

APRIL 2016

## NEW YORK ENACTS PAID FAMILY LEAVE LAW

By Glenn S. Grindlinger and Gregg M. Kligman

The state of New York now has the most comprehensive paid family leave law in the country.

Under the new law, signed by Gov. Andrew Cuomo on April 4, New York employers will be required to provide eligible individuals with paid time off from work to attend to familial obligations. Upon full implementation, eligible individuals will be entitled to receive up to 12 weeks of paid time off from work per year.

Under the law, paid family leave will be administered and paid for by the State's disability benefits fund. Thus, employers will not be responsible for paying employees for family leave. The program will be funded through a payroll deduction of approximately \$1 per week. Notably, individuals cannot concurrently collect family leave benefits and short-term disability benefits from the state.

Going forward, New York private-sector employers, regardless of size, must provide family leave to their employees after 26 consecutive weeks of employment. Employees may take paid family leave in order to:

- Care for an infant
- Care for a family member with a serious health condition (but not an employee's own serious health condition)
- Relieve family pressures when someone is called to active military service.

The benefits will be phased into implementation

between 2018 and 2021 under the following schedule:

**January 1, 2018**

Individuals will be entitled to take 8 weeks of paid leave and will receive 50 percent of their weekly pay with a benefit cap of 50 percent of the New York State average weekly pay (approximately \$630 at this time)

**January 1, 2019**

Individuals will be entitled to take 10 weeks of paid leave and will receive 55 percent of their weekly pay with a benefit cap of 55 percent of the New York State average weekly pay.

**January 1, 2020**

Individuals will be entitled to take 10 weeks of paid leave and will receive 60 percent of their weekly pay with a benefit cap of 60 percent of the New York State average weekly pay.

**January 1, 2021**

Individuals will be entitled to take 12 weeks of paid leave and will receive 67 percent of their weekly pay with a benefit cap of 67 percent of the New York State average weekly pay.

If an employee's need for leave is foreseeable, the employee must provide the employer with 30 days' notice. While an employee is out of work on family leave, the employer must maintain their health insurance benefits under the same terms and conditions as if they were working. Moreover, upon expiration of the leave, the employee is entitled

to return to the same position that the employee held prior to family leave or a comparable position with comparable benefits, pay, and other terms and conditions of employment.

However, the employee is not entitled to more favorable treatment than they would receive if the employee had not taken leave. Thus, for example, if the employee's position would have been eliminated irrespective of family leave due to a reduction-in-force, the employee presumably would not be entitled reinstatement. In addition, employers are prohibited from retaliating against an employee for exercising their rights to take family leave.

As a result of this new program, New York

employers should review their policies regarding leave to ensure that, commencing in 2018, they comply with the family leave requirements. Employers must also ensure that they comply with the deduction requirements, properly maintain benefits for employees on leave, and ensure that employees are reinstated upon expiration of the leave in accordance with the provisions of the law.

For more information about this alert, please contact [Glenn S. Grindlinger](mailto:ggrindlinger@foxrothschild.com) at 212.878.2305 or [ggrindlinger@foxrothschild.com](mailto:ggrindlinger@foxrothschild.com), [Gregg M. Kligman](mailto:gkligman@foxrothschild.com) at 212.878.7910 or [gkligman@foxrothschild.com](mailto:gkligman@foxrothschild.com) or any other member of Fox Rothschild LLP's [New York Labor & Employment Department](#).



Fox Rothschild LLP  
ATTORNEYS AT LAW

Attorney Advertisement

© 2016 Fox Rothschild LLP. All rights reserved. All content of this publication is the property and copyright of Fox Rothschild LLP and may not be reproduced in any format without prior express permission. Contact [marketing@foxrothschild.com](mailto:marketing@foxrothschild.com) for more information or to seek permission to reproduce content. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.

[www.foxrothschild.com](http://www.foxrothschild.com)