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Frequently Asked Questions

2023

Massachusetts Paid Family and Medical Leave (MA PFML)

Group Insurance

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PROGRAM OVERVIEW

What is the Massachusetts Paid Family and Medical Leave (MA PFML) Law?

The MA PFML law offers employees access to paid time off for qualifying leave events, including childbirth and seeking treatment for serious health conditions for employees or their families. Qualifying family and medical leave reasons include:

Family Leave	Medical Leave
• To care for a serious ill family member • To bond with a newborn, adopted or foster child • For a qualifying military exigency for a family member's active or impending active duty *or* • To care for an ill or injured service member	• For an employee's own serious health condition

MA PFML benefits became available to Massachusetts employees beginning January 1, 2021.

PFML Benefits At-A-Glance – 2023

Benefit Percentage	Maximum Benefit Amount 64% of SAWW**	Waiting Period	Leave Duration - Up To (Includes unpaid waiting period)
The sum of: • 80% of the portion of the employee's Average Weekly Wage (AWW) that is equal to or less than 50% of State Average Weekly Wage (SAWW); PLUS • 50% of the portion of the employee's AWW that is greater than 50% of SAWW	$1,129.82 **SAWW determined in October of each year and is effective January 1 of the following year. Current SAWW is $1,765.34	• 7 days • None if bonding leave immediately follows maternity medical leave.	• 20 weeks: Medical Leave • 12 weeks: Bonding, Family Leave and Military Exigency • 26 weeks: Military Caregiver **Note:** Employees may not take more than 26 weeks for all leave reasons in a Benefit Year

Does MA PFML offer job protection?

Yes. Leaves for a qualifying reason are job-protected.

Who administers the program?

The state program is administered by the Massachusetts Department of Family and Medical Leave (DFML). Employers also have the option to file a private plan rather than participate in the state plan through DFML. Please refer to the Private Plan Options section of this FAQ for more information.

Which employers are required to provide paid family and medical leave coverage?

All private employers with one or more employees working in Massachusetts will be required to provide paid family and medical leave coverage. Municipal employers, districts and their instrumentalities are exempt, along with self-employed individuals. However, these groups can opt-in to the state program if they meet certain requirements.

What plan options are available to employers to comply with MA PFML?

Employers have two options:

- State Plan administered by the DFML, *or*
- Provide coverage through a Private Plan

Private Plan options are:

- Insure coverage through an insurance carrier, such as Prudential, *or*
- Self-insure benefits

Note: Participation in the state plan is automatic unless the employer files and is approved by the DFML for a Private Plan (insured or self-insured). Self-insured programs will also require a surety bond.

Employers are permitted to split the Medical and Family Leave coverage between the State Plan and a Private Plan. For example, an employer may have a Private Plan for Medical Leave and the State Plan for Family Leave. For the best employee experience and to eliminate any administration concerns, it is recommended that the Medical and Family Leave be administered by the same party.

Who is eligible for benefits? And what requirements do these individuals need to meet?

Eligibility is not measured by the number of hours worked for the employer. Rather, employees are eligible for MA PFML if they meet the eligibility requirements of the Commonwealth's unemployment compensation law (also known as the Financial Eligibility Test).

- Full-time, part time, and seasonal employees as well as employers with more than 50% of its workforce as contractors (i.e.,1099-MISC employees) will be required to treat contractors as "covered individuals."
- Earnings requirement: Employees must meet financial eligibility requirements to be eligible, which is based on the Massachusetts Department of Unemployment Assistance's Financial Eligibility Requirements. In summary, the Department uses the employee's base period earnings to determine their average weekly wage (AWW). The financial eligibility requirement is satisfied if they earn enough to meet the minimum threshold (currently $5,700 in earnings and at least 30 times the benefit amount).
- Eligibility is based on the amount of compensation that the employee has earned while working for any employer in Massachusetts during the last 4 completed quarters --- not the specific employer. Therefore, new employees may be eligible if they previously satisfied the eligibility requirements during the requisite time period at a prior Massachusetts employer.
- A former employee continues to be eligible for benefits if the employee has been separated from employment for not more than 26 weeks at the start of the leave.

Note: Private Plans may elect to forgo the Financial Eligibility Test.
Prudential's standard product offering ***will not apply*** a Financial Eligibility Test.

How much can an employee be asked to contribute to the plan?

