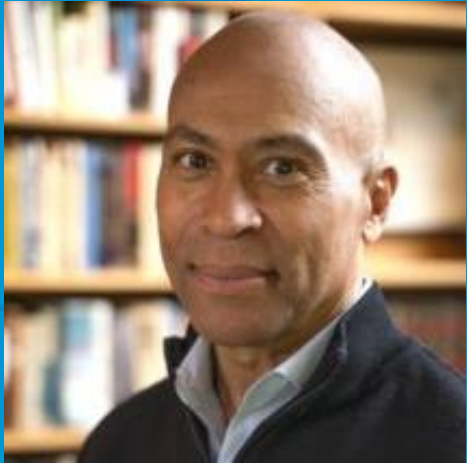




Implementing the Massachusetts Paid Family and Medical Leave (PFML) Program

Featuring William Alpine, Director,
Department of Family and Medical Leave,
Commonwealth of Massachusetts

Tuesday, October 27, 2020



What It Means To Be an American Today

A Conversation with Governor Deval Patrick

Wednesday, November 18, 2020

Speakers



William Alpine
Director, Dept. of Family and
Medical Leave,
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Emily Grannon Fox
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DFML

MA Department of
Family and Medical Leave

Presented by:

Bill Alpine

Director, Department of Family and
Medical Leave



The Grand Bargain: H.4640

- Established:
 - A permanent Sales Tax Holiday
 - Increase in the Minimum Wage
 - **A Paid Family and Medical Leave Program**
- Statute:
 - MGL c.175M as added by St. 2018, c.121





Program Timeline





What's Covered?

Family Leave

Bonding



Leave to bond with the covered individual's child during

- the first 12 months after the child's birth or
- the first 12 months after the placement of the child for adoption or foster care with the covered individual

Up to 12 weeks

Caring



Leave to care for a family member with a serious health condition.

Up to 12 weeks

Active Duty



Leave arising out of the fact

- that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces or
- in order to care for a family member who is a covered servicemember.

Up to 26 weeks

Medical Leave

Own Medical



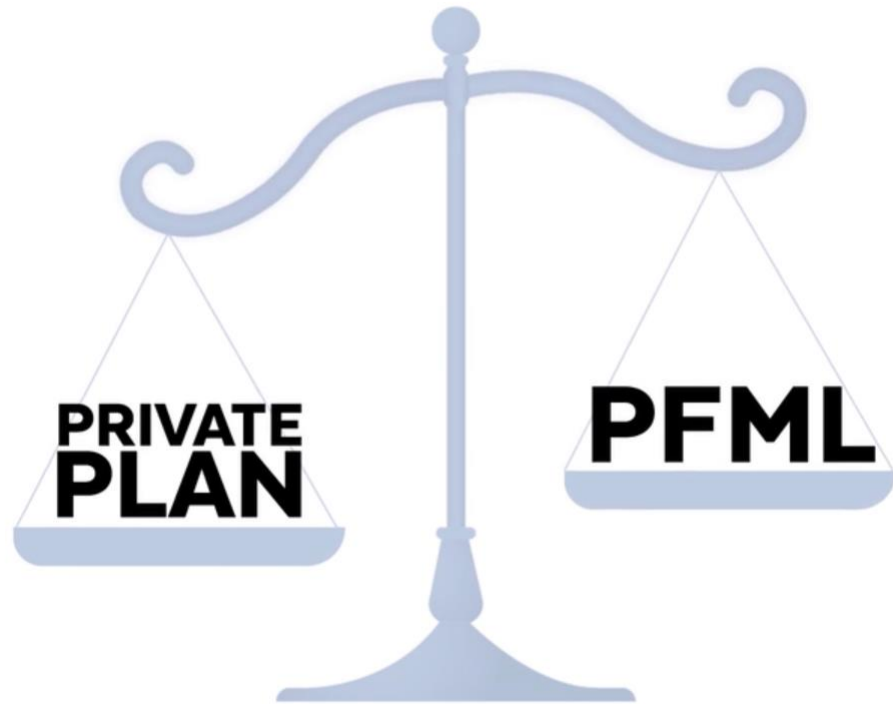
Leave to care for an individual's own serious medical condition

Up to 20 weeks

Aggregate Up to 26 weeks in a benefit year



Exemptions



- Employers offering paid family and/or medical leave programs for their workforce can apply for exemptions from withholding and remitting PFML contributions.
- Private plan options must be as generous or better than the state plan with respect to workforce benefits, contributions, and rights and protections.
- Exemption applications are available now on MassTaxConnect at <https://mtc.dor.state.ma.us/mtc/>.



Exemptions

- Self-insured (self-funded) plans require a surety bond and completed self-insured insurance declaration document. A bond form and instructions are now available at <https://www.mass.gov/info-details/bond-requirements-for-approved-self-insured-plans> (revised as of 9/8/20)
- An approved exemption under a self-insured or purchased private plan may begin on or before January 1, 2021. However, employers may be responsible for retroactive contributions if the plan does not begin as scheduled on that date.
- Applications for exemptions to begin on October 1, 2020 are due on or before September 30, 2020.

