



## MASSACHUSETTS READIES FOR PAID FAMILY AND MEDICAL LEAVE

*By Mercer's Catherine Stamm and Katharine Marshall  
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Beginning in 2021, the Massachusetts paid family and medical leave (PFML) [law](#) will give employees up to 12 weeks of protected leave with partial wage replacement to bond with a new child, care for a family member with a serious health condition or handle a military exigency. The law will also let employees take up to 20 weeks to address their own serious health conditions and up to 26 weeks to care for a covered servicemember. A cap will limit any employee's total PFML to 26 weeks in a 52-week period. Employee and any required employer contributions began Oct. 1, 2019. [Final PFML regulations](#) and guidance posted on the state's [website](#) provide more detail on the law's implementation.

### ADMINISTRATION

The Massachusetts [Department of Family and Medical Leave](#) (DFML) will administer the PFML program. The DFML has issued regulations, maintains the website and will consider applications for private plans (discussed [below](#)). The agency will oversee the Family and Employment Security Trust Fund, set contribution allocations and caps, determine maximum weekly benefits, and process all claims under the state system and all appeals, including those under private plans.

### COVERED EMPLOYERS

All private employers with at least one employee in Massachusetts have PFML obligations, including collecting and remitting covered employees' contributions to the trust fund or maintaining an approved private plan. Employers with 25 or more employees in the state must also contribute to the PFML program, but smaller employers are exempt from making contributions.

To determine how the PFML law applies, each employer assigned a federal employer identification number (FEIN) calculates its size by totaling the prior year's workforce on payroll for each pay period, then dividing that total by the number of pay periods. An employer's workforce includes:

- **Employees.** W-2 employees who work in Massachusetts — whether full-time, part-time or seasonal — count for PFML purposes. The DFML generally follows the same eligibility criteria as the Massachusetts unemployment insurance program. If an employer must report a W-2 employee's wages to the Department of Unemployment Assistance (DUA), those employees count, regardless of where they reside.
- **Covered contract workers.** [1099-MISC](#) workers count if they live and work in Massachusetts, do not qualify as independent contractors, and make up more than 50% of the company's workforce. To qualify as excluded independent contractors, workers must meet a three-part test ([Mass. Gen. Laws ch. 151A](#)): They must (i) operate without the direction and control of the employer; (ii) perform work outside the usual course of the employer's business; and (iii) have their own independent business or trade doing that kind of work. Workers who don't meet this three-part exception are included when determining if the workforce is more than 50% 1099-MISC workers.

A business in which more than 50% of the workforce are 1099-MISC workers is considered a "covered business entity," and its 1099-MISC workers are "covered contract workers" subject to PFML contributions.

### Public Employers Excluded

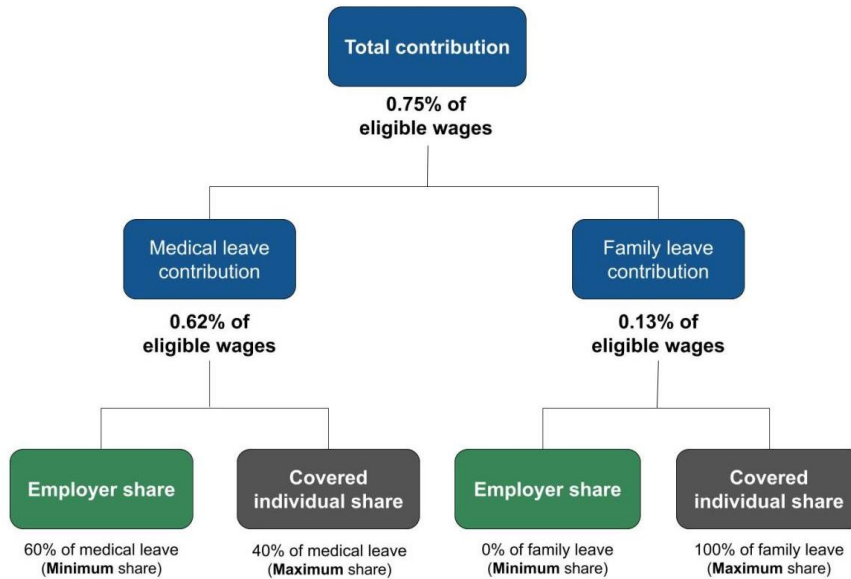
The PFML law excludes municipalities, districts, political subdivisions and other agencies, unless their legislative or governing body votes to opt into the program. City and town departments, including schools and public works, are considered part of the municipality they serve. Housing authorities, regional school districts and regional planning commissions are also excluded from PFML law, but their board members or governing committees may vote to opt in. Charter schools are not considered a part of a municipality and, with the exception of Horace Mann Charter School, must comply with the PFML law.

