



Labor: City- and state-mandated employee benefits



Local family and medical leave acts go above and beyond the federal standard in some jurisdictions

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In recent years, states and cities have enacted various laws requiring private employers to provide certain benefits to their employees beyond those benefits mandated by federal law or traditionally mandated under state law, such as workers' or unemployment compensation. Many states have enacted family and medical leave laws modeled loosely on the federal Family and Medical Leave Act (FMLA).

While most states require only unpaid leave, some, including California and New Jersey, require paid or partially paid family and medical leave. In addition, some cities have passed ordinances requiring employers in those cities to provide paid sick leave. San Francisco passed the first such law in 2007, requiring employers of all sizes to provide paid sick leave for all employees, including part-time and seasonal workers. More recently, Philadelphia passed an ordinance requiring certain employers to provide their employees with paid sick leave beginning July 1.

State family and medical leave laws vary in several respects, including the following:

- Size of the workplace covered—ranging between four employees (Iowa) and 100 (Tennessee)
- The reasons for eligible leave—e.g. only for pregnancy/maternity and childbirth (Montana) or, more frequently, leave because of an employee or family member's serious health condition
- The length of leave allowed
- The notice requirements before an employee may take leave
- Whether the employer must continue the employee's benefits

- Whether the employee has a right to the same or an equivalent position after returning to work

Many states also require employers to provide leave for employees who have been victims of domestic violence or sexual abuse. Employees may use this leave for purposes such as obtaining medical care or mental health counseling, making their home secure from the perpetrator of an act of domestic violence or seeking legal assistance. The amount of leave required varies from three working days in a 12-month period (Colorado) up to 30 days of leave (Hawaii). Some states, however, (e.g., Kansas), require only that an employer not discharge, discriminate or retaliate against an employee for taking time off for these purposes.

Many states also include in their family and medical leave laws a requirement that employees be permitted to take time off to participate in activities at their child's school. The amount of leave again varies by city or state: Washington D.C. requires up to 24 hours during a 12-month period, while Nevada requires only four hours per school year. Washington D.C. also extends this leave not only to a child's parents, but also to aunts, uncles and grandparents.

In regard to health care coverage, most states now mandate that employers include mental health benefits in their group health plans. These laws fall roughly into three categories:

1. **Mental health "parity" or equal coverage laws**, enacted in Connecticut, Delaware and Illinois, among other states, require insurers to provide the same level of benefits for mental illness or substance abuse as for

physical diseases or disorders.

2. **Minimum mental health benefit laws**, enacted in states including Massachusetts, Pennsylvania and Texas, require some level of coverage for specific mental illnesses, but allow discrepancies in the level of benefits provided between mental illnesses and physical illnesses.
3. **Mental health "offering" laws**, enacted in states such as Florida and New York require that coverage for mental illness or substance abuse be an option offered to the insured. Such laws may or may not require parity in coverage.

In 2006, Massachusetts enacted the most comprehensive health benefit mandates in "An Act Providing Access to Affordable, Quality, Accountable Health Care." Among other measures, the law requires employers with more than 10 full-time equivalent (FTE) employees to provide a "fair and reasonable contribution" to the health insurance premiums of their employees. Employers who do not must pay an annual penalty not exceeding \$295 per employee per year. Employers satisfy the "fair and reasonable" standard if at least 25 percent of their full-time workers participate in the employer's health plan or if the employer offers to pay at least 33 percent of the premium cost of an individual health plan. For employers with 50 or more FTEs, both standards must be met or 75 percent of full-time workers must be enrolled in the firm's health plan.

Employers should familiarize themselves with the benefits required by the states and cities in which they have employees, and watch for new laws that states and cities are continuing to pass.