



CIS (CAN INSURANCE SERVICES) IS A SUBSIDIARY OF THE CALIFORNIA ASSOCIATION OF NONPROFITS

New Paid Family Leave Law

Is it really a leave policy?

By Debbie Klug, Research & Compliance, CAN Insurance Services

California leads the way again with a new employee benefit! Beginning July 1, 2004, all employees who contribute to State Disability Insurance (SDI) or a similar approved disability insurance program will be eligible for Paid Family Leave (PFL) when a qualifying event occurs.

Organizations of all sizes with full and/or part time employees are required to comply with the law. The new program is not a right to take a leave of absence; rather it works like SDI (supplementing income when temporarily unable to work).

If the employee is receiving SDI, unemployment insurance or workers' compensation benefits, they generally cannot receive PFL payments at the same time.

While SDI supports a worker who can't work because of their own illness or injury, the new PFL compensates them when they need to provide care for a seriously ill family member or to bond with a new child.

However, the law does not guarantee employees the right to have their job held until their return to work. Unless required by one of the other leave laws (i.e. family medical leave, workers' compensation, etc.), or your own leave/time-off policies, your organization is not obligated to provide an employee with their job upon return.

Because small employers (under 50 employees) are typically not required by law to provide medical leaves of absence, questions have been raised regarding their right to deny an employee's request for PFL. Caution is recommended here! If you deny or terminate an employee for taking PFL, there is a chance that the employee may claim they were terminated in violation of public policy unless you can prove "undue hardship".

Employers do have a right under the new law to require employees to take up to two weeks of their paid vacation prior to becoming eligible for PFL. Since most employees want to use their vacation time for actual vacations, this provision within your policy may reduce the number of occurrences of PFL. As always, you must weigh the value of having a family-friendly environment against your ability to continue to operate your organization should one or more staff request PFL.

Main points of paid family leave

- Is funded through higher SDI withholding (employee paid)
- Contributions to fund by employees began January 1, 2004
- Operates like State Disability Insurance (SDI)
- Affects organizations of all sizes
- Applies to both full and part time employees
- Provides some domestic partner benefits
- Benefits may be applied for on or after July 1, 2004

FAMILY LEAVE LAW continued on page 2

- No length of service requirements (e.g. first day of employment eligible)
- 7 day waiting period, and employer (through written policy) may require employee to use up to 2 weeks earned/unused vacation before PFL benefits apply
- Maximum benefit = 6 weeks in a 12 month period
- No job reinstatement guarantees
- Runs at the same time as Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), and Pregnancy Disability Leave (PDL) if applicable
- Administered by CA Employment Development Department (EDD)

While the benefit administration duties fall upon the Employment Development Department (EDD), there are still a number of things organizations must do to be in compliance. Please see the table below for an overview of responsibilities.

The following websites offer additional information:

- Paid Family Leave (PFL): www.edd.ca.gov
- Family Medical Leave Act (FMLA): www.dol.gov
- California Family Rights Act (CFRA): www.dfeh.ca.gov

This article is an outline of the basic responsibilities of employers under the Paid Family Leave (PFL) law. We recommend, because of the complexity and potential liability of PFL, legal advice or other expert assistance should be obtained. ■

Qualifying Events	
Birth of a Child by:	<ul style="list-style-type: none"> • Employee • Spouse • Registered Domestic Partner
Placement of child involving adoption or foster care with:	<ul style="list-style-type: none"> • Employee • Spouse • Registered Domestic Partner
Serious health condition of employee's:	<ul style="list-style-type: none"> • Child • Spouse • Registered Domestic Partner • Parent
Serious health condition of:	<ul style="list-style-type: none"> • Spouse's child • Registered Domestic Partner's Child

Employer Responsibilities	EDD Responsibilities
<ul style="list-style-type: none"> • Determine if your organization is subject to the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) • Have written policies regarding your organization's leave policies • Confirm correct (increased) SDI rates are being withheld (increase of .08% beginning 1/1/04) • Post information regarding PFL with other required notices in your facilities • Provide PFL brochure to all new employees • Provide PFL brochure to any employee leaving work on or after 7/1/04, to provide care for a sick or injured family member or to bond with a child (see qualifying events) 	<ul style="list-style-type: none"> • Provide PFL brochure supplies to employers • Provide PFL benefit claim form to employees • Determine eligibility of employees • Coordinate medical certification from physician • Calculate and administer benefit payments