### CONTRIBUTIONS

PFML contributions are a set percentage (currently 0.75%) of each employee's wages up to the annual federal Social Security taxable wage base (SS wages) — \$132,900 for 2019 and \$137,700 for 2020. For family leave, the employee contribution rate is currently set at 0.13% of wages. For medical leave, the current employee contribution rate cannot exceed 0.248% of wages, and employers with more than 25 Massachusetts employees pay an additional 0.372% of wages. The DFML hasn't announced any change in contribution rates or allocations for 2020.

Employers may charge employees up to 40% of the required contribution for medical leave and 100% of the contribution for family leave, but an employer can choose to cover some of this cost for employees. The law makes no exception for employees covered by a collective bargaining agreement. The state has provided the following chart to help determine allocation for employers with 25 or more Massachusetts employees.

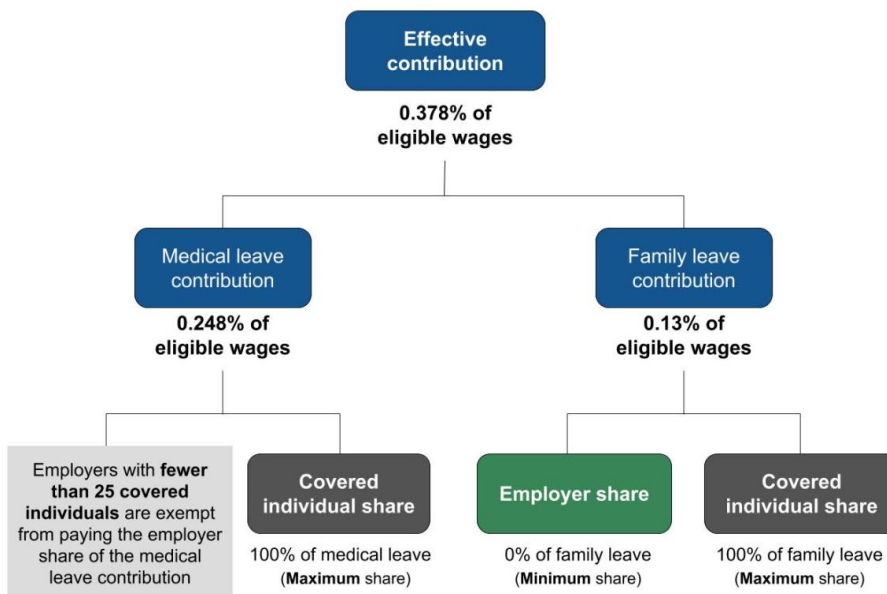
### Contribution Allocations for Employers With 25 or More Massachusetts Employees



The DFML offers a [calculator](#) to help employers estimate their PFML contributions. Another webpage has [sample deductions](#) for employee contributions at annual pay levels ranging from \$25,000 to \$100,000.

Employers with fewer than 25 Massachusetts employees do not have to pay any share of the contribution but are responsible for remitting employee contributions. The state has provided the next chart to help determine allocation for these employers.

