Family Leave Updates for Maryland Businesses

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman. And today we are talking about the coming implementation of family leave, medical leave, and family leave in Maryland. And it is coming. The contributions are coming.

The updated policies are coming. All of it's coming. But we're in 2026 right now. 2027 is when contributions, if you're going through the state plan, will start, and then actual benefits will start in 2028. So you might notice that I said contributions if you're going through the state plan start January 1st, 2027.

So where do employers need to start right now in fall 2026 as it relates to this family medical leave that's coming, that everyone's been hearing about in Maryland for the last couple of years, [00:01:00] Russell?

Russell Berger: Yeah. Yeah. Well, the question now is, go through the state program or go private.

But to back up and provide a little bit more context on this other states have something similar to this. But paid family leave is a program where, all employees in... it's gonna function similar to unemployment benefits. At least that's the administrative analog that I see, where it's going to be state mandated.

All employees are going to get a certain amount of paid leave, up to 12 weeks and there's a formula for calculating the dollar amount, up to $1,000 per week. And to pay for this employees are going to have a contribution come out of their paycheck, so they're going to get taxed higher than they have before to help fund this.

And employers that are 15 employees or over are going to have, make a contribution as well. Under 15 small employers the employer doesn't have to, although they may. They may offset the employee portion. There's some greater variance there because small employers are not being taxed in the [00:02:00] same way that larger employers are.

And I'm using the word tax intentionally 'cause I really do think it's kinda like unemployment tax where, the employee, pays in from the employee payroll side and the employer pays in from their side, and it creates a fund that are gonna be used to pay benefits when someone qualifies and is eligible.

And again, as, when you first asked me the question, the answer right now is do you go through the state program which will require, this six-month period of funding before employees are eligible for benefits so that there's, money in the pot to pay out when it goes live?

Or will you go the private option where you don't have to fund in advance, and you may have more creativity about how you structure that program. And, we're not able to answer that question for you here at OK @ Work. What I can say is kinda two practical bits of advice is, one, definitely talk to your benefits broker.

They're on this, and they're aware of this, and they can probably model these things out better and so that you have some sense as to the varying cost of each type of program. And [00:03:00] then second, from what I've seen thus far is, if you're over that 15 employee threshold we see employers veering more into the private than the public option at this point.

Sarah Sawyer: Yeah, and regardless of what you choose, you are gonna have to communicate that to the state. There are gonna be certain compliance requirements that you're gonna have to meet in registering and so that they are aware of whether you're doing the private plan or making the contributions. If you do collect the contributions, you're gonna obviously have to remit them, work with your payroll company on all that, making sure that it's documented and all of those things.

So there is not gonna be an option to do nothing regardless of the size that you are. And if you are gonna be taking contributions from employees, there are gonna be notice requirements that are gonna be starting as soon as the contributions are starting. And then also to come in 2028 you are gonna be wanting to update your policies to make sure that you're noting the availability of this leave and how it's functioning for your company.

'Cause obviously employees are seeing the headlines just like all of us [00:04:00] around this leave coming and what's available to them, and they're gonna need instructions on how to utilize these benefits. And a lot of employers in Maryland who have, unpaid- FMLA obligations already or maybe have started their own programs already are

gonna have to be making adjustments. So more to come on that but right now the moral of the story is you should not be ignoring this. You should... It's time to start, paying attention, start making some moves, start doing some planning. It's been coming for a long time. We've mentioned it a couple times on OK at Work over the last couple years, and it's been at a standstill just based on then pushing the deadlines off and pushing the program off.

But it is coming, it is here, and it is time to start taking a look at this, making some decisions, talking to your benefits broker, as Russell said, and deciding how you're gonna handle things, and then figuring out what your clients' obligations are.

Russell Berger: Yeah. Well, yeah. We've been able to ignore it for the last two years 'cause it kept getting pushed off.

And if you've ignored it you haven't missed a ton. You can get up to speed now, but now is the time to get up to speed 'cause we are getting to the point where, at least that kind of preliminary decision [00:05:00] has to be made. And then one point and this isn't urgent, this is gonna happen after you make that decision and we start moving forward but then there's gonna be some policy writing that has to happen, particularly around kind of your existing leave policies and PTO.

'Cause you're not gonna wanna pay people twice if you've got... If you're paying for the insurance, if the employee is paying for the insurance and they're able to get, at least a partial income coverage through this program you should change your leave policy so that they don't end up getting greater than their salary while they're on leave.

And you can make them whole or wherever you were, bringing them up to whatever they were at before. But you wanna make sure that you're thoughtful about how your existing leave policies work with this new program being added into the mix.

Sarah Sawyer: Yeah. No, great advice. And we'll be definitely talking about this more on OK at Work as we get closer, but start digging in now.

And we'll see you next time, Russell.

Russell Berger: Thanks, Sarah.