



Law & Policy Group

GRIST

New Hampshire enacts voluntary paid family leave program

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New Hampshire has enacted the Granite State Paid Family Leave Act, with a target program start-up date of Jan. 1, 2023. Signed June 28 by Gov. Christopher Sununu, the legislation ([2021 Ch. 91](#), HB 2) will extend cost-free paid family leave to state government employees. The program will be open on a voluntary basis to other public employers, private employers with more than 50 employees, and New Hampshire employees whose private employers do not opt into or qualify to participate in the program. The law doesn't specify whether an employer must have 50 employees in the state or anywhere to participate. The [Department of Administrative Services \(DAS\)](#) will establish rules for base periods, minimum participation requirements, any open-enrollment period parameters and procedures for contributory plans, including payroll deduction and payment of contributions to a newly established Family and Medical Leave Insurance (FMLI) premium fund.

Insurance logistics

The DAS may issue a request for information or proposals to secure FMLI coverage from a licensed New Hampshire carrier for all eligible state government employees. The goal is to make "advantageously priced coverage" available to all other public employers in the state and private employers with more than 50 employees. Employers that opt in to the program will contract directly with the winning bidder.

Plan participation

The plan will be open to employees of participating employers. Private and public nonstate employers will receive a premium rate derived from the state's rate by applying actuarially justified rating factors specified in the bid response. The employer may decide whether to require employee contributions, but must maintain minimum participation. A tax credit will cover 50% of the premium paid in the taxable period by a sponsoring employer for FMLI coverage offered to employees.

New Hampshire employees whose employers don't opt into or qualify to participate in the program will be able to enroll through a purchasing pool during a 60-day annual open-enrollment window established by the DAS. Coverage will be subject to a seven-month waiting period for benefits eligibility and a one-week elimination period for claim payments to begin. The purchasing pool may be experience rated. Weekly premiums will be capped at \$5 per employee.

Eligible leave

Employees can use FMLI leave to bond with a new child, care for a seriously ill family member, tend to a covered seriously ill or injured service member who is next of kin, or handle a [military exigency](#) covered by the federal [Family and Medical Leave Act](#) (FMLA). Family members include a child; a child's biological, adoptive, step- or foster parent; a child's spouse or domestic partner, a biological, adoptive, step- or foster grandparent; or a spouse or domestic partner. Leave for a serious health condition (medical leave) may be available to employees of private or nonstate employees whose employers do not provide a short-term disability plan. Medical leave is not available to state employees.

Benefits

The maximum duration of FMLI benefits will be 6 weeks per year, with no minimum increment. The law mentions a one-week waiting or elimination period, but authorizes the DAS to implement a plan without this provision. Eligible employees will receive 60% of their average weekly wage (AWW) during FMLI leave. Wages used to determine the AWW will be capped at the Social Security taxable maximum. Employees also eligible for FMLA retain their rights under the federal law, including continued medical benefits.

Looking ahead

Employers that don't offer paid family leave benefits because of the cost may find the New Hampshire program attractive due to the larger risk group and state tax credit. State regulators have until March 31, 2022, to begin the bidding process and another nine months — until Jan. 1, 2023 — to have the program in place. For employers that intend to participate, this timeline is a fairly short, but the statute doesn't specify details for private employer participation. Interested New Hampshire employers should closely follow any DAS regulatory guidance on the program.

Related resources

Non-Mercer resources

- [2021 Ch. 91](#), HB 2 (New Hampshire General Court, June 28, 2021)

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- [2021 state paid family and medical leave contributions and benefits](#) (Jan. 20, 2021)

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