How To Navigate NYC's Stricter New Prenatal Leave Rules

By **Fanny Ferdman, Matthew Berger and Payne Horning** (August 11, 2025)



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While New York state employees have been eligible for 20 hours of paid prenatal leave since Jan. 1 under the state's Paid Prenatal Leave Law, employers in New York City now have more rules to follow when administering prenatal leave benefits.

The city amended its Earned Safe and Sick Time Act, or ESSTA, to mandate new rules concerning the administration of paid prenatal leave, which eligible employees may use for healthcare related to pregnancy.

The additional regulations, which took effect on July 2, will add to the challenge of properly managing these benefits, especially for multistate employers.

Under both city and state law, pregnant employees must receive 20 hours of paid prenatal leave annually to use during their pregnancy or in relation to it, such as for physical examinations, fertility treatments and end of pregnancy care.

Employers should take note that while this new benefit is included in the same sections of the state and city sick leave laws, it is not an extension of those benefits. Rather, it is a new stand-alone benefit that employers need to administer separately.

For example, unlike sick leave, paid prenatal leave applies to all private sector employers, regardless of size, and the bank of time available does not accrue, meaning that employees are eligible to use their 20 hours as soon as they begin employment.

As discussed below, New York City's version of the law requires more from employers than the state's version does. It mandates the implementation of policies and the distribution of notices, as well as documentation and recordkeeping related to the management of these benefits.

Accordingly, employers with New York City staff should review their paid prenatal leave policies immediately, and train management and human resources staff to ensure that they are compliant with the minimum requirements under the state and city laws.

Further, they must maintain the necessary separation between paid sick leave and paid prenatal leave when administering these benefits.

Policies

Under the New York City law, employers must prepare a written policy that covers paid prenatal leave benefits and distribute a copy of the policy to employees (1) upon hire, (2) within 14 days of the effective date of any changes to the policy and (3) upon request by an employee.

The policy must inform employees of their right to 20 hours of paid prenatal leave during any 52-week calendar period, which is separate and apart from their safe and sick leave bank.

Moreover, the employer's policy must lay out any rules, limitations or conditions on the use of paid prenatal leave, including the amount of notice that an employee must provide the employer for their need to use paid prenatal leave and the procedures for doing so.

The policy must also specify what type of written documentation or confirmation of the use of paid prenatal leave that an employee must provide, as well as the employer's policy regarding any consequences of a failure or delay in providing such documentation or confirmation.

Additionally, it must set forth the minimum increment or fixed period for the use of paid prenatal leave, along with information about discipline for the misuse of such leave.

Lastly, the policy must include a statement that the employer will not ask the employee to provide details about the medical condition related to the paid prenatal leave, and that any information the employer receives about the employee's use of the leave will be kept confidential and not disclosed to anyone without the employee's written permission or as required by law.

Under the New York City law, employers must also "maintain written safe and sick leave policies and paid prenatal leave policies in a single writing," meaning they should not be "split up across multiple documents or locations."

However, a multistate employer "may supplement a national policy with an NYC-specific policy, provided that the national and local policies are not confusing or contradictory."

Notices

Employers must also post and provide employees with an updated copy of the notice of rights related to ESSTA, which now includes a section on paid prenatal leave benefits.[1]

The notice clarifies that the paid prenatal leave benefits are in addition to those provided by ESSTA, and that this benefit may only be used by employees who are pregnant, and not, for example, spouses or partners who attend appointments or treatment with them.

The posting must be placed in an area that is visible and accessible to employees. Further, it must be in English and in any language that at least 5% of employees in the workplace speak as a primary language, if such translations are provided by the city.

For the notices, the law requires employers to maintain a record of proof that employees received the notice, such as a signed copy or an email establishing the date that it was provided and proof of receipt.

Requests for Leave

Although the state law does not require any advance notice for employees to use paid prenatal leave, the city law allows employers to require reasonable notice. Where the leave is foreseeable, employers may require that an employee provide notice pursuant to the written policy.

