

## PAID LEAVE OREGON: EQUIVALENT PLANS

Employers have options!

### WHAT IS AN EQUIVALENT PLAN?

An equivalent plan is a private plan option that provides benefits that are equal to, or greater than, those provided by the Paid Leave Oregon program. These plans can be fully insured or self-funded and can be administered by the employer or through a third-party administrator such as an insurance provider.

- **Employer-Administered Equivalent Plan:** The employer will act as the administrator of the plan while taking on all the associated financial risks associated with the plan.
- **Fully Insured Private Plan:** The employer can purchase an approved plan from an insurance carrier who will act as the administrator and carry the financial risks while the employer pays premiums to the insurer instead of the State.

### REQUIREMENTS FOR APPROVAL

- 1 **Cover all Oregon employees who have been continuously employed with the employer for at least 30 calendar days regardless of hours worked.**

**Note:** The current set of proposed rules (Batch 4) state that if an employee's prior employer offered an equivalent plan then this employee must be covered immediately on their start date. An employer with an equivalent plan that does not cover all employees immediately must obtain information about each new employee's previous PFMLI coverage via a request to the OED who will then confirm whether the employee must be covered immediately or within 30 days.

- 2 **Provide benefits that are equal to, or greater than, those under the State plan, including:**
  - a Allowing leave for family, medical, and safe-leave reasons
  - b Providing up to 12 weeks of paid leave per year – plus an additional 2 weeks for pregnancy related medical leave
  - c Allow employees to taking paid leave in increments ranging from one day to weekly
- 3 **Not impose any additional conditions or restrictions for employees to use paid leave.**
- 4 **May not charge employees a contribution greater than what they would be paying under the Paid Leave Oregon program.**
- 5 **Provide decisions on benefit claims to be in writing, either in hard copy or electronically. Decisions must include the amount of leave approved and the weekly benefit amount, or the reason(s) for denial of benefits along with an explanation of an employee's right to appeal and instructions on how to appeal.**
  - a Must provide a process for employees to appeal a claim denial and allow the employee to request dispute resolution assistance from OED



## APPLICATION PROCESS

Applications will be submitted, beginning September 2022, online through the new Frances Online platform and must include the following:

- Business Name, Address, TIN, Contact Name, and Contact Information
- A copy of the employer administered equivalent plan if self-administered, or a copy of the insurance policy for a fully insured equivalent plan
- A completed questionnaire attesting that the plan meets all requirements for equivalent plans and other information as required on the department's equivalent plan application form
- A non-refundable \$250 application fee – plus a \$150 renewal fee for the first three years

Under the proposed rules in Batch 4, employers wishing to provide an equivalent plan option for a September 3rd start date, must submit a Declaration of intent or an equivalent plan application by the following dates:

- 1 By November 30, 2022 to be exempt from paying and remitting contribution payments beginning with the first quarter starting January 1, 2023.
- 2 By February 28th 2023 in order to be exempt from paying and remitting contribution payments beginning with the second quarter starting April 1, 2023.
- 3 By May 31, 2023 to be exempt from paying and remitting contribution payments beginning with the third quarter starting July 1, 2023.

Employers must submit a Declaration of Intent no later than May 31st, 2023. Otherwise, the employee contributions withheld, and employer contributions must be remitted to the OED.

## PROPOSED REPORTING REQUIREMENTS

Proposed Rules Batch 4 deals with the potential reporting requirements associated with Equivalent Plans. Employers with an approved Equivalent Plan will still be required to file the Oregon Quarterly Tax Report detailing all Paid Family and Medical Leave Insurance (PFMLI) wages and the employee count as well as the Oregon Employee Detail report detailing PFMLI subject wages for each employee.

Employers must also file quarterly aggregate financial and benefit usage reports with the department via Frances Online. The report is set to be due on, or before, the last day of the month that follows the close of the calendar quarter. The report will include, but is not limited to:

- 1 Total amount of employee contributions withheld during the quarter
- 2 Total plan expenses paid during the quarter, including total benefit amounts paid, and total administrative costs, as applicable
- 3 Balance of employee contributions held in trust at end of the quarter
- 4 Balance of benefits approved but not yet paid, if the plan is an employer-administered plan
- 5 Administrative costs due for the quarter but not yet paid
- 6 Number of benefit applications received during the quarter and the qualifying leave purposes and the number of applications approved and for what reason and the total amount of leave
- 7 Number of benefit applications denied during the quarter and the qualifying purpose and the number of appeals made on denials and the outcome of the appeals



## PROPOSED REPORTING REQUIREMENTS CONTINUED

Employers are also required to provide the department with a report detailing any changes to the employees covered under the plan within 14 days of the change. The report must include:

### 1 For new employee(s) added to the equivalent plan coverage:

- a Employee Name
- b Employee SSN
- c Employee start date with the employer
- d Date employee coverage begins under the equivalent plan

### 2 For employee(s) removed from the equivalent plan coverage:

- a Employee Name
- b Employee SSN
- c Employee end date with the employer
- d Date employee coverage under the equivalent plan ended
- e Start date the benefit year began under the equivalent plan within the 52 weeks preceding the date the employee's coverage ended, if applicable
- f Amount of leave taken during that benefit year and the qualifying leave purpose, if applicable

## WITHDRAWING FROM AN EQUIVALENT PLAN

An employer can withdraw from an approved equivalent plan that has been in effect for at least one year by submitting a withdrawal form online, by phone, or by another method prescribed by the department. The employer must provide the notice to the department at least 30 days prior to the effective date of the withdrawal. The employer must also provide at least 30 days notice to employees and provide them with information about the state provided Paid Leave Oregon program. Additional requirements, including reporting and contribution requirements, may apply.

### About Aldrich Benefits LP

We assist employers with employee benefit consulting including medical, dental, group life, and disability insurance for their employees and executive benefits for high level and key employees. Our services include plan design, implementation, and annual review of benefits.

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