

New Jersey Family Leave Insurance

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The New Jersey Family Leave Insurance provisions, which **become fully effective on July 1, 2009**, amend the State's Temporary Disability Benefits Law to provide for up to six weeks of wage replacement benefits for an eligible employee who takes leave from work to bond with a child following childbirth or placement for adoption, or to care for a family member with a serious health condition. The benefits payable under the new Family Leave Insurance program are funded entirely by employee contributions through payroll deductions and covered employers were required to begin such payroll withholding on January 1, 2009. Benefits first become payable under the new program, however, for leaves commencing on or after July 1, 2009.

In anticipation of the availability of Family Leave Insurance benefits beginning on July 1, employers must not only take steps to comply with the requirements imposed on them by the new program, but must also coordinate its provisions with their existing leave policies. As employers begin this process, it is important for them to be aware of certain key differences between the new program and existing leave laws such as the federal Family and Medical Leave Act ("FMLA") or the New Jersey Family Leave Act ("NJFLA"):

- While the FMLA and NJFLA apply only to employers with fifty (50) or more employees, the new Family Leave Insurance program applies to virtually **all** New Jersey employers, regardless of the number of employees they employ.
- Unlike the FMLA and NJFLA, which provide for unpaid leave, the Family Leave Insurance program provides employees with wage replacement benefits for a limited leave period but does **not** create an independent leave entitlement.
- The Family Leave Insurance program does **not** entitle an employee to be reinstated to employment upon returning from covered leave.
- The amount of available paid time off (e.g., vacation, sick or personal time) that an employer may require an employee to use before

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becoming eligible for Family Leave Insurance benefits is generally limited to a maximum of two weeks.

In view of these differences, employers should carefully coordinate the new Family Leave Insurance program with their existing leave policies to avoid inadvertently creating expanded leave rights for their employees. This is a potential issue for all employers, regardless of whether they are subject to the FMLA and NJFLA or have enacted their own independent company leave policies. Thus, as employers undertake the process of integrating the new Family Leave Insurance provisions with their existing policies, it is an opportune time to review all of their family, medical and disability leave policies, both paid and unpaid, to ensure that their administration and operation are properly coordinated and that they are appropriately updated for recent changes in the law.

Employers must also clearly communicate the details of the new Family Leave Insurance program to their employees so that they are aware of their rights and obligations under the new provisions. In particular, employers are required to conspicuously post in the workplace, and distribute to all current employees, a notice regarding the details of the new program. Certain notice requirements also apply when an employee is hired or requests leave. Beyond the requirements of the new law, however, employers should also review and update their employee handbooks and any other employee communications pertaining to their leave policies to help ensure that employees understand their rights and obligations under such policies and the manner in which they are intended to together operate.

In view of the availability of Family Leave Insurance benefits commencing on July 1, all employers in New Jersey, regardless of their size, are advised to familiarize themselves, and their employees, with the new law and consider its requirements in the context of their existing leave policies. By doing so, employers will help ensure that appropriate procedures are in place both to comply with the new provisions and to facilitate the overall proper administration of their leave programs as a coherent whole.

Contact Us for Help

Please contact **Lisa J. Clapp** (lclapp@greenbaumlaw.com or 732-476-2534) or **Thomas C. Senter** (tsenter@greenbaumlaw.com or 732-476-2650) of our Employee Benefits Practice Group if you have any questions regarding the Family Leave Insurance provisions or would otherwise like to discuss your company's employee leave policies and procedures.