

CLIENT ALERT: What Massachusetts Employers Should Expect in 2021

As 2020 draws to a close, it is important for Massachusetts employers to prepare for the legal developments that are expected to take place in the new year. 2021 is certain to bring new challenges, including with respect to the commencement of leave benefits under the Massachusetts Paid Family and Medical Leave law (“PFML”), changes to state minimum wage and premium pay requirements, and, of course, further complications created by COVID-19. The following is a summary of impending changes employers should be mindful of next year.

Massachusetts Paid Family and Medical Leave

One of the most significant changes for Massachusetts employers in 2021 will be the commencement of leave benefits under the PFML. We have provided numerous [client alerts](#) on the PFML since it was first passed in 2018. However, it is still worth remembering that there will be several key changes in the upcoming year.

In particular, beginning January 1, 2021, covered individuals will be allowed to use paid family and medical leave for the following reasons:

- To bond with a child during the first 12 months after the child’s birth or after adoption or foster placement of a child;
- For exigencies relating to a family member’s active duty or call to duty in the Armed Forces;
- To care for a family member who is a covered servicemember; or
- To care for the individual’s own serious health condition.

Beginning on July 1, 2021, eligible individuals will also be able to use paid family leave to care for a family member’s serious health condition. With 2021 less than a month away, Massachusetts employers should take steps to ensure that they are in compliance with the various PFML requirements – including with respect to their policies and employee handbooks. The PFML is a complex law, and employers should take care to make sure they understand it, are prepared to administer it and are equipped to address the new issues that will come with it. Of course, as employers consider the complexities of this new law and its implementation, they should not hesitate to contact their MBJ attorneys.

Massachusetts Minimum Wage and Premium Pay

Employers should remember that per the 2018 “Grand Bargain,” there will be an incremental increase to the state minimum wage rate through 2023 (see our prior [client alert](#) for more details). Pursuant to the law’s schedule, the state minimum wage rate will increase to \$13.50 per hour (from \$12.75 per hour) and to \$5.55 per hour for tipped employees (from \$4.95 per hour) effective January 1, 2021.

In addition, one of the key concessions to retail businesses under the law was the reduction of

premium pay for Sundays and holidays. Pursuant to the law's five-year schedule, the rate of premium pay will be reduced, effective January 1, 2021, to 1.2 times employees' regular rate of pay. Notably, Juneteenth (June 19), will be one of the holidays impacted by these restrictions following its recognition as an official state holiday earlier this year (read more [here](#)). Still, as we discussed [previously](#), the law did not include three holidays in these changes: New Year's Day, Veteran's Day and Columbus Day. Accordingly, until further notice, employers should ensure they are still paying their non-exempt employees one and one-half times their regular rate for work performed on these three holidays.

Continued Impact of COVID-19

While we wish it were not the case, it is clear that COVID-19 will continue to impact our lives and our workplaces into 2021. Similar to 2020, it is difficult to predict exactly what changes and challenges we will face. Of course, MBJ will continue to update you through our future client alerts as these issues arise.

As of now though, employers should keep in mind that absent further legislative action, the benefits provided under the Families First Coronavirus Response Act ("FFCRA") are set to expire on December 31, 2020. This issue, as well as the possibility of further stimulus packages and/or other legislative action, will surely impact employers as we enter the new year.

As of the date of this alert, Massachusetts remains in [Step 2 of Phase III](#) of the Governor's four-phase reopening plan. As has been the case throughout 2020, employers will need to be prepared in 2021 to monitor and adapt to changes in the reopening plan and related guidelines, including those concerning applicable safety standards, gathering orders, mask orders and travel restrictions.

In addition, the news of potential COVID-19 vaccines - while welcoming to many - will also raise some complex issues for employers considering whether to mandate them. Employers considering a mandatory vaccination policy should consult with their MBJ attorneys to discuss their potential implementation, including the impact of certain legal issues such as medical and religious accommodations.

Please contact your MBJ attorney with any questions you may have regarding this or any of the other legal changes addressed above.

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