive should you have further questions.

