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The New "Father's Month"

It has existed in the public sector since 2011. For the private sector, the legislator introduces a "father's month," also referred to as "family time," starting on March 01, 2017.

What is the father's month?

While other child-care models are about how to divide the time of childcare, the father's month creates a possibility for both parents to stay at home. Parents shall be granted some time to work through the challenges of the first months with their new child.

How long can one benefit from the new father's month?

The father's month shall last between 28 and 31 days and cannot be divided into shorter time blocks. This time block must be used within the first 91 days after the birth of the child. The application to the health care insurance cannot be sent earlier than the day of birth, but not later than the 91st day after birth of the child. This means the application can be sent after the use of the family time as well.

Who is entitled to apply for the family time bonus?

The family time bonus will be granted to natural fathers, adoptive fathers, permanent nursing fathers and same-sex fathers. In the case of same-sex fathers, only one of the two fathers is eligible for the benefit. In addition, only those who are employed, and therefore have health and pension insurance, for 182 days prior to applying for the family time bonus are eligible. Interruptions of less than 14 days are not harmful to the claim.

Is there any kind of financial support?

If someone is entitled to receive the bonus due to the above mentioned criteria, he and his family shall receive EUR 22,60 a day, or about EUR 700,-- a month. This fixed amount of payment is independent from the amount of any prior salary, but will be granted in addition to a childcare allowance of the partner.

What is important for employers and employees?

One should note that there is no legal claim to a "father's month," and the employer must agree to the request of the employee.

In addition, there is no special protection against unilateral termination of employment (as one can find in the Maternity Protection Act). However, due to the

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Equal Treatment Act, discrimination against fathers who want to leave for the father's month is not permitted, and appropriate remedies are at the employee's disposal.

In order to increase legal certainty, a mutual written agreement is advisable for setting forth the conditions of such a father's month. In addition, a written form is useful, as the application to the health insurance carrier also requires a written employer confirmation.

In such an agreement, the following points shall be addressed:

- Unpaid special leave
The father's month is an unpaid interruption of the employment, as payment from the employer would preclude the use of the family time bonus. Therefore, a paid holiday will not constitute such an interruption.
- Extra payments
Whether special payments subsequent to an unpaid special leave may be reduced is sometimes determined within the CBA. Without any provision therein, the special payments may be reduced pro rata, which shall be recorded in the written agreement as well.
- "Old" severance pay and holiday entitlement
We would recommend determining clearly whether the period of unpaid leave shall be taken into account with regard to the calculation of individual seniority. If there is no such provision in the agreement, those periods of unpaid special leave will have to be considered for calculation of severance pay in compliance with the "old" system.

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