DFML

MA Department of
Family and Medical Leave

Update on Regulations



Regulations - Changes to Definitions

- **Accrued Paid Leave** - Expanded definition.
- **Active Duty** - Changed definition to require foreign deployment as a condition precedent.
- **Average Weekly Wage** - Clarified definition to address multiple employers.
- **Average Working Week** – New definition.
- **Base Period** – Clarified definition.
- **Continuing Treatment by a Health Care Provider** - Added allowance for telehealth in section (a)(3).
- **Extended Illness Leave Bank** – New definition.



Changes to Definitions

- **Financial Eligibility Test** - Expanded definition to address calculations where there are multiple employers.
- **Intermittent Leave** – Changed to allow usage in 15-minute increments consistent with employer policies provided, however, that payment by the Department will not be made in requests of less than 8 hours.
- **Job Protected Leave** – Clarified that use of a disability policy of an employer, a paid leave policy of an employer and Extended Illness Leave Bank program of an employer will begin job protected leave and such time will run concurrently with the DFML benefits.



Changes to Sections

- Changed titles of **2.08**, **2.09**, **2.12** and **2.16**.
- **2.06(8)** - Clarified reference to Horace Mann Charter Schools.
- **2.07(1)(c)** – Clarified eligibility for covered individuals to require coverage under a private plan.
- **2.07(1)(c)(2)** – Extended timeline that Department can notify an employer of a change in the term of an approved exemption from 30 to 60 days.
- **2.07(2)(e)** -Clarified criteria for financial eligibility and leave benefits under a private plan.
- **2.07(8)(b)** – Clarified coverage where an employer terminates a private plan or leaves the state plan for a private plan or transfers among private plans.



Changes to Sections

- **2.07(c)** – Clarifies that covered individuals can begin to file applications for benefits with the Department on the first day of the first quarter following an employer’s termination of a private plan.
- **2.07(8)(e)** – Addresses coverage of former employees and how applications for benefits are filed depending on whether covered individual is employed or unemployed at the time of filing.
- **2.08(10)** – New section to address substance use disorder.
- **2.10(1)** – Clarifies that each request for intermittent leave shall require recertification consistent with new definition of intermittent leave.



Changes to Sections

- **2.10(2)** – Obligates covered individual to notify the Department within 7 days of a change in circumstances affecting benefits.
- **2.12(2)** – Clarifies that benefit determinations will be based on wages earned with a specific employer.
- **2.12(4)** – Deleted references to allowing the Department to limit benefits based on benefits or wages received from other employers.
- **2.12(4)** - Clarifies that leave in the case of multiple employers does not need to be taken at the same time.
- **2.12(7)** – Clarified that 7-day waiting period commences job protected leave period.
- **2.12(8)(a) and (c)** – Clarified the effect on use of time provided by employer towards DFML benefits.
- **2.12(9)** – Clarified situations in which employer is entitled to reimbursement.
- **2.16(3)** A negative change shall not include trivial, or subjectively perceived inconveniences that affect de minimis aspects of an employee's work.
- **2.16(3)** A notification to the Department by an employer, under a bona fide belief that the employee has committed fraud in connection with the employee's application for benefits, shall not give rise to an action of retaliation or presumed retaliation under 458 CMR 2.16.



The Employer's Role in PFML

The Department will not accept a claim from an employee unless the employee certifies that their employer has been notified of the intended leave

Employers will be notified through the system when:

- An application is started,
- When an application is submitted, and
- When the department completes its review

The Department will request information from the employer prior to finalizing a benefits determination. This request will ask:

- For the employer to validate leave details and application information,
- Propose amendments where necessary, and
- Provide other relevant information to the application



Employer View Lifecycle



Contributions System

- Registration / Employer ID
- Exemptions
- Remit contributions
- Track contributions over time



Employer account set up

- Establish Employer leave administrator accounts



Pre-Application

- Employees required to notify employer using existing leave policies similar to FMLA.
- Application will ask if the employer has been notified before application can be started.



Claim Processing

- Employer information request generated based on application
- Employer returns information request within 10 business days



Absence Management

- For intermittent leave: Employer confirms utilization of leave on regular cadence



Reporting

Future state



Leave Administrators

The Department will soon begin collecting contact information for whomever in your company will be responsible for managing PFML claims.

The goal is to set you up for success by pre-verifying your PFML accounts ahead of the launch of the program.

Getting set up in advance:

- We will send an email to employer contacts that have accounts in the Department of Revenue's MassTaxConnect system
- That contact should submit leave administrator contact information or forward the email to the appropriate people to submit their information.

After the deadline:

- If you miss the initial collection window, you will be able to self-register starting in December



Leave Administrators

- Talk with your MassTaxConnect account holder
- Sign up for our newsletter at [Mass.gov/DFML](https://www.mass.gov/DFML)
- For questions about contributions and exemptions:

Department of Revenue

Phone Number: (617) 466-3950

Hours of operation: 9 a.m. - 4 p.m.

- For questions about benefits and eligibility:

Department of Family and Medical Leave

Phone Number: (833) 344-7365

Hours of operation: 8 a.m - 5 p.m.