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Client Alert: A Busy Week – Massachusetts Extends Emergency Paid Sick Leave and Makes Changes to Paid Family and Medical Leave Contribution Rates and Benefits

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EXTENSION OF MASSACHUSETTS EMERGENCY PAID SICK LEAVE (“EPSL”)

On September 29, 2021, Governor Baker approved legislation extending EPSL benefits to April 1, 2022, or until the \$75 million in program funds is exhausted, whichever is earlier.

In addition to the previous reasons for which an employee could utilize EPSL benefits (as detailed in our [June 1st client alert](#)), the legislation adds a new basis for an employee to assert entitlement to EPSL: to care for a family member who needs to obtain or recover from a COVID-19 immunization. Employees can begin using EPSL benefits for this additional reason as of October 1, 2021.

Importantly, employees who already have used their 40 hours of EPSL are not eligible for any additional time because of this extension or as a result of the addition of a new reason for using EPSL. Similarly, an employer’s EPSL obligations continue to exist regardless of whether an employer chose to voluntarily extend benefits available to employees under the federal Families First Coronavirus Response Act (“FFCRA”) beyond its expiration on December 31, 2020. However, employers should note that leaves pursuant to the FFCRA may run concurrently with EPSL so long as the leave complies *fully* with both laws. Employers remain eligible for reimbursement of the cost of providing EPSL benefits through the COVID-19 Massachusetts Emergency Paid Sick Leave Fund. To be eligible for reimbursement, a business must require its employees to submit requests for EPSL in writing. The Executive Office for Administration and Finance prepared a [Sample Employee Leave Request Form](#) that may be used for this purpose.

LOWER MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE (“PFML”) CONTRIBUTION RATES BUT INCREASED EMPLOYEE BENEFITS

On October 1, 2021, the Department of Family and Medical Leave (the “Department”) announced that in 2022, while employees will be eligible to receive a greater amount of PFML benefits, the amount of PFML employer contributions will decrease.

As of October 1, 2021, the new Massachusetts average weekly wage increased to \$1,694.24, up from the prior year’s average of \$1,487.78. Accordingly, beginning in January 2022, the maximum total amount that an eligible employee can receive in PFML benefits will increase to \$1,084.31 per week, whereas the previous maximum was \$850.00 per week.

Also, effective January 1, 2022, the new contribution rates for employers will be lowered. For employers with 25 or more covered individuals, the contribution rate will decrease to 0.68% of eligible employee wages and the rate for employers with fewer than 25 covered individuals will be reduced to 0.344% (down from the 2021 rates of 0.75% and 0.378%, respectively).

Employers may still withhold up to 100% of the family leave contribution from a covered individual's wages, regardless of size. As for the medical leave contribution, employers with 25 or more covered individuals can still withhold up to 40%, while employers with fewer than 25 covered individuals can still withhold up to 100% from a covered individual's wages.

This alert aims to provide an overview of the recent updates and changes to the Massachusetts Emergency Paid Sick Leave and Massachusetts Paid Family and Medical Leave laws. Employers with questions about how to comply with these laws should consult their Bowditch attorneys.