

Paid Leave Programs

A growing trend over the past several years has many states and individual cities and localities enacting some form of paid sick leave or paid family leave. Currently federal law does not require paid time off.

Multi-state employers may struggle trying to keep up with the various rules on paid time off. Rules such as employer requirements, employee eligibility, the amount of time that is allowed to take off, as well as whether this time needs to be paid by the employer or is funded differently.

Last month NJ enacted paid sick leave across the state, pre-empting the localities that already had some form of paid sick time in their laws. NJ joins the states of AZ, CA, CT, MA, OR, RI, VT, MD, WA, and Washington DC that requires employers to offer some amount of paid sick leave. Other states that have paid sick leave in specific localities within the state include TX, MN, IL, PA and NY.

Paid family leave is on the rise as well. NY enacted paid family leave on January 1, 2018 joining the states of Washington, California, Rhode Island and New Jersey. Washington DC will be joining this list in 2020. Vermont has tried the past two legislative sessions to pass a paid family leave act and has not succeeded yet.

This causes many headaches for HR with employees in multi states in the way they provide time off for their employees in a fair and consistent manner. Many employers will adopt a paid sick leave or paid family leave policy that is the most generous of all their locations in order to be in compliance but that is not always possible due to other laws and regulations, such as those in the health insurance industry (protected leave requires maintenance of health benefits, where as non-protected leave may not be).

Some of the paid sick leave or paid family leave laws require employee contributions, while others do not. There are varying amounts of leave required depending on which state law you are required to comply with.

How does HR and the payroll department keep up with the ever-changing laws in individual states? Lack of a uniform approach across the states makes record keeping a difficult process and presents obstacles to compliance. Trying to merge any existing leave policies with new rules and regulations also presents challenges even to seasoned HR professionals.

There is no one answer to this question, some employers are taking the “highest common denominator approach”, but this presents challenges as well. Some employers are creating a baseline sick leave policy that expands by each state’s requirements. Budgets and cost constraints don’t always synch with what an employer is required to do and expanding the requirements does cost money and time. There are no easy answers to these situations.

One thing we do know is that each state you have employee’s working in do have different laws, rules, regulations and requirements on a variety of topics, not just paid leave. Investing in a reliable, up to date and easy to use online information system is a must.