

CLIENT ALERT: Massachusetts Paid Family and Medical Leave Update: Average Weekly Wage, Maximum Benefit, and Contribution Rate Changes for 2022

The Massachusetts Department of Family and Medical Leave (the “Department”) has provided **two important updates** that will have an impact on their administration of Massachusetts Paid Family and Medical Leave benefits next year. These changes include an increased average weekly wage and an increased maximum benefit for covered leave, which will affect how the Department calculates an employee’s weekly benefit amount. Additionally, the Department announced a decrease to the contribution rate from employee wages employers must withhold and remit to fund the Commonwealth’s Paid Family and Medical Leave (“PFML”) benefits. All three changes are effective January 1, 2022.

While taking Department-approved PFML, an employee will receive a weekly benefit amount, which the Department calculates based on a percentage of the employee’s earnings and the average weekly wage for workers throughout Massachusetts, capped at a maximum weekly benefit amount. The part of an employee’s average weekly wage that is less than or equal to 50% of the average weekly wage for Commonwealth workers will be covered at a rate of 80%. If part of the employee’s average weekly wage is greater than 50% of the average weekly wage for Massachusetts workers, it is covered at a rate of 50%, up to the maximum allowed benefit amount. As the average weekly wage for 2021 is \$1,487.78, any amount of an employee’s weekly wage that is less than or equal to half of that amount (\$743.89), for example, is replaced at a rate of 50%, up to the maximum allowed benefit amount (currently set at \$850 per week).

Effective January 1, 2022, the Department will use a new average weekly wage (announced as \$1,964.24) to calculate employee’s weekly benefit amount. Additionally, beginning on January 1, 2022, the maximum, total PFML benefit will be \$1,084.31 per week, an increase from the current \$850 maximum. While the Department is responsible for determining PFML benefit amounts, employers should review their policies with their MBJ attorney to ensure they are updated to reflect these changes before they go into effect in the new year. Employers with private plans with an approved exemption from the Department should also review and update their policies for 2022 to confirm they are meeting the requirement to provide benefits that are at least as generous as PFML benefits provided by the Department.

Most Massachusetts employers have been required to make payroll withholdings on behalf of their workforce and to remit those contributions to the state. Employer withholdings from wages are based on contributions set by the Department. While weekly benefits will be going up for many employee’s receiving PFML benefits from the Department starting on January 1, 2022, starting the same date the new **contribution rate** on employee wages for employers with more than 25 employees will be going down from .75% to .68% of eligible wages. Employers should review their applicable policies with their MBJ attorney and confirm with their payroll providers that they adjust their withholdings to



www.morganbrown.com

reflect this contribution rate decrease. Updated template notices from the Department are anticipated in the near future; MBJ will provide an update when they are issued so that employers can be sure their PFML notices are updated accordingly.

As you continue to consider the complexities of PFML, do not hesitate to contact your MBJ lawyer. MBJ will continue to monitor developments from the Department.

Andrea Zoia is a Partner at Morgan, Brown & Joy, LLP, and may be reached at (617) 523-6666, or at azoia@morganbrown.com. Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters.

This alert was prepared on October 6, 2021.

This publication, which may be considered advertising under the ethical rules of certain jurisdictions, should not be construed as legal advice or a legal opinion on any specific facts or circumstances by Morgan, Brown & Joy, LLP and its attorneys. This newsletter is intended for general information purposes only and you should consult an attorney concerning any specific legal questions you may have.