



Take Steps Now to Comply with the Massachusetts Paid Family and Medical Leave Law

Deadlines for compliance with key provisions of the Massachusetts Paid Family and Medical Leave ("PFML") law are fast approaching after a three-month delay. Employers should act now to ensure they are ready to comply.

Upcoming Deadlines

With links to sample posters, workforce notices and other resources from the Massachusetts Department of Family and Medical Leave



By September 30, 2019

- ✓ Post a [PFML poster](#) at each of your Massachusetts worksites where other required workplace posters are displayed.
- ✓ Provide [written notice](#) explaining benefits and job protections under the PFML law, worker and employer contribution amounts and obligations, instructions on how to file a claim for leave and other information to existing Massachusetts employees and, if applicable, certain contractors (more on this below). Going forward, provide the notice to all new Massachusetts hires. Notice must be provided in the worker's primary language and may be provided electronically.
- ✓ *Collect and retain a signed acknowledgment* (included with the state-issued sample notices) from each worker to whom you provide the notice documenting receipt.
- ✓ *Determine the [required contributions](#)* your organization will need to make and/or collect from its workers. Calculate payroll deductions for workers' contributions and get set to start making those deductions. (If your organization works with a payroll vendor, you should coordinate with them on this.)

October 1, 2019

- ✓ *Begin payroll deductions* for employee (and, if applicable, individual contractor) contributions.

By January 31, 2020

- ✓ *Complete [quarterly reports and remit contributions](#)* for the period Oct. 1 – Dec. 31, 2019 through the Department of Revenue's [MassTaxConnect](#) portal.

By December 20, 2019

- ✓ If your organization intends to provide a private leave plan that is at least as generous as the state plan, [apply for an exemption](#) from the obligation to collect, remit, and pay contributions for the quarter starting Oct. 1, 2019.





Frequently Asked Questions

When can workers start taking leave and what benefits will they be entitled to receive?

As of January 1, 2021, eligible Massachusetts workers will be entitled to take up to 26 weeks of job-protected paid family and medical leave annually due to:

- Their own serious health condition (up to 20 weeks);
- The birth, adoption or foster care placement of a child (up to 12 weeks);
- The serious health condition of a family member who is a covered servicemember (up to 26 weeks); or
- Certain circumstances relating to a family member's active military duty (up to 12 weeks).

As of July 1, 2021, eligible workers will be entitled to up to 12 weeks of leave to care for a family member with a serious health condition. Initially, the maximum leave benefit will be \$850 per week. Unless their employer offers a qualifying private plan, workers will apply to the state – not their employers – for this leave, which may be taken consecutively or intermittently. Note that in many respects the Massachusetts law provides broader coverage and worker protections than the federal Family and Medical Leave Act (FMLA).

How is the PFML program funded?

Funding for the new leave program will come from contributions by workers and certain employers to a trust fund established by the state. The total annual contribution – which is made up of a medical leave portion and a family leave portion – is set for 2019 at 0.75% of wages or other qualifying earnings up to \$132,900. (Note that for 2019, this limit – which is the 2019 Social Security maximum taxable earnings amount – is calculated on wages or payments made starting October 1, 2019, *not* January 1, 2019.) It will be adjusted annually, as will the allocation of the total contribution between medical leave and family leave. For 2019, the medical leave contribution is 0.62% of eligible wages and earnings and the family leave contribution is 0.13%.





Which employers are covered and what are their responsibilities regarding PFML contributions?

For-profit and nonprofit employers with at least one worker performing services in Massachusetts are covered by the law, as are federal and state government entities, and – if they opt in – local government entities. Households employing domestic workers (such as nannies, nurses, and personal care attendants) and paying them \$1,000 or more per calendar quarter are considered employers covered by the law.

Employers with a Massachusetts workforce of 25 or more individuals must remit the total contribution of 0.75% to the trust fund. Of this amount, the employer must pay at least 60% of the medical leave contribution. It must collect the remainder (up to 40% of the medical leave contribution and 100% of the family leave contribution) from its workers through payroll deductions. Employers with a Massachusetts workforce of fewer than 25 individuals are not required contribute themselves but still must withhold and remit contributions from their workers. Their workers must only contribute the worker share at an effective rate of 0.378% for 2019, not the full 0.75% percent.

Employers must begin withholding worker contributions starting with the first paychecks (and, if applicable, the first payments to individual contractors) issued on or after October 1, 2019. Withholding applies to the full payment, even if it includes amounts earned for services performed before October 1 (such as wages for hours worked at the end of September).

Which workers must an employer count when it calculates the size of its Massachusetts workforce?

In determining the size of its workforce, an employer must count full-time, part-time and seasonal employees, as well as self-employed individuals who live in Massachusetts with whom it contracts for services performed in Massachusetts and who receive (or should receive) an IRS Form 1099-MISC. For 2019, this calculation is based on the average number of employees and contractors who performed services for the employer in Massachusetts in 2018. If individual contractors make up more than 50 percent of the employer's Massachusetts workforce, the employer must include the contractors in its count and collect and remit contributions from them.



Are any types of employment excluded from coverage?

Because the PFML law and regulations (M.G.L. c. 175M and 458 C.M.R. 2.00) use definitions contained in the state's unemployment insurance statute (M.G.L. c. 151A), employment excluded from Massachusetts unemployment coverage is also excluded from coverage under the PFML law. Some of the more common types of employment excluded from coverage under the UI statute – and thus under the PFML law – include services rendered by:

- Employees of churches and certain other religious organizations operated primarily for religious purposes;
- Students working (e.g., through work-study) for the school, college or university they attend;
- Student nurses working for a hospital or the nurses' training school they attend and interns working for a hospital following completion of four years of medical school;
- Participants in a federal or state government funded unemployment work-relief or work-training program; and
- Licensed real estate brokers or insurance agents working solely on a commission basis.

Contact Us

We will continue to monitor updates related to the Massachusetts Paid Family and Medical Leave law and keep you apprised of any substantial new developments. For more information, please contact the author of this advisory or another member of your Hemenway & Barnes team:

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