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On May 2, Governor Murphy signed the New Jersey Paid Sick Leave Act into law, requiring New Jersey employers to provide up to forty (40) hours of paid sick leave per year to covered employees. The law applies to all employers in the State of New Jersey, including temporary help service firms, but excludes public employers required to provide their employees with sick leave. The new law will go into effect on October 29, 2018 and preempts all existing and future municipal ordinances in New Jersey regarding paid sick time.

Who is a Covered Employee?

The Act covers most employees working in the State of New Jersey. Employees in the construction industry, employed under a collective bargaining agreement, per diem health care employees, and public employees who already have sick leave benefits are specifically excluded from the Act.

Accrual of Leave

Employers must designate any period of 12 consecutive months as a benefit year, and cannot change the benefit year without first notifying the New Jersey Department of Labor and Workforce Development. In each benefit year, an employee may accrue up to 40 hours of paid sick leave benefits at a rate of one hour for every 30 hours worked. Employers are permitted to “frontload” the full 40 hours at the beginning of the benefit year. Employees may carry over accrued but unused benefits, but employers are not required to provide more than 40 hours of paid sick leave in a single benefit year. Employers may choose to offer employees the ability to payout unused but accrued sick leave in the final month of the employee’s benefit year. If an employee chooses to receive such a payment, the employee can choose the full amount of unused sick time or 50% of such sick time and carry-over the rest, as long as it’s not more than 40 hours.

Paid time off (PTO) policies may be used to satisfy the Act’s requirements so long as the policy provides at least the same benefits as those provided under the Act.

Current employees will begin accruing sick time on October 29, 2018. Employees hired after October 29 will begin to accrue sick time on the first date of their employment. With respect to temporary help service firms, paid sick leave will accrue on the basis of the total time worked on assignment with the firm, not separately for each client firm where the employee is assigned.

How can Leave be Used?

A covered employee may use paid sick leave benefits for any one of the following:

- Diagnosis, care or treatment of, or recovery from, the employee's own mental or physical illness, including preventive medical care;
- Diagnosis, care or treatment of, or recovery for a family member's mental or physical illness, including preventive medical care;
- Time needed due to the employee or employee's family member being a victim of domestic or sexual violence, including counseling, legal services, or participation in any civil or criminal proceedings;
- Time needed when the employee's workplace or school/ childcare of the employee's child is closed by order of a public official or other public health emergency; and
- Time to attend a school-related conference or meeting to discuss a child's health condition or disability.

The term "family member" is broadly defined to include any individual related by blood or whose close association with the employee is the equivalent of a family relationship.

Employers are permitted to choose the increments employees may use accrued sick time; however, the largest increment chosen may not be larger than the number of hours an employee was scheduled to work in a given shift.

Notice and Recordkeeping

If an employee's absence is foreseeable, an employer may require notice, not to exceed seven (7) days, from an employee of the date leave is to begin and the expected duration of such leave prior to using sick leave. If unforeseeable, the employee must give notice as soon as practicable. If an employee is absent for at least three (3) consecutive days, an employer may require the employee to provide reasonable documentation confirming the leave is for a purpose permitted under the Act.

The Commissioner of the Department of Labor will be developing a model notice detailing employees' rights under the Act. Employers are required to post the notice and provide a copy to employees within 30 days after the notice has been issued. The notice must be given to new hires upon hire and to any employee upon request.

Employers must retain records documenting hours worked and earned sick leave used by employees for a period of five (5) years, and allow access to the Department of Labor.

Employer Action

Employers should review their current paid time off and sick leave policies to determine compliance with the Act and determine whether they will need to implement new policies or amend existing policies. Employers should also review their employee handbooks and make any necessary revisions. Finally, employers should keep their eyes open for the model notice from the Department.