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Employee Benefits | Life Insurance | Retirement Planning

TO: Clients of Sitzmann Morris & Lavis Inc.

RE: California Organ and Bone Marrow Donor Leave

Background:

The Michelle Maykin Memorial Donation Protection Act (SB 1304) was signed into law on the last day of the 2010 California legislative session. Michelle Maykin passed away from leukemia in 2009. This law was enacted to encourage employees to save lives by providing them with generous leave options. This law gives employees the right to take an employer paid leave of absence to donate an organ or bone marrow.

Key Provisions:

Effective Date: January 1, 2011.

Covered Employers: All California employers with 15 or more employees. The number of employees is not based on full-time equivalents. Any employee is counted as one employee.

Covered Employee: California employees that have been employed at least ninety days prior to the start of leave.

Leave Entitlement: An eligible employee who is an organ donor is entitled to up to thirty days paid leave in any one-year period. An eligible employee who is a bone marrow donor is entitled to up to five days paid leave in any one-year period. Leave may be taken in one or more periods. No minimum increment has been set.

This leave does not run concurrently with FMLA or CFRA. An employee on organ or bone marrow donor leave cannot be required to use FMLA or CFRA.

Substitution of Paid Leave

An employer may require an employee to use up to five days of earned but unused sick or vacation leave for bone marrow donation and up to two weeks of earned but unused sick or vacation leave for organ donation, unless a collective bargaining agreement provides otherwise.

Medical Certification

The employee must provide written verification that they are an organ or bone marrow donor and that there is a medical necessity for the donation.

Maintenance of Health Benefits

Employers who provide health insurance coverage for employees must maintain and continue to pay the same amounts for coverage for employees while they are on leave.

Job Restoration

After exhaustion of leave, an employer must restore the employee to the position held when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms of employment. An employer may decline to restore an employee because of conditions unrelated to the exercise of their leave rights. For example, an employee may still be subject to a lay-off.

Any period of time the employee is absent due to leave shall not be considered a break in their continuous service for the purpose of salary adjustments, sick/vacation leave, annual leave or seniority.

What's Next

Employers should update their employee handbooks to include the new leave.

As always, contact your SML Account team if you have any questions.