

Department of Family and Medical Leave Provides Additional Guidance on PFMLA Exemptions

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The new Massachusetts Paid Family and Medical Leave Act (PFMLA) came into effect on October 1, 2019, requiring employers to begin collecting payroll deductions and matching contributions to be submitted to the state Department of Family and Medical Leave (Department) by the end of January. These contributions, as we have described in previous alerts, will fund family and medical leave pay benefits that will be available to most Massachusetts employees beginning on January 1, 2021. However, employers can still seek an exemption from these contributions on or before December 20, 2019. And yesterday, the Department provided additional guidance that makes it even easier for employers to apply for an exemption.

Employers can seek an exemption from PFMLA contributions if they provide at least the level of benefits through a self-insured or private insurance plan as employees would be entitled to under the state plan. Until recently, self-insurance was the main option for employers seeking an exemption, mostly because insurance carriers had not developed compliant insurance policies. But on October 1, 2019, the Department sent out a list of 12 insurance carriers that have been approved by the state Department of Insurance to offer PFMLA-compliant private plans. The Department indicated that it is still working with these carriers to develop a standardized template policy to demonstrate that the plan complies with all requirements for an exemption under the PFMLA. In the interim, it will accept a Declaration of Insurance (DOI) as acceptable proof of coverage for an exemption application.

The Department's guidance makes a private plan exemption a more viable option for Massachusetts employers. Still, the market continues to develop and may change as the Department finalizes its template. Fortunately, employers have until December 20, 2019 to submit an exemption application (which if approved would be retroactive to October 1, 2019), giving them time to decide if this option is right for them.

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