



# 2019 Massachusetts PFML Guide

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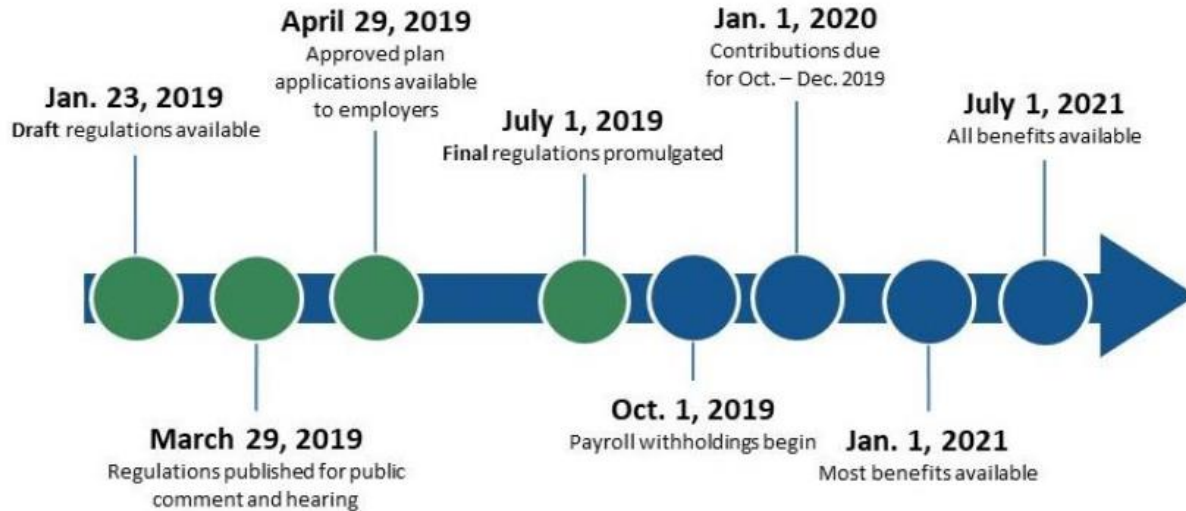


# Massachusetts Paid Family and Medical Leave

Overview	
Covered Employers	Employers with one or more employees working in Massachusetts
Eligible Employees	Massachusetts W-2 employees (full-time, part-time or seasonal), following the same eligibility criteria as the <a href="#">unemployment insurance program</a> ; Massachusetts 1099-Misc contractors
<a href="#">Contribution Rates for Employers</a> <b>Contributions begin October 1, 2019</b>	Employers with 25 + employees in MA pay up to 60% of the .62% attributed to medical leave (.372%) of wages up to the Social Security income limit, currently \$132,900 and pay 0 for family leave. Employers with fewer than 25 employees are not required to contribute the employer share for medical leave. Employers may elect to contribute any portion of the required .75% contribution. Maximum annual contribution \$494/employee
<a href="#">Contribution Rates for Employees</a> <b>Payroll deductions begin October 1, 2019</b>	Total employee contribution is .378% of eligible wages capped at the Social Security income limit, currently \$132,900. Employees pay 40% of .62% (.248%) attributed to medical leave and 100% of .13% attributed to family leave. Maximum annual contribution \$502/employee
Benefit	Maximum benefit projected to be \$850/week
Amount of Leave <b>Medical leave begins January 1, 2021</b> <b>Family Leave begins July 1, 2021</b>	Paid medical leave is capped at 20 weeks per benefit year. Paid family leave is capped at 12 weeks per benefit year. Combined medical and family leave is capped at 26 weeks per benefit year. Leave is capped at a maximum 26 weeks per benefit year for military events.
Reason for Leave	Serious health condition of employee; care of seriously ill family member; bond with a newly born child, or a newly adopted child or foster care placement; service member related events
Job Protection and Benefit Continuation	Employee must be restored to prior or equivalent position; health benefits continued as if actively employed
Notice Requirements	MA employers must display a <a href="#">workplace poster</a> ; and must provide <a href="#">written notice</a> to their workforce by September 30, 2019
Private Plans Allowed	Exemptions are available for approved <a href="#">private plans</a>
Penalties	Penalties of \$50/ MA employee and \$300 civil penalty for failure to provide notice

# General Timeline

## General timeline



# Who does the New Law Apply to?

## Covered employers:

**The law applies to employers with one or more employees working in the state of Massachusetts.**

- **includes seasonal, part-time or MA 1099-MISC contractors**

## Eligible employees:

Employees who work for an employer or a state or federal governmental agency in Massachusetts are automatically covered.