### Contribution Allocations for Employers With Fewer Than 25 Massachusetts Employees



### **Wages Subject to Contributions**

Wages under the PFML law generally use the same wage amounts that employers report to the DUA under the state's unemployment statute ([Mass. Gen. Laws ch. 151A](#)). Wages include the following:

- Salaries, hourly pay, noncash tips and stipends
- Commissions and bonuses
- Overtime, vacation or sick pay
- Employee and employer contributions to a 401(k) plan
- Cash tips (if the employee reports \$20 or more in a calendar month)

Severance payments also are typically considered wages subject to PFML contributions. Other wages subject to PFML contributions include third-party sick pay and disability payments unless they are paid:

- Through workers' compensation insurance
- For medical or hospitalization expenses in connection with sickness or accident disability
- As death benefits
- At least six months after the employee last worked for the employer

Other payments not included as wages subject to PFML contributions include:

- Moving expenses deductible under Internal Revenue Code (IRC) Section 217
- Education assistance programs under IRC Section 127
- Dependent care assistance programs under IRC Section 129
- Payments made to or from most non-401(k) retirement plans are not wages subject to PFML contributions
- Compensation paid for unused sick or vacation hours upon termination

According to the state's [website](#), employer payments to a cafeteria plan (such as dependent care assistance or a health savings account) are not wages for PFML purposes if used to fund benefits exempt from taxation as wages. On the other hand, employee payments to a cafeteria plan are wages subject to PFML if they are part of an employee's salary. Cash distributions from cafeteria plans are considered wages subject to PFML, but compensation paid for unused sick or vacation hours on termination is not subject to PFML.

## REPORTING AND REMITTING CONTRIBUTIONS

After the end of each calendar quarter, every employer and covered business entity and any self-employed individual who has elected coverage must file an employment and wage detail report and remit contribution payments through the [MassTaxConnect](#) system by the quarterly filing deadline. The first reports and contributions are due by Jan. 31, 2020, for October through December 2019. All future filings will be due on or before the last day of the month after calendar quarter ends.

The employment and wage detail report must include the employer's FEIN; each covered employee's name, Social Security Number (or individual taxpayer identification number), and year-to-date wages paid; and the percentages of medical and family contributions deducted from the employee's wages. The quarterly report may exclude payments made to 1099-MISC workers if they make up 50% or less of the employer's Massachusetts workforce.

## NOTICES

All Massachusetts employers must display a DFML [workplace poster](#) that explains PFML benefits. The poster must be available in English and every other primary language shared by five or more individuals in the workforce.

Employers also must provide written notice — in paper or electronic form — to new hires within 30 days. The notice must offer an employee or a covered 1099-MISC worker the opportunity to acknowledge or decline to acknowledge receipt of the information. If an employer can establish that it provided the notice with this opportunity, the employer has satisfied its obligation, even if the employee fails to acknowledge receipt. Copies should be retained according to the employer's internal document retention policy, but don't need to be sent to state regulators.

Employers may create their own notices or use the DMFL's [model PFML notices](#). Notices must be written in the employee's primary language and include the following information:

- An explanation of the availability of PFML benefits
- The employee's contribution amount and obligations
- The employer's contribution amount and obligations
- The employer's name and mailing address
- The employer FEIN
- Instructions on how to file a claim for PFML benefits (once available)
- The DFML's mailing address, email address and telephone number

Employers had to provide this notice to all current employees and contract workers by Sept. 30, 2019. Any employer that hasn't done so should immediately distribute the notice. Employers that change from

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participation in the state plan to an approved private plan, as discussed [below](#), should consider redistributing an updated notice to all current employees. In addition, an employer that does not intend to renew an approved private plan must notify employees and the DFML no later than 30 calendar days before the effective date of the plan's termination.

**PURPOSE AND DURATION OF LEAVE**

PFML to care for a family member with a serious health condition won't become available until July 1, 2021, but all other Massachusetts PFML benefits will begin Jan. 1, 2021. The permitted duration for each type of leave varies, but the maximum for all types of leave combined cannot exceed 26 weeks in a 52-week period.

