

Massachusetts Extends Deadlines for PFMLA Notice to Employees and Private Plan Exemptions

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In an effort to help businesses, on May 1, 2019, the Massachusetts Department of Family and Medical Leave (DFML) extended both the deadline to notify employees about the Massachusetts Paid Family and Medical Leave Act (PFMLA) and the deadline for employers to apply for a “private plan” exemption from law. Previously, the DFML required employers to distribute notices to employees regarding the PFMLA by May 31, 2019, and required employers seeking a private plan exemption from the contribution requirements of the PFMLA to apply for an exemption by June 30, 2019. The new deadline to distribute the required notices is June 30, 2019, and the new deadline to apply for an exemption is September 20, 2019.

Notice to Employees:

In a [previous update](#), the DFML published template notices that employers can use to fulfill the notice requirement of the PFMLA and required employers to distribute the notices and receive acknowledgment that employees received the notice by May 31, 2019. Extending this deadline to June 30, 2019, gives employers another month to prepare for distribution to the workforce. The notice must cover the benefits, contribution rates, and other protections available under the PFMLA. The notice must also include an opportunity for the employee to acknowledge receipt, or decline to acknowledge receipt of the notice.

Plan Exemptions:

The current guidance issued by the DFML requires that an employer seeking an exemption based on a “private plan” receives approval for that exemption in the quarter before the exemption goes into effect. This update changes that requirement for the initial quarter of PFMLA contributions only. Employers now have until September 20, 2019, to file for and receive a private plan exemption before making the initial contribution. This will give employers more time to contemplate different private plan options. However, if an employer’s exemption does not receive approval before September 20, 2019, that employer will be responsible for remitting the full contribution amount from July 1, 2019, forward. The guidance does not state what an employer should do regarding employee deductions if the employer’s request for a private plan exemption is denied or not acted upon before September 20, 2019. Nor does the guidance address the issue of whether an employer could lawfully seek retroactive deductions from employees going back to July 1, 2019 if an exemption application is not timely approved.

The DFML will continue to accept applications for exemptions after September 20, 2019 on a rolling basis. If the DFML grants an exemption after September 20, 2019, the exemption will not go into effect until the following quarter and the employer will

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remain responsible for the required contributions through the end of the quarter in which they apply. For example, if an employer applies for and is granted an exemption based on a private plan in October 2019, that employer must still remit the required contributions through the end of the year before the exemption takes effect in the first quarter of 2020.

Please contact Jackson Lewis with any questions regarding these new developments.

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