

CLIENT ALERT: Massachusetts Issues Guidance on Private Insurance Plans Under the Massachusetts Paid Family and Medical Leave Law

On April 3, 2020, the Massachusetts Division of Insurance (“DOI”) published new guidance for employers that have sought or intend to seek the “private plan” exemption from the Paid Family and Medical Leave law (“PFML”) by offering private insurance plans to employees.

As discussed in MBJ’s prior client alerts, the PFML requires employers seeking this exemption to ensure that any private insurance plans offered to employees at least meet the state’s minimum PFML requirements. Coverage through private insurance for family and medical leave must also begin by January 1, 2021 – the commencement of family and medical leave use under the PFML (July 1, 2021 for the use of paid family leave to care for a family member with a serious health condition). Employers that qualify for an exemption by enrolling in qualified private insurance plans are not required to remit contributions to the Family and Employment Security Trust Fund.

The DOI’s new guidance ([available here](#)) includes a PFML Policy Template and outlines the provisions that private insurance policies must include to meet the exemption requirements under the law. Insurance carriers are required to submit their policy forms to the DOI for review by June 3, 2020. The DOI will then review the policy forms using a [PFML Policy Checklist](#); and once the policies are approved, the DOI will issue an approved policy form number. Previously-issued “private plan” exemptions for employers remain valid, but employers must provide policy form numbers at the time of renewal.

Employers should note that the DOI’s new guidance does not apply to self-insuring employers, which are not required to submit plans or policies to the DOI for approval. However, self-insuring employers can use the policy template and checklist as resources to ensure their private plans comply with the PFML’s requirements. Employers planning to self-insure that have not yet applied for the exemption can do so through the [MassTaxConnect](#) portal.

Employers with questions about the PFML’s exemptions or other leave-related issues should consult with their MBJ attorney.

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This alert was prepared on April 20, 2020.

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