

Labor, Social Security and Immigration Newsletter June 06, 2019

Leave of absence for parents with children diagnosed with cancer.

On June 4, 2019, a decree was published in the Official Federal Gazette, adding several provisions to the Social Security Law, State Workers' Security and Social Services Institute Law and the Federal Labor Law, to ensure that employees enrolled in any of these social security programs who are parents of a child under sixteen diagnosed with any type of cancer, are entitled to a leave of absence to take care of his/her child while they are in critical periods of treatment or hospitalization, including treatments for pain relief, as well as palliative care for advanced cancer.

The corresponding Institute may issue the employee a certificate attesting to the child's condition and the duration of the treatment, and the employee notifies his/her employer. Said license will be valid for up to 28 days, and may be renewed as many times as necessary during a period of 3 years, but never beyond 364 days of leave in total. The total days do not have to be continuous.

In the event that the employee requesting the license has been enrolled for at least 30 weeks in the 12 month period prior to the diagnosis of the Institute, or has been enrolled for at least 52 weeks preceding the start of the leave, the employee will be entitled to a subsidy equivalent to 60% of his/her last consolidated salary reported by the employer.

Said license may only be granted to one of the parents, who must have custody or guardianship of the minor, and is granted at the request of the parents. The effects of the license will cease: i) when the minor does not require hospitalization or medical rest during the critical periods of treatment; ii) upon the death of the minor; iii) when the child turns 16 years old; or iv) if the parent who enjoys the leave is hired by a new employer.

During the leave, the employment relationship will be suspended, so the employer's obligation to pay the salary is suspended. It will be important to review the provisions of the collective bargaining agreement regarding the benefits granted to an employee upon requesting leave of absence, and if such agreement contains the obligation of the employer to continue paying salary and benefits even if the employment relationship is suspended.

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We hope this note is useful for you, and the members of the Labor, Social Security and Immigration Practice at Sánchez Devanny Eserverri, S. C., will be glad to provide any additional information on the subject discussed herein. Please do not hesitate to contact us.

Sánchez Devanny es una firma de abogados líder en México que brinda asesoría legal integral a clientes mexicanos y extranjeros.

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