Duration limits for specific types of leaves are shown in the table below:

PURPOSE OF LEAVE	LEAVE LIMIT
New child bonding	12 weeks
Military exigency	12 weeks
Family member's serious health condition	12 weeks
Employee's own serious health condition	20 weeks
Care for a covered servicemember	26 weeks

**Intermittent Leave**

Employees may take most types of PFML intermittently or on a reduced leave schedule, with the weekly allotment and benefit prorated accordingly. Intermittent leave doesn't apply to new child bonding, unless the employee and the employer agree otherwise. When medically necessary, intermittent leave may be taken to deal with a military exigency, address the employee's own serious health condition, or care for a family member with a serious health condition or for a covered servicemember. An employer cannot require employees take intermittent leave in a minimum increment exceeding four consecutive hours.

An employee must try to schedule intermittent leave to avoid unduly disrupting the employer's business operation. Employees taking intermittent leave or working on a reduced schedule may be subject to employer discipline if they fail to work during the agreed-upon times.

**Family Member**

Similar to the federal [Family and Medical Leave Act](#) (FMLA), the PFML law defines family members as the employee's parent, spouse, child (including a foster, adopted or step-child or a legal ward), and anyone with whom the employee has an [in loco parentis](#) relationship. However, covered family members under the PFML law also include a domestic partner (as defined [below](#)); the children and parents of a spouse or domestic partner; and the employee's grandchild, grandparent and siblings.

**Domestic partner.** A domestic partner may be defined in three ways. The employee and the domestic partner may:

- Register in any US jurisdiction
- Register with the employer as domestic partners
- Demonstrate the domestic partner's dependence or mutual interdependence through a nexus of factors

### **Covered Serious Health Conditions**

Employees cannot use PFML for minor ailments, cosmetic treatments, routine physicals, eye exams or dental exams. A "serious health condition" includes an illness, injury, impairment, or a physical or mental condition that requires inpatient care in a hospital, hospice or residential care facility. A health condition involving continuous treatment by a healthcare provider may also qualify, such as:

- A period of incapacity lasting more than three consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that meets certain treatment requirements
- Conditions related to pregnancy and childbirth
- A chronic, serious health condition that requires treatments at least twice a year, continues over an extended period of time, and may cause episodic periods of incapacity, such as asthma, diabetes and epilepsy
- Permanent or long-term care conditions requiring continued healthcare supervision, such as a severe stroke, Alzheimer's disease or the final stages of a terminal illness
- Conditions requiring multiple treatments for restorative surgery after an injury or requiring an absence of three full calendar days, such as cancer treatments, physical therapy or kidney dialysis

### **Military Exigency**

A qualifying military exigency arises when a family member is on active duty or has been notified of an impending call to active duty in the armed forces. Employees may use up to 12 weeks of leave to help handle the military member's affairs, which may include the following:

- Needs of a child or other family members
- Financial or legal arrangements
- Counseling
- Attendance at military events or ceremonies

- Time spent during rest-and-recuperation leave or after return from deployment
- Arrangements after the military member's death

### **Servicemember Leave**

Employees may take up to 26 of weeks to care for a covered servicemember who is undergoing outpatient medical treatment, recuperation or therapy for an illness or injury incurred or aggravated in the line of duty. The leave includes members of the National Guard or reserves, former servicemembers, and those on temporary disability retired list.

### **CLAIMING BENEFITS**

The PFML benefits are available to “covered individuals” — employees, covered contract workers and self-employed individuals who meet a financial eligibility test: In the previous 12 months, an individual must have earned from a Massachusetts employer at least 30 times the weekly benefit amount potentially available to that individual (as described [below](#)) but no less than \$4,700. The base amount is set annually by the DUA. Former employees are also eligible if they have met the financial eligibility test and separated from employment no more than 26 weeks before the start of leave.

### **Waiting Period**

Covered individuals must exhaust a seven-day waiting period before benefits become payable. This time counts against the total available period of leave. For intermittent or reduced leave, the wait period is seven consecutive — rather than seven cumulative — calendar days of leave. An employee may use accrued sick or vacation pay or other paid leave during the waiting period.

