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WASHINGTON PAID FAMILY AND MEDICAL LEAVE – WHAT NOW?

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It has been just over one year since Washington passed legislation in July 2017 to create a paid family and medical leave (PFML) program. Washington organizations are now tasked with deciding whether to opt into the program or offer their own comparable voluntary plan. Premium payments for the state program begin Jan. 1, 2019 and benefits become payable Jan. 1, 2020. The opt-out (voluntary plan) application is supposed to be available by Sep.17, 2018. Applications must be approved by Dec. 31, 2018 to avoid paying premiums starting in January 2019. The decision to opt in or out is not one for companies, regardless of industry, to take lightly.

Many Washington companies have struggled with hiring and retaining employees for the last few years, in part due to low unemployment and a shortage of qualified workers across various industry sectors. The top strategies for improvement focus on offering rich benefits, including HRA/HSA plans, wellness programs, income insurance benefits (life, STD, LTD, etc.), and time off (or paid leave). Paid leave in particular is one of the most impactful tactics utilized in various industries and continues to evolve with each generation. The paid leave benefit has become a particularly popular benefit among the in-demand millennial generation. Therefore, there are many factors for organization's HR personnel to consider before deciding to opt into the state program, or provide their own paid leave benefits.

WHO IS AFFECTED

The new state program for paid family and medical leave applies to all private and most public employers in Washington, with the following stipulations:

- For employers with fewer than 50 workers, the group can charge the entire state premium to the employee. This option is only available for organizations with fewer than 50 lives.
- Applies to all employees working in Washington, except unionized workers with a collectively bargained agreement (CBA), who are exempt until the CBA expires or is renegotiated.
- Employers can opt out of paying into the state program but must provide a comparable voluntary plan of equal value through local carriers (Unum, etc.).

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FUNDING THE BENEFITS

The new state program provides up to a maximum of 18 weeks of paid leave in a 52-week period and has some guidelines on who qualifies for the plan and pays the premiums:

- **Eligibility** - Eligible employees are those who have worked 820 hours in the qualifying period. The qualifying period is the first four of the last five completed quarters.
- **Contributions/Premiums** - The plan is employee and employer funded. Employers can choose to pay all premiums, creating a rich benefit to employees and a better incentive for hiring and retaining talent. Otherwise, the cost to the employee will equal 0.4% of the employee's wage, including bonus, overtime, commissions, and base salary. For example, for a person earning Washington's average annual wage of $61,887[1] per year, it would cost $247.55 in annual PFML premium.
- **Taxability** - This is still to be determined, the state currently says this will be taxable. However, no details have been released.

The state program compensates the employee on leave within the following guidelines:

- If an employee earns 50% or less of Washington's AWW (average weekly wage, currently $1,190[2]), then their weekly benefit will equal 90% of their earnings.
- If an employee earns more than 50% of AWW, their weekly benefit will equal that of those who earn less, plus 50% of their remaining salary amounts over the AWW to a maximum of $1,000 per week.
- Maximum benefit is $1,000 per week, while the minimum benefit is $100 per week, or full AWW, whichever is less.

All of these new regulations and guidelines can become overwhelming. Consider these real-life examples of the law's effect on a 5-figure versus a 6-figure salary employee:

Scenario 1: 5-Figure Employee

$55,000 per year, or $1,058 per week

- Base amount = 90% of 50% of AWW ($595)
  = $535.50 per week
- 50% of weekly earnings over 50% of AWW ($595)
  - $1,058 - $595 = $463
  - 50% of the amount over is $231.50 plus base amount of $535.50
  - Weekly benefit is $767 or **72.4%** of earnings

Scenario 2: 6-Figure Employee

$125,000 per year, or $2,404 per week

- Base amount = 90% of 50% of AWW ($595)
  = $535.50 per week
- 50% of weekly earnings over 50% of AWW ($595)
  - $2,404 - $595 = $1,809
  - 50% of the amount over is $904.50 plus base amount of $535.50 is $1,440; but the maximum is $1,000 per week
  - Weekly benefit is $1,000 or **41.6%** of earnings

ENHANCED EMPLOYEE BENEFITS PACKAGE?

The new PFML laws will impact organizations' retention/hiring of key employees, which is an important factor for success in today's market. Organizations with a large,

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low salaried workforce may find it a valuable addition to their benefits program, while those with small, highly skilled, and highly compensated populations may find that opting out is the better choice. The decision on whether to opt into the state program or offer your own plan will be different for each employer, but still highly valuable to employees.

Communicating and educating employees about these benefits is also crucial for all companies. Employee benefits represent on average 30-38[3] percent of an employee's total compensation, which can often go overlooked until the employee needs the coverage. It is important to help employees understand these benefits and what they have available during stressful situations before one arises.

For more information or questions regarding the new state program or help evaluating your current offerings, reach out to an experienced employee benefits broker.

References and Resources

1. https://esd.wa.gov/newsroom/washingtons-average-wage-nears-61900-in-2017
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