Under the state or private plan, contributions are capped at a percentage of the employee's wages up to the annual Social Security Maximum of $160,200. Contributions may be shared between the employee and the employer; however, an employee cannot pay more than the state allowable maximum rates.

State's Plan:
The maximum *employee* contribution for Medical and Family leave combined will be 0.318%. Employers pay for a portion of the Paid Medical Leave cost, unless they have fewer than 25 Massachusetts employees, in which case the employer contribution is waived.

Contribution % based on the employee cap	Paid Medical Leave Employer/Employee	Paid Family Leave 100% Employee Paid	Total Contribution
Employee	.208%	0.11%	0.318%
Employer	.312%	0%	0.312%
Total	**.52%**	**0.11%**	**0.63%**

Prudential's Plan:

- The cost of coverage may be higher or lower than the state plan; and employer contributions are not waived, regardless of the number of Massachusetts employees.
- Employers are only permitted to collect the same amount from employees that they would have paid under the state plan. Employers would pay the difference, if any.

How does Massachusetts define covered family members?

Leave to care for a seriously ill family member is permitted under the family leave. Covered family members are:

• Spouse or domestic partner • Child • Parent/Parent-in-law • Sibling	• Grandchild • Grandparent • A person who stood in *loco parentis* to the covered individual when the covered individual was a minor child.

EMPLOYER RESPONSIBILITIES

- **Learn More**
  Access the Employer Toolkit and other employer resources on the state's website at:
  https://www.mass.gov/doc/employer-toolkit-for-paid-family-and-medical-leave/download

- **Poster**
  Employers must display a workplace poster approved by the DFML that explains the benefits available to their employees. Poster will need to be updated annually. We recommend employers periodically check the website for updates. https://www.mass.gov/info-details/informing-your-workforce-about-paid-family-and-medical-leave#workplace-poster-

- **Informing your employees**
  Employers must provide written notification to their employees of MA PFML benefits, contribution rates and other provisions as outlined in the law. Contribution rates and benefit amounts are updated annually.
  - New Employees: Written notice is required within 30 days of hire.
  - Current employees: Written notice is required 30 days in advance of the rate change.

  For written notification and rate sheet templates, see the MA PFML website: Informing your workforce about Paid Family and Medical Leave | Mass.gov

PRIVATE PLAN OPTIONS

Employers have the option to opt out of the Commonwealth's paid family and medical leave program and fulfill their obligations under the law through a private plan. Private plan alternatives must be approved by the Department and must provide employees with the same rights, protections, and benefits as the state plan. Employers can have private plan alternatives for both family and medical leave or for just family or medical leave.

What can a private plan have for an effective date?

If an employer is moving out of the state plan to a private plan, the effective date must be the first day of a quarter (ex. January 1 or April 1). The state will not approve new private plans with retroactive or off-quarter effective dates. However, if an employer is moving a private plan from one insurer to another or from a self-insured private plan to an insured private plan, there are no restrictions on effective dates.

What is the process to apply for an exemption?

- Application is available on MassTaxConnect on Department of Revenue website.
- Employer must state whether the private plan is for medical leave, family leave or both benefits.
- Employer must advise whether the private plan is insured or self-insured.
    - ***If self-insured, employer will be required to post a bond.***
- Employer must answer certain questions to show that the plan will comply with MA PFML.
- Employer must upload a copy of the Confirmation of Insured Policy Form document for an insured plan or the Self-Insurance Declaration document for a self-insured plan.
- **Important!** Employers with multiple FEINs need to apply separately for each entity.

Do employers need to renew their private plan exemption?

Employers will be required to renew their exemption annually before the expiration date through MassTaxConnect. The expiration date can be located in the employer's initial approval letter. The renewal process begins during the quarter prior to the expiration of their exemption. (i.e., If their exemption expiration date is December 31, they can begin the renewal process starting October 1).

Note: Prudential will provide the necessary document to be used in the application and renewal process.

What is required if a customer switches from another carrier?

If a new Prudential customer currently has a private plan exemption with another carrier, the customer will need to inform the state via MassTaxConnect of this change within 30 days of being effective with Prudential. As part of the notification process, Prudential will need to provide the customer with either the Confirmation of Insured Policy Form document for an insured plan or the Self-Insurance Declaration document for a self-insured plan. In addition, Prudential will want to know the customer's current private plan exemption date to determine their next renewal period.