### **Notice Before Leave**

In general, a covered individual filing for benefits must provide the DFML and the employer with at least 30 calendar days' notice of the anticipated start date, length, return date and type of the leave requested. An employer may require employees to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If circumstances beyond an employee's reasonable control prevent giving 30 days' notice (or the notice period required by the employer's usual practice), the employee must provide notice as soon as practicable.

Employees should schedule planned medical procedures to avoid unduly disrupting the employer's operations. Employers may delay or deny a request for leave if an employee does not satisfy the notice requirements and no unusual circumstances justify the failure.

### **Filing Claims**

Covered individuals must use the DFML forms and provide all relevant information, including the nature of the leave, expected start and end dates, and plans to take the leave on an intermittent or continuous basis. Individuals taking family or military-related leave must supply a statement of family relationship (on a form to be provided by the DFML). The DFML must also receive certifications of a serious health condition, a new child or foster placement, or a military exigency to qualify for the leave.



### Employer Information

Employers must respond within five business days to any DFML request for claim-related information. Requested information could include the employees' previous 12 months' earnings; position; full- or part-time status; weekly hours; and prior qualifying leave requests, including the amount of paid leave already taken during the current benefit year. The department might also request a description of the employer's paid leave policies, details about any employer-paid benefits the individual will receive during the requested period of leave, and information on any request by the individual to use concurrent leave under the federal FMLA.

### WAGE-REPLACEMENT BENEFITS

Benefits are based on the covered individual's average weekly wage (AWW) during the base period. For Massachusetts workers, the base period is the last four completed calendar quarters immediately before the start date of a qualified period of PFML. A completed calendar quarter is one for which the employer has filed an employment and wage detail report via MassTaxConnect. The individual's AWW equals total wages earned in the base period divided by 52.

### Calculation

Weekly benefits will equal 80% of the employee's AWW that does not exceed 50% of the state average weekly wage (SAWW), plus 50% of the employee's AWW that exceeds 50% of the SAWW, capped at the maximum weekly benefit. The DFML website has a [calculator](#) that covered individuals can use to estimate available benefits.

*Example.* Gary earns \$13,000 in each of the four calendar quarters of 2020. In January 2021, Gary takes PFML to bond with a new child. Gary's AWW during the base period is \$1,000. Assuming the current SAWW of \$1,431.66, Gary's AWW exceeds 50% of the SAWW. His weekly benefit is \$714.75, calculated as follows:

Step 1. Calculate 50% of the SAWW:  $\$1,431.66 \div 2 = \$715.83$

Step 2. Calculate 80% of 50% of the SAWW:  $80\% \times \$715.83 = \$572.66$

Step 3. Calculate Gary's AWW above 50% of the SAWW:  $\$1,000 - \$715.83 = \$284.17$

Step 4. Calculate 50% of Gary's AWW above 50% of the SAWW:  $50\% \times \$284.17 = \$142.09$

Step 5. Add the figures from step 2 and step 4 for Gary's weekly benefit:  $\$572.66 + \$142.09 = \$714.75$

### Maximum Benefit

Beginning in 2021, an initial weekly benefit cap of \$850 will apply. After 2021, the maximum weekly benefit will be 64% of the SAWW. The maximum weekly benefit for coming years will be established annually by Oct. 1 and take effect the following Jan. 1.

*Example.* In January 2021, Lena takes PFML for her own serious health condition. Lena's AWW during the base period is \$1,800. Assuming the current SAWW of \$1,431.66, Lena's AWW exceeds 50% of the SAWW. Her weekly benefit is the maximum amount of \$850, calculated as follows:

Step 1 and 2. Same as example above:  $\$1,431.66 \div 2 = \$715.83 \times 80\% = \$572.66$

Step 3. Calculate Lena's AWW above 50% of the SAWW:  $\$1,800 - \$715.83 = \$1,084.17$

Step 4. Calculate 50% of Lena's AWW above 50% of the SAWW:  $\$1,084.17 \times 50\% = \$542.09$

Step 5. Add the figures from step 2 and step 4:  $\$572.66 + \$542.09 = \$1,114.75$

Step 6. Limit Lena's weekly benefit in step 5 to the 2021 maximum weekly benefit: \$850.

