Final regulations addressing the New York State Paid Family Leave Act (PFL) have been released. PFL provides job security for employees on paid leave. Under federal law, employers with 50 or more employees must provide unpaid leave under the Family and Medical Leave Act (FMLA); however, the PFL applies regardless of the size of the employer. Several states have passed similar laws expanding the federal requirements, including California, Connecticut, Hawaii, Maine, Minnesota, New Jersey, Oregon, Rhode Island, Vermont, Washington and Wisconsin.

Below are highlights from the New York law, effective January 1, 2018.

Impact to Employers in New York?

- Employers must provide wage replacement with employment protection to employees in need of time away from employment. If an employer declines to reinstate an employee returning from PFL, the employee may report that employer to New York State. If a report is filed, an employer has 30 days to either take corrective action or file a formal response to the employee.

- PFL will be a part of an employer's disability benefits policy. All employees who are currently covered under disability insurance will be covered under PFL.

- Employers are responsible to inform employees of PFL options. Employers must display a poster concerning employees’ PFL rights with the other employer-to-employee notices, update employee handbook language (if available) or provide employees with a written notice.

- Health insurance must be maintained during an employee’s time off.

- PFL benefits phase-in over 4 years with a gradually increasing benefit amount. New York State sets the rate. Therefore, it’s important for employers to remain current with annual changes to the maximum benefits.

- Employees will need to provide notice 30 days in advance of the paid leave; therefore, employers could begin receiving notices by December 1, 2017.

- Employers may not require employees to exhaust accumulated PTO too become eligible for PFL.
Impact on Employees in New York?

- PFL provides up to eight weeks of paid leave in 2018 and is intended to allow employees to be able to bond with a new born, adopted, or foster child; care for a family member with a health condition; assist when a family member is deployed on military duty.

- PFL will be funded via employee payroll contributions at 0.126% of the employee’s weekly wage up to the states average weekly wage maximum. The collection of premiums was allowed as of July 1, 2017; therefore, in NY, paycheck deductions will fund the premium for PFL.

Who is Eligible for PFL?

- All full-time and part-time employees working for private companies qualify. After 26 consecutive weeks of employment with a schedule of 20 or more hours per week or those scheduled less than 20 hours and work 175 days within 52 weeks, these employees qualify.

- Participation is not optional for employees.

- Union members may be covered if the PFL is collectively bargained.

Takeaways

As additional information is released, Oswald will provide ongoing guidance and strategic direction for employers and continue our proactive communication efforts to anticipate change.