Independent contractors who contract with an employer that issues 1099-MISC tax forms for more than 50% of its workforce are also covered.

Additionally, there is an earnings eligibility requirement for any individual who wants to take paid leave under the law. Individuals must have approximately 15 weeks or more of earnings and have earned at least \$4,700 in the 12-month period before applying for leave.

# Contribution Requirements

## Overview:

Employers are responsible for remitting family and medical leave contributions to the Department of Family and Medical Leave (DFML) on behalf of covered individuals in a quarterly report and filing. The first filing for the October 2019 – December 2019 quarter is due by January 31, 2020

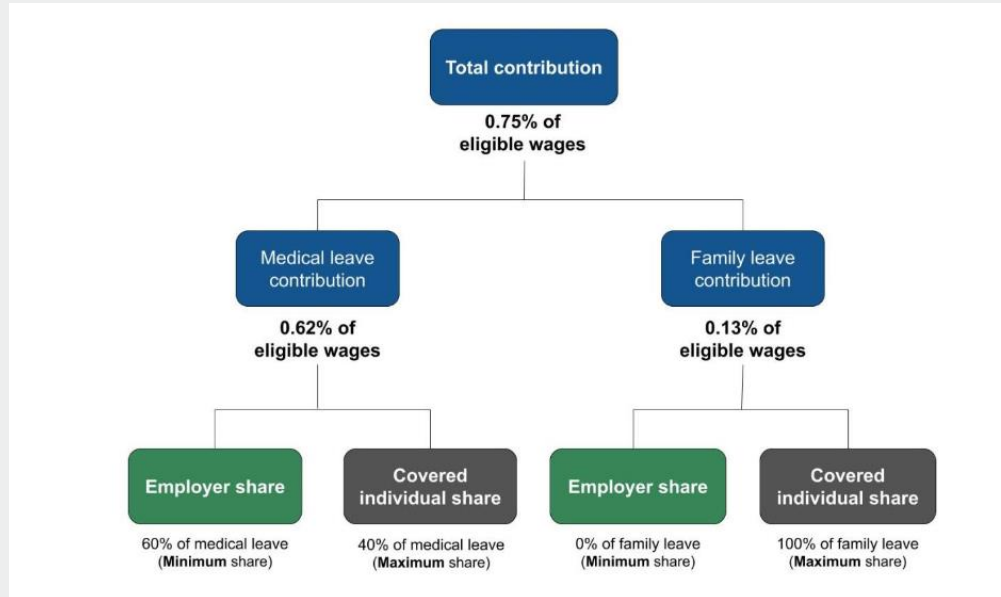
Larger employers with 25 or more covered individuals in 2018 are responsible for paying 60% of the medical leave contribution

Employers with fewer than 25 covered individuals in 2018 are not required to pay the employer's share of the medical leave contributions but still must remit payment on behalf of their covered individuals.

Payroll deductions begin October 1, 2019. Employers can choose to contribute more than is required under PFML. The total contribution rate is .75% of eligible wages.