The weekly benefit amount is reduced by amounts received from unemployment insurance, workers' compensation, other state or federal temporary or permanent benefits, or the employer's permanent disability policy or program.

#### TAX IMPLICATIONS OF CONTRIBUTIONS AND BENEFITS

The corporate excise and personal income tax implications of PFML contributions and benefits are governed by federal law. Tax issues related to contributions to — and benefits from — PFML programs are part of the IRS's [2019–2020 Priority Guidance Plan](#). The Massachusetts Department of Revenue (DOR) has indicated that it will provide information about the tax treatment of PFML contributions and benefits as soon as IRS guidance is available. Until then, individuals and employers should consult their tax advisors for answers.

In the meantime, Massachusetts regulators say employers should withhold employee contributions from after-tax wages and [report](#) those contributions in Box 14 (Other) of Form W-2 as "MAPFML."

#### COORDINATION WITH OTHER AVAILABLE LEAVE

**Employer-paid leave.** Employers cannot require employees to use any accrued sick, vacation or other paid time-off before or during PFML. But employees may choose to use accrued paid time-off from an employer rather than taking benefits through the PFML program. If an employee chooses to use accrued leave paid by the employer, the employer-provided leave will run concurrently with the allowed PFML period. Employers may have to comply with employee notice and DFML reporting obligations when this occurs. Alternatively, employers can provide paid leave that supplements the state PFML weekly benefit, as long as the aggregate amount does not exceed the employee's average weekly wage.

**Other state-mandated leave.** PFML will run concurrently with leave under the state's [Parental Leave Act](#), when the underlying reason qualifies for both types of leave. PFML does not run concurrently with paid leave accrued under the [Earned Sick Time Law](#).

**Federal FMLA leave.** PFML also will run concurrently with leave under the federal FMLA when the leave is eligible under both laws. A recent Department of Labor (DOL) [opinion letter](#) counsels employers not to

delay designating qualifying leave as FMLA leave once an employee communicates the need to take leave. Neither the employee nor the employer can decline FMLA protection for that leave, even if the employee would prefer a delay.

Employers should note that some employees may be eligible for wage-replacement benefits and job protections through the Massachusetts PFML program, even if they aren't eligible for job-protected leave under FMLA. This is because FMLA eligibility requires one year and 1,250 hours of service with a covered employer, whereas the PFML law does not condition eligibility on a minimum length of employment with a Massachusetts employer and instead requires only a financial eligibility test. In addition, the definition of family member is more expansive and the duration of leave for an employee's own serious health condition is longer under the PFML law than under the federal FMLA.

### **JOB PROTECTIONS, BENEFITS AND RETALIATION**

Employers will have to restore any employee returning from PFML to the same or an equivalent position with the same status, pay, benefits and seniority. During the leave, an employer must continue to provide for and contribute to the employee's health insurance benefits at the same level as before the leave. Employees must remit their portion of the coverage premium as required by the employer's uniformly applied policies or practices.

#### **Accruals**

Although employers do not have to credit periods of PFML as service for benefit accrual, vesting and eligibility purposes, taking PFML cannot affect a reinstated employee's right to resume accruing vacation time, sick leave, bonuses, advancement, seniority, length-of-service credits, or other employment benefits, plans or programs. For example, if an employer's company policy is to provide vacation or sick time and other benefits based on the number of hours worked, PFML periods don't have to be credited as hours worked for those benefit accruals, as long as the employer uniformly applies this policy and practice.

#### **Retaliation**

Retaliation or threatened retaliation against an employee for exercising PFML rights, filing a complaint or participating in a proceeding related to the employer's compliance is prohibited. Any adverse change in employment or benefits during — or within six months after — a protected leave will be presumed to be retaliation. An employer must be able to demonstrate by clear and convincing evidence that any perceived retaliation is not related to an employee's request for or use of PFML. Employees have three years to bring a civil action for any violation of the law's job protection and anti-retaliation provisions.