What if an employer acquires a new associated company?

If an employer acquires a new associated company with Massachusetts employees, the employer must file the new entity's FEIN with the state. Contact Prudential for review for any impact to the private plan.

What if an employer terminates or does not renew their private plan?

Employers who terminate or do not renew their private plan are required to notify their covered employees and the DFML no later than 30 days prior to the effective date of the termination. Employers may notify the Department by calling the Department of Revenue Paid Family and Medical Leave Contact Center at (617) 466-3950 or they may send an e-message via your MassTaxConnect account explaining they do not intend to renew their MA PFML exemption.

What services will Prudential provide as the private plan administrator?

- **Private Plan application support**
  For both the initial and renewal private plan exemption, Prudential will provide the necessary Confirmation of Insured Policy Form or the Self-Insurance Declaration document.

- **Claim Management and Payment**
  Prudential will perform all claim management and payment tasks for MA PFML claims in compliance with MA PFML statutory requirements.

- **Plan Summaries**
  Upon request, Prudential will provide a one-page summary of MA PFML plan provisions that the employer can distribute to eligible employees.

For more information on Private Plans:
https://www.mass.gov/info-details/benefit-requirements-for-private-paid-leave-plan-exemptions

CLAIMS ADMINISTRATION

How can employees file a claim?

When Prudential is the private plan administrator, employees can submit their medical or leave application by:

- Logging in to www.prudential.com/mybenefits and click on “Claims and Absence” and then “File a Claim/Report an Absence” or
- Calling Prudential at 1-877-367-7781

For State Plans:
Please refer to MA PFML Claim Submission Information for information on how to submit a claim through the state plan.

What are the employee notice requirements to the employer?

If the need for leave is foreseeable, employees must notify the employer in writing at least 30 days prior to the commencement of the leave. Where the need for leave is not foreseeable or 30 days advance notice is not practicable, the leave should be submitted as soon as reasonably possible.

What documentation is required for applying for benefits?

The documentation required will vary based upon the reason for leave. For example:

- Care of a seriously ill family member – Health care provider certification
- New child bonding – Documentation may include proof of maternity/paternity, foster care placement, or adoption
- Military exigency – Active-duty orders, letter of impending call to duty, or documentation of military leave

Specifics regarding the documentation required will be provided to the employee.

Can benefit payments be issued to the employer as reimbursement?

Prudential's Private Plan: Yes, employers may choose to be reimbursed provided the salary continuation payments already issued are greater than or equal to the MA PFML benefit. Benefits may be paid while the employee receives Accrued Paid Leave and PFML. When Accrued Paid Leave and MA PFML is taken concurrently, the total paid leave benefits combined should not equal more than the employee's current wages.

The State's plan: See the website link below for information on the state's employer reimbursements requirements.
https://www.mass.gov/info-details/reimbursements-for-qualifying-paid-leave-plans-through-pfml

Do spouses working for the same employer have to share leave allotments?

No. MA PFML provides employees with up to 12 weeks of leave to bond with a child after the child's birth, adoption or foster care placement, so long as the bonding leave takes place within one year of the child's birth. If both parents work for the same employer, both parents are separately entitled to up to 12 weeks of PFL to bond with the child and can choose whether or not to take PFL at the same time.

Can leave be taken on an intermittent basis?

Yes, Intermittent leave can be taken in increments consistent with the established policy the employer already uses for other forms of leave, not to exceed 1 hour. Leave can be taken on the following basis:

Leave can be taken on the following basis:

- Continuous leave
  - May use when taking leave from work completely for days or weeks at a time.
- Reduced Schedule-adjustment of working hours less than the routine schedule
  - May use when working a reduced work schedule that is still consistent week-to-week.
- Intermittent Leave
  - May use time for doctor's appointments, physical therapy, chronic conditions, etc.

How will an employer's Short-Term Disability (STD) plan coordinate with MA PFML?

Prudential's standard insured STD policies permit loss of time disability income from state mandated programs to be offset from the STD benefits payable. In the case of MA PFML, medical leave is income the employee receives because they are unable to work due to their medical condition, which is loss of time disability income. To the extent that an employee qualifies for both STD and MA Paid Medical Leave at the same time, Prudential would offset or deduct benefits received from MA Paid Medical Leave from the STD Plan.

If an employer has a self-insured STD plan, they should review their plan to determine if the language of the plan permits this type of offset.

