Engage PEO Client Alert

Maryland - Amendments to Family and Medical Leave Insurance (“FAMLI”) Program

WHAT’S NEW: Maryland has delayed the implementation dates of its Family and Medical Leave Insurance (“FAMLI”) Program by one year. Employer and employee contributions to the program will now begin on October 1, 2024, instead of this October and eligible employees may begin receiving benefits through the program on January 1, 2026, instead of on January 1, 2025. The amendments also provide important clarifications and new benefits.

WHY IT MATTERS: The current law states that the FAMLI Program will provide up to 12 weeks of benefits to a covered employee who takes leave from their employment to care for certain family members, to attend to the employee’s own serious health condition, to care for a service member with a serious health condition resulting from military service who is the employee’s next of kin, or due to a qualifying urgent need arising out of a family member’s military deployment.

The weekly benefit is based on the individual’s average weekly wage and is indexed to inflation. Mandatory contributions to the program, which are shared between certain employers and employees, are also based on employee wages.

THE AMENDMENTS

Contributions

By October 1, 2023, the Secretary of Labor will set the initial total rate of contribution, which will apply from October 1, 2024 – June 30, 2026; this rate may not exceed 1.2% of an employee’s wages.

An employee who has worked at least 680 hours during the 12-month period that precedes the date on which their leave is to begin is eligible to participate in the FAMLI Program. An employer, for purposes of the FAMLI Program, is a person or government entity that employs at least one individual in the state of Maryland.

Each employer that employs 15 or more employees will contribute an amount that is equal to 50% of the total contribution rate for each employee. Each employee of an employer will contribute 50% of the total contribution rate, which sum will be deducted from their wages. An employer may choose to pay all or a portion of the required employee contributions.

The definition of wages has been revised to include an hourly wage or salary, commissions, compensatory pay, severance pay, standby pay, tips or gratuities, holiday or vacation pay, and any other paid leave, including sick leave, that is paid to the employee entirely by the employer. The maximum weekly benefit will be $1,000 in 2026 with annual adjustments to be made thereafter.

Clarification of bonding time

Eligible employees will be able to use such leave to care for a child during the year following their birth (the prior version of the law permitted such leave only to care for newborns) as well as to care for or bond with a child during the first year after placement of the child through foster care, kinship care, or adoption.

Additional covered group

Eligible employees will now be able to use family and medical leave to care for a domestic partner with a serious health condition.

No exhaustion of other leave

An employee will no longer be required to exhaust all forms of employer-provided leave that is not required under the law (i.e., paid vacation, paid sick leave, or other paid time off under an employer policy) before receiving FAMLI benefits.

Concurrent benefits

An employer will now be able to require that FAMLI benefits be paid at the same time as, or coordinated with, other payments that are made or leave that is allowed under a separate employer-provided leave policy relating to parental care, family care, military leave or under a disability policy.

An employee and an employer can agree to use paid leave and FAMLI benefits to replace up to 100% of the individual's average weekly wage during the FAMLI leave period.

Note: The Maryland Department of Health will reimburse community providers under Maryland's Development Disabilities Law (Title 7 of the Health – General Article) and Behavioral Health Administration (Title 7.5 of the Health – General Article) as well as providers of nursing home services, medical daycare services, private duty nursing services, personal care services, home and community based services, and services provided through the Community First Choice program (Section 16-201.4 of the Health – General Article) for some or all of the employer share of FAMLI contributions on at least a quarterly basis.

WHAT EMPLOYERS SHOULD DO

Employers should take the following actions in response to these amendments:

1. All employers should watch for the Maryland Secretary of Labor's announcement in October 2023 regarding the initial total rate of contribution to the Program. Employers must then notify their employees of this rate as well as of the portion of the 50% employee contribution that the employer has elected to pay, if any.

2. Employers that employ 14 or fewer employees should begin deducting employee contributions effective October 1, 2024. Sometime during the first three quarters of 2024, employers should contact their Engage PEO payroll specialist to set up these deductions.

3. Employers that employ 15 or more employees should begin deducting employee contributions <u>and</u> remitting employer contributions effective October 1, 2024.

4. Sometime during the first three quarters of 2024, employers should contact their Engage PEO payroll specialist to set up appropriate deductions.

5. Employers should bear in mind the changes in policy set forth in these new amendments (i.e., domestic partners are now included as family members for purposes of this law and that leave is available for bonding with a child for up to a year following the child's birth or placement).

6. Employers should keep an eye out for a subsequent Client Alert from Engage that will include guidance provided by the Maryland Department of Labor to employers regarding implementation of the FAMLI Program. This alert is anticipated to address issues such as whether or not out of state employees of Maryland employers are expected to make contributions towards the program.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other H.R.-related matters.