#### **Exceptions**

Employers don't have to restore a returning employee to his or her job or an equivalent position if economic conditions have led to layoffs and eliminated suitable positions. Employers don't have to restore an employee who was hired to work only for a specific term or on a discrete project if the employment term or project has ended.

An employer may require an employee on approved leave to comply with reasonable attendance and call-in procedures. Employers also may require a fitness-for-duty certification for employees returning after their own serious health condition, if the policy is applied uniformly.

#### **PRIVATE PLAN OPTION**

An employer may [apply](#) to the DFML via MassTaxConnect to use a private plan for medical leave, family leave or both. Employers that receive approval are exempt from paying into and participating in the state program. To qualify for an exemption, a private plan must confer all the same benefits as the state plan, charge employees no more than the state plan's employee contribution, and include the same benefit and job protections provided by the state.

Employer-provided benefit plans established before the PFML law may need to expand in some aspects to satisfy these requirements. Provisions that commonly need amending include the following:

- The plan must apply to *all* employees, not just full-time or benefits-eligible employees.
- The state's definition of "serious health condition" may not align with the employer plan's definition.
- An approved plan must allow intermittent leave.

Employers contemplating a private plan may find it easier to establish a new plan meeting the law's requirements than to amend an existing plan. Private plans may be insured or self-insured.

The DFML accepts and reviews exemption applications on a rolling basis. If approved, private plans can take effect no earlier than the quarter immediately after the approval date and must be renewed annually.

#### **Insured Plans**

Insured plans must be issued by a Massachusetts licensed carrier. Employers must include a signed [declaration of insurance](#) with a private plan exemption application. The Division of Insurance (DOI) has published [a list of insurance carriers](#) that can provide a PFML declaration of insurance meeting state standards. This list will continue to be updated.

The DOI is expected to issue standards for carriers to develop and submit PFML policies. Once those standards and policies are issued, employers may have to include the carrier policy with the exemption application submitted to the DFML.

#### **Self-insured Plans**

A self-insured plan must obtain DFML approval and furnish a [surety bond](#) that is issued by a Massachusetts licensed company and names the state as the obligee. The amount of the bond is based on the size of the employer's Massachusetts workforce, and the bond value may change depending upon the effective date of the exemption. Private plans with an effective date of Oct. 1, 2019, or Jan. 1, 2020, must furnish a contributions bond, enabling the state to recover PFML contributions if the employer discontinues its self-insured PFML private plan before Jan. 1, 2021, when benefits become available.

Employers must renew a self-insured private plan via MassTaxConnect before the bond expires (Sept. 30, 2020, for plans effective Oct. 1, 2019; Dec. 31, 2020 for plans effective Jan. 1, 2020). A new bond will be required to cover the repayment of PFML contributions if the employer discontinues its PFML private plan, as well as to provide paid family and/or medical leave benefits to its covered workforce on or after Jan. 1, 2021. Because of the additional financial obligations beginning in 2021, the renewal bond value will be greater than the initial contributions bond value.

### **Withdrawal of Approval**

The DFML can withdraw private plan approval for any number of reasons, including failure to pay benefits or maintain an adequate bond, misuse of trust funds, or deterioration of the company's financial condition. An employer that fails to maintain or renew the private plan or loses the plan's approval can face penalties equal to the employer's total annual payroll for covered employees times the then-current annual PFML contribution rate, plus repayment for any benefits the state trust fund pays to covered employees.

### **Additional Provisions**

Employees covered by an approved private plan may appeal benefit denials to the DFML. In addition, the agency may audit an employer's private plan and may require periodic reporting. Employers providing a private plan must retain all relevant records and reports for three years.

An employer must notify the DFML at least 30 days in advance of any proposed private plan changes. Employers that do not intend to renew a private plan after the termination date must notify covered employees and the DFML at least 30 days in advance. Employers that terminate private plans must continue paying benefits for the approved duration of any leave that began prior to the termination date.