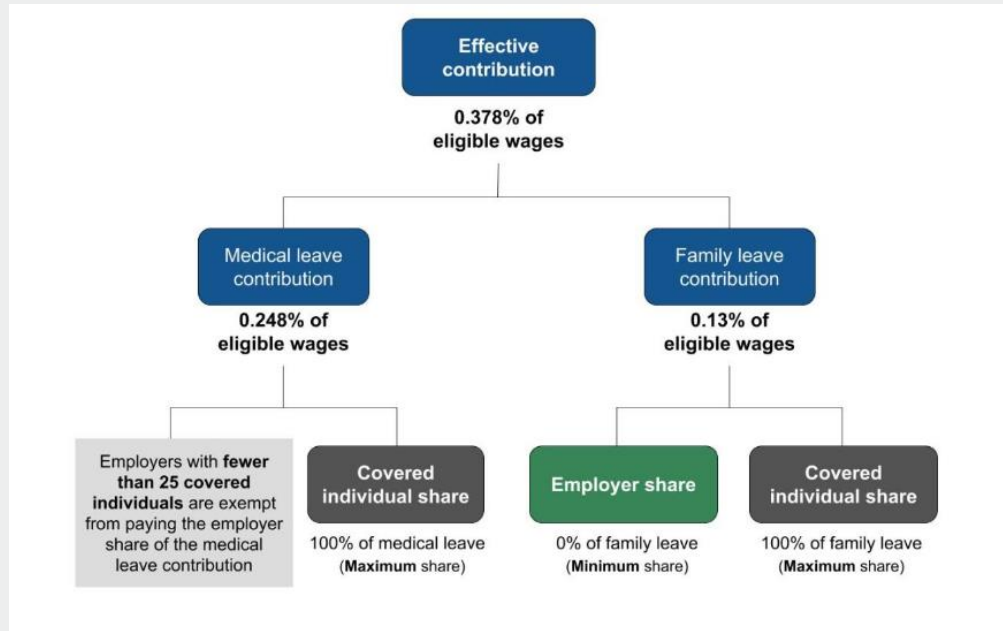
# Contribution Requirements for Employers with 25 or More Employees

Contribution rate split for employers with **25 or more** covered individuals. DFML has a [calculator](#) to estimate required employer contributions.



# Contribution Requirements for Employers with Less than 25 Employees

Contribution rate split for employers with **fewer than 25** covered individuals. Small employers are responsible for remitting the funds withheld from covered individuals but are under no obligation to contribute the employer portion.



# Weekly Benefit and Duration of Leave

## Weekly Benefit:

The weekly benefit is calculated as a percentage of earnings. The maximum benefit is \$850 per week.

## Duration of leave:

- Paid medical leave is capped at 20 weeks per benefit year
- Paid family leave is capped at 12 weeks per benefit year
- Maximum combined family and medical leave that an individual may take is capped at 26 weeks per benefit year.
- Paid family leave arising from a covered service member's call to active duty is capped at 12 weeks per benefit year.
- Paid family leave taken to provide care for a family member with a serious health condition suffered while on active duty is capped at 26 weeks per benefit year.



# Reasons for Taking Paid Family and Medical Leave

Effective **January 1, 2021** employees can claim benefits:

- To deal with their own serious medical condition
- To bond with their child during the first 12 months after the child's birth or the first 12 months after the placement of the child with them for adoption or foster care
- To deal with any qualifying exigency 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
- To care for a family member who is a covered service member with a serious injury or illness incurred or aggravated in the line of duty

Effective **July 1, 2021**, employees can claim benefits:

- To care for a family member who has a serious health condition

# Job Protection and Benefit Continuation

## Job Protection:

Employees who have taken family or medical leave should be restored to their previous position or an equivalent position, with the same status, pay, employment benefits, length of service credit and seniority.

## Benefit Continuation:

Taking family or medical leave does not affect an employee's right to accrue vacation time, sick leave, bonuses, advancement, seniority, length of service credit or other employment benefits or programs.

Employers must continue to provide for and contribute to the employee's employment-related health insurance benefits for the duration of the leave under the same conditions as if the employee had continued working.

# Notice Requirements

Notification includes:

- Displaying the [Paid Family and Medical Leave workplace poster](#) in a highly-visible location. If your workforce does not have an office location, it is recommended that the posters be sent electronically to employees
- Providing [written notice](#) of contributions, benefits, and workforce protections to Massachusetts W-2 employees and Massachusetts 1099-MISC contractors. The notice may be provided electronically and must include an acknowledgement of receipt of the information.
- Collecting signed acknowledgments of receipt of the notice from Massachusetts employees and Massachusetts 1099-MISC contractors. These acknowledgments are internal only and do not need to be sent to the DFML.

Failure to provide the required notifications may result in a penalty of \$50 per MA employee for the first violation, and \$300 per MA employee for subsequent violations

# Private Plan Exemptions

Employers who have a private plan may apply for an exemption from collecting, remitting and paying PFML contributions. To be approved for an exemption, your plan must have benefits greater than or equal to the benefits provided by the PFML law, as well as offer the same rights and protections.

