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## IBA Newsletter

October 2017 ISSUE: **Twice the news in half the time!**

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Barrages of news updates, all the changes in the employment and regulatory world, digging through so much red tape if rolled into a ball it could keep a lion busy for days. To add to the information overload, here is a double whammy of knowledge to digest.

In a previous newsletter, the rumor at that time was Governor Baker was going to implement fees for a great number of businesses in this year's state budget in order to offset the increasing expenses from MassHealth (now 40% of the state's annual \$40 billion budget). On August 1<sup>st</sup>, he did just that.

The main details of "An Act Further Regulating Employer Contributions to Health Care", H. 3822, are as follows:

1. It temporarily increases existing employer fees and imposes new fines on employers which are expected to raise about \$200 million for MassHealth;
2. It applies in 2018 and 2019, and ends December 31, 2019;
3. It increases the Employer Medical Assistance Contribution ("EMAC") from an annual maximum fee of \$51 per employee to \$77 per employee; and
4. It establishes a new employer assessment that applies to all Massachusetts employers that are required to pay into its unemployment insurance fund, except for employers with no more than 5 employees per quarter in Massachusetts. Employers must pay to the Department of Unemployment assistance 5.00% of annual wages for each non-disabled employee who:
  - Obtains health insurance coverage from MassHealth (excluding the premium assistance program), or qualifies for subsidized coverage through the Connector; and
  - The amount of the assessment is capped at an annual wage of \$15,000, which equals \$750 per affected employee.

The purpose of the act is to encourage eligible employees to enroll in available medical coverage offered through employers, which will then lower the cost of MassHealth by decreasing the amount of people opting into it. I agree with the premise of this law, and I believe it will be successful. Of course, this information needs to be explained to the employees, and whether or not there will be a posting notice available cannot be confirmed at this time. In the interim, perhaps having a companywide meeting to explain the changes may be worthwhile.

Second, for those non-New York businesses with one or more employees who work in NY for at least 30 days in a calendar year, New York State Disability Benefits Law (DBL) coverage is required. A massive change to DBL begins on January 1, 2018, in the form of Paid Family Leave (PFL). Here are some details:

1. It is only mandatory for private businesses. The coverage adds a maximum of \$1.65 per week to the DBL cost (to be paid on a monthly basis) but where DBL is designed as *employer* paid, PFL is designed as *employee* paid;
2. The weekly PFL deduction is based upon the 2018 community rate of 0.126% of the employee's gross salary, capped at New York's current Average Weekly Wage of \$1,305.92;
3. DBL and PFL are concurrent and since both are forms of short term disability (STD), there is a 26-

- week maximum per every 52 consecutive calendar weeks;
4. Employers must provide employees who take eight or more consecutive days of family leave with a written notice of their rights under the paid family leave law;
  5. The employee must give the employer 30 days advance notice of a foreseeable family leave. If paid family leave is foreseeable and the employee fails to give 30 days' advance notice, there can be a partial denial of the paid family leave claim for a period of up to 30 days from the date the notice was provided by the employee; and
  6. There has to be notice in a conspicuous area that details the employers' compliance with PFL.

This is the first NY statewide legislation to provide PFL benefits using DBL as the courier and I am sure other states will follow this example. In closing, full thanks to Mintz Levin, Empire BCBS, and The Hartford, for information that was used in this newsletter. Excelsior to all.

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