Employers may require the advance notice to be in writing, but they cannot demand that employees provide it more than seven days prior to the date that the leave would begin.

If the leave is not foreseeable — meaning when the employee is not aware of their need to use paid prenatal leave at least seven days in advance — employers may require that employees provide notice as soon as practicable.

Examples of notice procedures that employers may mandate include, but are not limited to, having the employee call a designated phone number or email a designated address at which they can leave a message; or having the employee submit a leave request in a scheduling software system, provided that the employee has access to such system on nonwork time, and has been trained and given written instructions on how to use the system.

However, notice procedures cannot require an employee to appear in person at a worksite or to deliver any document to the employer prior to using paid prenatal leave.

Leave Choice

Employers should note that while paid prenatal leave is specifically for pregnancy-related healthcare, employees have options when taking time off.

The city and state prenatal leave laws specifically prohibit employers from requiring that employees take sick leave instead of paid prenatal leave, or that they exhaust one bank of leave before using another.

In other words, if an employee has both paid sick leave and paid prenatal leave time available, they can elect to use either one for a doctor's appointment related to their pregnancy.

Therefore, it is prudent for employers to require employees to document which kind of leave they wish to use for their requested time off.

If it is not possible for an employee to request such leave ahead of time, as discussed above, employers should follow up with the employee later to confirm which bank of leave they intended to use for their pregnancy-related absence.

Recordkeeping

Similar to ESSTA, employers will need to document employees' use of their paid prenatal leave benefits.

Specifically, employers must make a record of the date, time and amount paid whenever an employee uses paid prenatal leave.

Additionally, for each pay period, employers must provide employees with an accounting of how much paid prenatal leave was taken in that pay period, as well as the balance of the amount that remains.

Employers may provide this information on the employee's pay statement or in another form of written documentation that is given to the employee.

Documentation

While the state law does not require employees to submit medical records in order to use paid prenatal leave, the city permits employers to request documentation in certain circumstances.

If an employee's use of paid prenatal leave results in their absence for more than three consecutive work days, like under ESSTA, an employer may require reasonable written documentation that the leave was taken for a purpose that is authorized under the law.

Reasonable written documentation includes notes that have been signed by a licensed clinical social worker, a licensed mental health counselor or another licensed healthcare provider indicating the need for the paid prenatal leave that was used.

However, it is crucial that employers do not request too much information from employees, as the law does not permit employers to ask for confidential information about employees' health conditions.

Additionally, the employee must be allowed a minimum of seven days from the date that they return to work to obtain the requested documentation.

If the employee is required to pay a fee for the requested documentation, the employer is responsible for reimbursing the employee for the fee and all reasonable costs or expenses incurred in obtaining the documentation.

Conclusion

Employers should familiarize themselves with the requirements of both the state and city laws, and understand the key differences between offering and administering safe and sick leave and paid prenatal leave.

It is critical that employers keep the two benefits separate. Compliance with this requirement will be easy for employees and city officials to monitor, as the city law specifically requires that employers provide an accounting of the amount of prenatal leave that has been used and the remaining amount available each pay period.

Additionally, even for employers that provide unlimited safe and sick leave, or more than is required by law, they still need to maintain records that demonstrate that the two types of leave are kept in separate banks.

As the interplay of pregnancy-related leaves becomes more and more complex, employers are encouraged to review their related employment policies and practices, which may require some updates.

As employers begin to adapt their policies and practices to comply with these new requirements, another strategy for success is maintaining a robust recordkeeping system.

Employers should preserve a record of all requests, in whatever form they are made; documents, like medical notes; and communications that are related to sick and prenatal leave.

Documenting compliance with the laws will assist employers in tracking and adhering to the state and city leave law regulations, and it will provide a crucial defense in the event of an audit or a legal claim.

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[1] https://www.nyc.gov/assets/dca/downloads/pdf/about/PaidSafeSickLeave-MandatoryNotice-English.pdf.