How does MA PFML interact with state and federal leave laws?

Leave taken under MA PFML shall run concurrently with leave taken under other applicable state and federal leave laws, including the Massachusetts Parental Leave Act and the federal Family and Medical Leave Act (FMLA), when the leave is for a qualified reason under those acts.

Can an employee appeal if they have been denied benefits?

Yes, employees have the right to appeal their Paid Family and Medical Leave decision to Prudential and then the state. For employers with STD Advice-to-Pay (ATP) or Administrative Services Only (ASO) plans, the appeal will be reviewed by the employer and then with the state.

Are taxes automatically withheld from benefits?

Prudential Private Plans:

- **Paid Family Leave:**
  No. Taxes will not be automatically withheld from the benefits, but employees can request federal income tax withholding of 10%.

- **Paid Medical Leave:**
  Yes. Paid Medical leaves are treated similarly to disability income, and taxes are automatically withheld from benefits.

State Plan Administered:

Refer to link below for information on tax withholding: https://www.mass.gov/info-details/taxes-on-paid-family-and-medical-leave-pfml-benefits

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COMPARE MA PFML WITH FMLA

How does MA PFML compare with the Family and Medical Leave Act (FMLA)?

Important distinctions between MA PFML and FMLA include, but are not limited to, those summarized in the table below.

	MA PFML	FMLA
Employer Eligibility	Company with 1 or more Massachusetts employees	Company with 50 or more employees
Employee Eligibility	A current employee of a Massachusetts employer; Financial Eligibility Test may apply A self-employed individual who has elected coverage under the Act and reported self-employment earnings; and A former employee, assuming that the employee has not been separated from employment for more than 26 weeks at the start of the former employee's family and medical leave	• 1 year of service • Worked 1,250 hours in the year immediately preceding the leave
Job Protection	Yes. Employee reinstated to same or comparable position with equivalent benefits, pay and other terms and conditions of employment in effect prior to leave.	Yes. Employee reinstated to same or comparable position with equivalent benefits, pay and other terms and conditions of employment in effect prior to leave.
Maximum duration	• Family leave – Up to 12 weeks in a benefit year (up to 26 weeks for military caregiver leave) • Medical leave – Up to 20 weeks in a benefit year • Combined – Up to a combined 26 weeks in a benefit year	Up to 12 weeks of **unpaid leave** within a 12-month period as defined by the employer
Eligible leave reasons	• Employee's own serious health condition • To care for a seriously ill family member • New child bonding • Military exigency • Military caregiver	• Employee's own serious health condition • To care for a seriously ill family member • New child bonding • Military exigency • Military caregiver
	Partial day increments are permitted	Partial day increments are permitted

Definition of family member	• Spouse (includes same-sex and common law) • Domestic partners • Child (biological, adopted, foster) • Parent (biological, adopted, foster and in loco parentis) • Parents-in law • Grandparents • Grandchildren	• Spouse (includes same-sex and common law) • Child (biological, adopted, foster) • Parent (biological, adopted, foster and in loco parentis)
Health benefits	Must maintain existing employee health benefits as if the employee continued to work	Must maintain existing employee health benefits as if the employee continued to work
Use of PTO	Employer may not require employees to use vacation or PTO time concurrent with PFML	Employer may require employees to use vacation or PTO time concurrent with FMLA

ADDITIONAL RESOURCES

Where can an employer find more information about the MA PFML program?

Additional information is available at:

- Employer guide and other helpful information:
  https://www.mass.gov/guides/employers-guide-to-paid-family-and-medical-leave
- Premium Contributions:
  https://www.mass.gov/info-details/paid-family-and-medical-leave-employer-contribution-rates-and-calculator
- Employer required notifications:
  Informing your workforce about Paid Family and Medical Leave | Mass.gov
- Benefits calculator: State Paid Leave Plans
  https://calculator.digital.mass.gov/pfml/yourbenefits/
- Private plan options:
  https://www.mass.gov/info-details/benefit-requirements-for-private-paid-leave-plan-exemptions
- Private plan annual renewal requirements:
  https://www.mass.gov/info-details/renewing-your-private-plan-exemption
- Frequently Asked Questions - Paid Family and Medical Leave exemption requests, registration, contributions, and payments:
  Paid Family and Medical Leave exemption requests, registration, contributions, and payments | Mass.gov

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