### **Pros and Cons of a Private Plan**

Employers with Massachusetts employees should carefully consider whether a private plan is their best option. Under the PFML law, employers have the flexibility to establish a private plan for the medical leave, the family leave or both. A private plan gives an employer more control over the employee experience, better access to claim information and better coordination with other benefits, such as parental leave and short-term disability. In addition, a private plan potentially could reduce employer costs while providing enhanced benefits to employees.

On the other hand, a private plan must cover all Massachusetts employees, including part-time and seasonal employees who normally might not be eligible for employer-sponsored benefits. With a private plan, the employer has the burden of properly administering PFML benefits (even if a third-party administrator is used), and the cost savings could be less than expected if the plan has high utilization. If the private plan is self-insured, the maximum permissible employee contributions and standard employer contribution might not be enough to cover the benefits used, leaving the employer responsible for the remaining costs.

When deciding whether to offer a private plan, employers should take into consideration workplace culture, benefit cost, complexity of administration — alone and in combination with the employer's other programs — and any prior utilization of certain benefits.

## EMPLOYER ACTIONS

In preparing for PFML compliance, Massachusetts employers may want to review these steps, if not already done:

- Register with MassTaxConnect, unless an account is already set up.
- Display the PFML poster.
- Determine workforce size, and calculate employer and employee financial responsibilities.
- Decide whether to use the public program, a private plan or a combination.
- If using a private plan, secure a bond or a declaration of insurance, and apply for exemption.
- Notify covered employees (current and new) in writing about the PFML law and benefits.
- If participating in the state program, make payroll withholdings based on contribution rates, and prepare to remit quarterly to the state (first filings due by Jan. 31, 2020).
- Determine how to integrate and coordinate PFML with other employer-provided benefit programs.
- Evaluate and address equity issues for employees in other states.
- Watch for additional details from the DFML regarding the claim process.
- Look for additional IRS guidance on tax implications of PFML contributions and benefits.
- Before 2021, revise employee handbooks describing benefits, leave rights and coordination policies.

## RELATED RESOURCES

### Non-Mercer Resources

- [Mass. Gen. Laws ch. 175M](#), Family and Medical Leave (MA General Court)
- [458 Mass. Code Regs. 2.00](#), Final PFML Regulations (MA DFML, June 18, 2019)
- [PFML Workplace Poster](#) (MA DFML, June 14, 2019)
- [PFML Model Notices](#) (MA DFML)
- [Surety Bond Requirements for Approved Self-Insured Plans](#) (MA DFML)
- [MA DFML website](#)

**MASSACHUSETTS READIES FOR PAID FAMILY AND MEDICAL LEAVE**

- [Paid Family and Medical Leave Exemption Requests, Registration, Contributions and Payments](#) (MA DOR)
- [MassTaxConnect](#) (MA DOR)
- [List of Insurance Carriers Meeting PFML Standards](#) (MA DOI, Nov. 22, 2019)
- [Filing Guidance Notice 2019-1: Guidelines for Interim Use of Declarations of Insurance for PFML](#) (MA DOI, Sept. 16, 2019)
- [Parental Leave in Massachusetts](#) (MA Commission Against Discrimination)
- [Earned Sick Time](#) (MA Office of Attorney General)
- [Family and Medical Leave Act](#) (US Department of Labor)

**Mercer Law & Policy Resources**

- [Massachusetts Delays, Increases Paid Family and Medical Leave Contribution](#) (June 14, 2019)
- [Family and Medical Leave Designations Can't Be Delayed, DOL Says](#) (May 31, 2019)
- [Massachusetts Updates Draft Paid Family and Medical Leave Rules, Posts Model Notice](#) (April 23, 2019)
- [Massachusetts Launches New Paid Family and Medical Leave Website](#) (Jan. 15, 2019)

**Other Mercer Resources**

- [Think Globally, Comply Locally: How Employers Navigate Leave Laws](#) (Nov. 15, 2018)
- [Will You Be the Last Kid on the Block To Add Paid Parental Leave?](#) (Oct. 22, 2018)
- [Life, Absence and Disability](#)

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