- Employers can apply for an exemption from the medical leave contribution, family leave contribution or both. The plan can be self-insured or provided by an insurer. Your current disability vendor may be able to help analyze, establish and maintain your private plan. Approved private plans must start providing benefits by January 1, 2021.
- You are able to apply for an exemption electronically using your [MassTaxConnect](#) account. The deadline to file for a private plan exemption for first quarter contributions is December 20, 2019. Before you file, you will need to have a copy of your qualifying private plan and bond coverage if you are self-insuring. If bond coverage is not currently available, it can be submitted at a later date.
- Most applications will be processed and answered within two business days. If your application is denied, you may request a follow up interview.

Check if your private plan is eligible for an [exemption](#).

# Private Plan Exemptions

## PFML Through a Disability Carrier

Disability carriers may choose to offer both insured and self-insured Paid Family Medical Leave plans

- Many carriers are not providing plans on a stand-alone basis and will require the employer have core lines of business with them. The carriers may also have size requirements to qualify for fully-insured and self-insured plans.
- Massachusetts is expected to release template contract wording for private carriers by the end of September 2019. Once finalized, these templates will help employers pursue an exemption from the state plan.
- The state has advised that private carriers can charge rates different from the state plan.

# Private Plan Exemptions

## Minimum Medical Leave Benefit Requirements for Exemption

To qualify for an exemption from medical leave contributions, your private plan must provide the following to all covered individuals:

- All covered individuals (full-time, part-time, permanent, or seasonal) are eligible for medical leave benefits
- A minimum of 20 weeks of paid medical leave in a benefit year if a covered individual is unable to work due to a serious health condition
- A weekly paid benefit amount that is greater than or equal to the benefit provided by the PFML program administered by DFML
- Job protection while the covered individual is on qualified leave
- Continued employer contributions to employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the covered individual had continued working continuously for the duration of qualified leave
- Leave may be taken intermittently or on a reduced leave schedule if medically necessary, with the weekly benefit amount being prorated
- Your plan specifically states that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits

# Private Plan Exemptions

## Minimum Family Leave Benefit Requirements for Exemption

To qualify for an exemption from medical leave contributions, your private plan must provide the following to all covered individuals:

- All covered individuals (full-time, part-time, permanent, or seasonal) are eligible for family leave benefits
- A weekly paid benefit amount that is greater than or equal to the benefit provided by the PFML program administered by DFML
- A minimum of 26 weeks of paid leave during the benefit year to provide care to a family member, as defined by PFML, with a serious health condition suffered while on active duty in the armed forces
- A minimum of 12 weeks of paid leave during the benefit year if their spouse, child, or parent is a current member of the Armed Forces (including the National Guard and reserves) and is on covered active duty or notified of an impending call or order to covered active duty
- A minimum of 12 weeks of paid leave during the benefit year to provide care to a family member, as defined by PFML, with a serious health condition

# Private Plan Exemptions

## Minimum Family Leave Benefit Requirements for Exemption Continued

To qualify for an exemption from medical leave contributions, your private plan must provide the following to all covered individuals:

- A minimum of 12 weeks of paid leave during the benefit year to bond with a child during the first 12 months after a child's birth, or the first 12 months after adoption or foster placement of a child under the age of 18
- Job protection while the covered individual is on qualified leave
- Continued employer contributions to employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the covered individual had continued working continuously for the duration of qualified leave
- Leave may be taken intermittently or on a reduced leave schedule, with the weekly benefit amount being prorated
- Your plan specifically states that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits



