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May 16, 2008

UNDERSTANDING NEW JERSEY "PAID FAMILY LEAVE"

By: Jill Tobia Sorger, Esq.

Introduction:

On May 2, 2008, Governor Corzine signed into law the long anticipated paid family leave insurance bill. This legislation allows workers to take up to six (6) weeks of paid leave to provide care for newborn children, newly adopted children and/or sick family members. The intent of the law is to assist employees in balancing work commitments and family needs. New Jersey is only the third state, behind California and Washington, to pass such legislation. The New Jersey Department of Labor and Workforce Development estimates that approximately 38,000 workers will claim these benefits annually.

As with the history of most every piece of significant legislation, the drafts and proposals leading up to this law differ from the actual enacted version. Since the topic of paid family leave was a highly debated, the "rumor mill" concerning the law's impact on employers was particularly active and lead to certain misconceptions being generated. Accordingly, it is important for UTCA Contractors to become familiar with the law and the actual duties and obligations that it imposes.

New Jersey Paid Family Leave:

The enacted law, which allows a worker to take up to six (6) weeks of paid leave to provide care for seriously ill family members (child, spouse, parent or domestic partner) and/or to care for a newborn or newly adopted child, serves as an extension of New Jersey's Temporary Disability Insurance program. Under the current provisions of the law, workers are entitled to receive up to two thirds of their weekly pay to a maximum weekly amount of \$524.00.

Contrary to a popular misconception, the new law is funded solely by worker payroll deductions and requires absolutely no monetary contributions from employers. The amount of the worker payroll deduction is relatively minimal as it amounts to approximately 64 cents per week on the first \$27,700.00 earned by the worker, which totals approximately \$33.00 a year.

Workers must provide notice of such leave to their employers of up to thirty (30) days and employers can require the utilization of up to two (2) weeks of vacation and/or sick time. A seven day waiting period is also imposed on the worker applicant, after which he or she can begin receiving paid family leave benefits. Workers receiving these benefits must take their paid leave concurrently with any leave to which they would be entitled under the federal and/or state Family Leave Acts.

In an effort to recognize the manning needs of a small businesses, in certain circumstances, the law allows businesses with fifty (50) or fewer employees to permanently replace a worker taking paid family leave and accordingly, positions do not have to be held open. Additionally, the law provides for fraud prevention by utilizing criminal penalties and substantial fines for false benefit claims. The law also provides a mechanism for employers to appeal a decision to award a worker benefits.

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Advice for Employers:

New Jersey employers must begin taking worker payroll deductions commencing January 1, 2009 and paid family leave benefits will become available to New Jersey workers beginning on July 1, 2009. UTCA Contractors should therefore familiarize themselves with this law in order to create the necessary company policies and practices to facilitate the availability of this leave to their workers. In addition, as with any new law, especially one pertaining to such a highly debated topic, its implementation will undoubtedly raise certain unforeseen issues and questions. Accordingly, this column will attempt to keep readers apprised of any new developments.

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