

Electronic Alert

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It's Here: Oregon Paid Family and Medical Leave

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Oregon now has the most generous paid family and medical leave law in the nation. On Monday, Oregon became the eighth state to codify a paid leave program, providing 12 to 14 weeks depending on the reason for taking leave. In addition to providing paid leave for a broad array of medical and family situations, the law also covers nearly all Oregon employees: any employee earning at least \$1,000 per year is eligible to submit a claim to the state for paid leave. This new law brings big changes for both employers and employees. But the pace of implementation for the new law is slow, with contributions from employers and employees to fund the benefits not occurring until 2022. Employees can use paid family and medical leave benefits only after 2023. That's good news for most employers who have time to adopt policies and prepare for implementation of the new law.

Oregon's new Paid Family and Medical Leave Law will be available to four groups of employees: new parents, victims of domestic violence, employees suffering from a serious medical condition, and employees who need time to care for ill family members. However, employees will *not* be able to use paid leave for bereavement, military service, or to take care of a family member with a non-serious health condition.

Like many other states' programs, this benefit pool is funded through a payroll assessment on wages earned in Oregon, not to exceed 1% and shared by employers and employees. Employees pay the majority — 60% of the overall contribution. Employers with 25 or more employees will pay the rest — 40% of the assessment. Employers with fewer than 25 employees will not be taxed for the program, but will receive grant funds if they contribute voluntarily.

Employees who are eligible for Oregon Family Medical Leave (OFLA), the state's existing unpaid leave benefit, can combine paid and unpaid family and medical leave for a maximum of 16 weeks, and mothers suffering a disability from pregnancy or breastfeeding will be able to take 18 weeks. Any paid leave taken with OFLA or FMLA for the same purposes will run concurrently. However, paid leave will not replace statutorily-protected paid sick time, and employers may allow employees to use other paid leave benefits (PTO, sick leave, or vacation) to augment paid family and medical leave and effectively replace 100% of their wages during the leave period.

The amount of benefits an employee receives will depend on the employee's wages and therefore contribution to the pool. The lowest wage earners who make less than 65% of Oregon's average weekly wage will receive 100% wage replacement during the leave period. Higher earners will receive more benefits based on a tiered system.

Employees who have been employed for 90 days or more when they take paid family or medical leave will receive job protection and continued health insurance while on leave. Under this protection, employees are entitled to return to their previous position after leave. If the employee's job no longer

exists, employers with 25 or more employees must give the employee an equivalent position. Employers with less than 25 employees may restore the employee to a different position as long as the new job offers the same benefits and pay. Like OFLA, employers are not required to create new positions to accommodate employees returning from paid leave.

Employers have a few years to acclimate to this change. Until then, watch for updates from us about the state rulemaking process that will further define this new benefits program, to include a model that employers will be able to use to meet the notice requirement. Barran Liebman attorneys will continue to stay abreast of any developments concerning Oregon's new Paid Family and Medical Leave Law.

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