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Planning for Family Leave? Read the Fine Print

By **Paula L. Green** March 6, 2026

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Financial advisors should be on the outlook this year for changes in state family leave laws that could impact their own firms as well as the financial status of clients' intent on taking leave to care for aging parents or ailing spouses.

While the 1993 federal law that mandated leave does not require employers to provide pay to eligible employees, at least 13 states and the District of Columbia have enacted family and medical leave programs that require some benefits. Delaware, Maine and Minnesota, for example, have rolled out new programs, while Colorado, Rhode Island and Washington have implemented notable changes to existing laws. Some changes kicked in on January 1 while others will take effect through the year.

Recognizing the financial challenges faced by employees who need to take leave, a growing number of states have enacted paid family medical leave programs, says David G, Gabor, a partner with The Wagner Law Group in Boston. "Yet the scope of these programs varies by the state, with many states having no program at all," he adds.

A Closer Look

Washington State, for example, expanded its job-protected leave provisions under its program on January 1, according to an article published on the website of Michael Best & Friedrich, a law firm headquartered in Milwaukee, Wisc. Employers with 25 or more employees, more generous than the 50-employee threshold laid down by the federal Family and Medical Leave Act, must now provide job protection to employees taking covered leave. The eligibility threshold for job protection is now reduced to 180 days of employment, rather than 12 months and 1,250 hours.

In addition, employers in Washington State must maintain health insurance during job-protected leave and are required to provide written notice of reinstatement prior to an employee's return from extended leave, the article noted.

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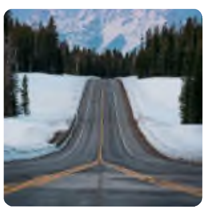

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Beginning in mid-July, New Jersey employers with at least 15 employees must provide employees with leave under the New Jersey Family Leave Act. Out-of-state employers with at least 15 employees also must provide leave to their New Jersey- based employees, according to an article published on the website of the New York City employment and labor law firm Jackson Lewis. The New Jersey law expands coverage to smaller employers with fewer employees and lowers the number of months an employee must be employed and the base hours worked to be eligible for NJFLA leave.

Experts agree the developments can create increased compliance demands for employers and require added attention from employees.

Guidance for Financial Advisors

Gabor shared some guidance for employers and employees, which can be useful for financial advisors navigating their own businesses and guiding clients who own businesses. The guidance is also helpful for clients preparing to take leave to care for an aging parent or an ailing spouse, or to attend to their own health.

There are several potential minefields employers must watch out for when considering state paid family medical leave programs, said Gabor, who leads The Wagner Law Group's labor, employment & human resources practice. With an expanding remote workforce, employers must ensure they know the laws in the state where the employee works. In some instances, employees may even work in more than one state during the course of a given year.

Employers may have an obligation to file paperwork and to possibly fund a portion of the state's paid family medical leave program. Employers should understand that the employee has the right to take leave and to return to the same, or a comparable position." "Employees should not be punished for requesting or taking leave," he adds.

Financial advisors should urge their clients considering a leave to read up on their rights regarding leave in the states where they work." Understand how they are expected to go about asserting their rights," says Gabot. "They should also take the time to communicate with the employer in a professional and thoughtful manner. Provide as much notice of leave as possible. "It is not a good idea to wait until the last minute to advise the employer that they plan to take an extended leave," he adds.

Financial Impact of Taking a Family or Medical Leave

Katherine A. Brustowicz, an associate with The Wagner Law Group, offeres financial advisors specific guidance they can give clients regarding a leave's financial impact.

Concerning retirement savings, an unpaid leave could slightly reduce a client's total lifetime earnings, which could impact their Social Security benefits. If the leave is 100% paid, then Social Security taxes would still be withheld, with no impact on an employee's Social Security benefits. If the leave benefit replaces a percentage of pay (less than 100%), Social Security wages would be reduced.

401(k) Fine Print

Regarding contributions to 401(k) plans, Wagner Law Group urges employees to review the 401(k) plan documents and summary plan description to understand how any leave might affect matching contributions and vesting. "Generally, if an employee is on unpaid leave, the employee would not be entitled to a matching contribution for such a period," Brustowicz says, adding that the employer is not required to count unpaid leave towards benefit accrual or vesting either.

Brustowicz notes that some plans require employees to work a specific number of hours to receive a contribution (e.g., 1,000 hours during the plan year) or to be credited with a year of vesting service. Employees who take an unpaid leave may not meet the service requirement for contributions and/or additional vesting.

To maximize their contributions, employees could consider front-loading their 401(k) contributions before a planned unpaid FMLA leave "That can be a smart strategy to maximize employee contributions" she says. Alternatively, a person might consider increasing contribution rates after returning to work to catch up. Brustowicz also notes that the impact of frontloading employee elective contributions depends on the plan document's terms. "Some plans cap matching contributions during the payroll period and others provide matching contributions at the end of the plan year," she says, urging employees to carefully review their plan documents.

Employees on paid leave that provides a benefit equal to 100% of pay would continue to contribute as if actively employed and receive the matching contribution as described in the plan document.

Health Coverage

Business owners are generally not required to provide benefits for employees on leave. One exception is group health plan coverage. Generally, if an employer is required to continue group health plan coverage under federal or state leave laws, employees may not be asked to pay more for the coverage than they did while actively working. If an employee chooses to suspend their health coverage while on leave, the coverage must be reinstated when they return. If the leave is not required under federal or state leave law, the employer may not be required to provide group health plan coverage and the employee must be offered COBRA.

Some employers continue non-elective benefits (e.g., basic group term life insurance) for employees on leave because it is administratively easier. Employees typically do not accrue vacation or sick leaves while on unpaid leaves, consistent with human resources policies and, when appropriate, state laws regarding vacation and sick leave accruals.

Are Firm Partners Covered?

Brustowicz says owners, partners and shareholders are typically not considered "employees" eligible for FMLA leave if they own a substantial portion of the business. State leave laws also may not apply to owners, partners and shareholders. If permitted under state law, such employees may be allowed to opt into a family and medical leave plan.

"Care must be taken if a leave of absence impacts an employee's annual or performance bonus to ensure that any reduction is permitted," she says, adding that any policy to adjust bonuses for employees on leave should be reviewed by an attorney.

Turning to the income-tax implications, she says paid family leave benefits are generally taxable income for federal purposes and in most states. "State paid family leave does differ by state, so it is important to review the specific state's program," she says.

Looking Ahead

Gabor said the U.S. Congress' Workforce Protections subcommittee is making a tangible effort to introduce benefits for employees taking leave at the federal level. He shared a comment from the subcommittee's chair, U.S. Rep. Ryan Mackenzie, (R-Pa.), who noted, "While these state innovations are encouraging, it has been difficult for state administrators and private-sector benefits managers to navigate the patchwork of paid leave policies across different states."

Paula L. Green is a New York City-based freelance journalist with more than three decades of reporting and editing experience that spans coverage of international business and finance issues to murders and politics at the Jersey Shore to presidential press conferences in Argentina and Mexico. She can be contacted at plgreen12004@gmail.com. To read more of her articles, click here.