

RE: MICHIGAN'S PAID MEDICAL LEAVE ACT SUMMARY

DATE: OCTOBER 30, 2023

We have summarized the key provisions of Michigan's Paid Medical Leave Act ("Act"), as it is currently in effect, although legal challenges are pending before the Michigan Supreme Court which may affect its enforceability.

Covered Employers

The Act covers employers that employ 50 or more individuals working anywhere in the United States – as currently interpreted.

Covered Employees

The act covers all of the employer's Michigan based W-2 employees, but **excludes** the following:

- **Employees covered by a collective bargaining agreement that was in effect in March 2019 (when the Act was adopted). The Act goes into effect upon that agreement's expiration;**
- Executive, administrative and professional-overtime exempt employees;
- Individuals whose primary work location is not in Michigan, as well as employees of the United States government, another state, or a political subdivision of another state;
- Individuals 16-19 years of age being paid the youth training wage;
- Temporary employees, variable hour employees, employees covered by the Railway Labor Act and Railroad Unemployment Insurance Act; and
- Individuals employed by an employer for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer, as well as part-time individuals who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.

Paid Leave Accrual

The Act provides for the following accrual of paid leave:

- Paid medical leave is accrued at a rate of 1 hour for every 35 actual hours worked; up to 1 hour per calendar week, or 40 hours per benefit year;
- Accrual begins upon commencement of the employee's employment;

- An employer may require an employee to wait up to 90 days after commencing employment before using accrued paid medical leave;
- A benefit year is any consecutive 12-month period used by the employer to calculate an eligible employee's benefits;
- Employees can carry over up to 40 hours of unused accrued paid medical leave from one benefit year to the next; however, employers are not required to allow employees to use more than 40 hours in any single benefit year;
- Generally, employer's current paid leave policies are coordinated with the Act, i.e., existing paid leave benefits count towards the obligations imposed by the Act; and
- An employer may provide the total amount of paid medical leave all at once by providing at least 40 hours at the beginning of the benefit year or on the date that the individual becomes eligible during the benefit year on a prorated basis. If an employer adopts this practice, it does not have to permit employees to carry over unused leave to the next benefit year.

Utilization

The Act allows an employee to use paid medical leave as follows:

- Paid medical leave must be used in 1-hour increments unless the employer has a different written policy, such as an employee handbook or other employee benefit document;
- Employees must follow the employer's usual and customary notice, procedural and documentation requirement for requesting leave, with at least 3 days allowed to supply such documentation;
- Paid medical leave can be used for any of the following:
 - Physical or mental illness, injury or health condition of the employee or his or her family member;
 - Medical diagnosis, care or treatment of the employee or employee's family member;
 - Preventative care of the employee or his or her family member;
 - Closure of the employee's primary workplace by order of a public official due to a public health emergency;

- The care of his or her child whose school or place of care has been closed by order of a public official due to a public health emergency;
- The employee's or his or her family member's exposure to a communicable disease that would jeopardize the health of other, as determined by health authorities or a health care provider; and
- Victims of domestic violence or sexual assault may use paid medical leave for any of the following:
 - Medical care or psychological or other counseling;
 - Receiving services from a victim services organization;
 - Relocation and obtaining legal services; and
 - Participation in civil or criminal proceedings related to or resulting from the domestic violence or sexual assault.

Enforcement

The Act has a notice posting requirement (see www.michigan.gov/wagehour)
- Act violations are subject to a \$1,000.00 administrative fine (one per benefit year, based on current interpretation), while posting violations are subject to a \$100 administrative fine, per each violation

As noted, the Act has faced legal challenges, which are currently pending before the Michigan Supreme Court. We will provide updates on any new developments involving the Act as they occur.