# Private Plan Exemptions

## Application Questions

Questions	Available Responses (required fields)
<b>All Applicants</b>	
Contact Name, Phone Number, and Email	
Was the average size of your Massachusetts workforce in the last calendar year comprised of 25 or more workers (W-2 employees and 1099-MISC contractors)?	Y/N
Is more than half of your Massachusetts workforce paid through 1099-MISC forms?	Y/N
What kind of paid leave plan will you offer?	Family/Medical/Family and Medical
Are you purchasing a plan or will you be self-insuring?	Purchase Private Plan/Self-Insured
<p>If self-insuring is selected, the following questions are displayed:</p> <p>1. What is the average size of your workforce? Have you obtained a bond per the self-insurance requirements?</p> <p>Message displayed based on values set for the workforce count entered:  <b>"If your private plan is in the form of self-insurance, you must furnish a bond running to the commonwealth with a surety company authorized to transact business in the commonwealth. Based on your workforce size, your required bond is \$XXX of which \$XXX is for family coverage and \$XXX is for medical coverage."</b></p> <p>2. Have you obtained a bond per the self-insurance requirements?</p>	<p>1. Numeric field 2. Y/N</p>
<p>If purchase private plan is selected, the following questions are displayed:            Medical Private Plan Details and Family Private Plan Details fields are displayed (required fields correspond to selected response for kind of paid plan offered)</p>	<p>Details requested are separated by type of plan:            *Medical (Family) Private Plan Provider            *Medical (Family) Private Plan Number            *Date Medical (Family) Policy Coverage Begins            *Date Medical (Family) Policy Coverage Ends</p>

# Private Plan Exemptions

## Application Questions

Family Plan	
Are all of your employees, including full-time, part-time, permanent or seasonal employees, be eligible for benefits under your plan?	Y/N
If the question regarding over half of workforce paid through 1099-MISC is answered yes, the following question is displayed: Are Massachusetts 1099-MISC contractors paid by you eligible for benefits under your plan?	Y/N
Does your plan ensure that employees are eligible for up to 26 weeks, in the aggregate, of paid family and medical leave?	Y/N
<b>Definition:</b> The Statute defines family member as "the spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the covered individual; a person who stood in loco parentis to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual.	
<b>Definition:</b> A child is considered a family member whether they are biological, adopted, foster, step, or a child of whom the employee had legal guardianship regardless of age or dependency status.	
Does your plan provide employees at least 12 weeks of paid leave to provide care to a family member, as defined above, with a serious health condition?	Y/N
Does your plan allow employees at least 12 weeks of paid leave to care for a child with a serious health condition?	Y/N
Does your plan provide employees at least 12 weeks of paid leave to bond with a child during the first 12 months after the child's birth, adoption, or foster care placement?	Y/N
If a qualifying exigency arises out of the fact that an employee's spouse, child, or parent is a current member of the Armed Forces is the employee eligible for at least 12 weeks of paid family leave under your plan?	Y/N

# Private Plan Exemptions

## Application Questions

Do you provide a minimum of 26 paid weeks in a benefit year to care for a family member who is or was a covered service member of the Armed Forces and who requires medical care as a result of an illness or injury related to the family member's active service?	Y/N
Does your plan pay benefits that are greater than or equal to the state's plan?	Y/N
Do you withhold premiums or contributions from your employees' wages?	Y/N
<b>Required question if the above question is answered Yes:</b> Is the amount withheld less than or equal to the amount required for employee contributions under the state plan?	*Y/N
Does your workplace policy ensure that employees are granted the job protections to which they are entitled under the Paid Family and Medical Leave law in the event they take qualified leave?	Y/N
Does your workplace policy ensure the continuance of employees' existing rights, if any, to vacation time, sick leave, bonuses, advancement, seniority, length-of-service credit or other employment benefits, plans or programs upon their return to employment?	Y/N
Does your workplace policy continue to contribute to the employee's employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of such leave?	Y/N
Does your plan allow for leave to be taken intermittently or on a reduced leave schedule, if medically necessary, with the weekly benefit amount being prorated: *To care for a family member's serious health condition; *To care for a family member who is a covered service member, and *For the employee's own serious health condition?	Y/N
Does your plan allow for leave to be taken intermittently or on a reduced leave schedule, if the employer and employee agree to it, for leave to bond with a child during the first twelve months after the child's birth, adoption, or foster care placement?	Y/N
Does your plan allow for leave to be taken intermittently or on a reduced leave schedule due to a qualifying exigency arising out of a family member's active duty or impending call to active duty in the Armed Forces?	Y/N
Does your plan cover unemployed former employees who apply for benefits for family leave for up to 26 weeks after separation from employment, or until they obtain other employment, whichever is sooner?	Y/N
Does your plan specifically state that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits?	Y/N

# Private Plan Exemptions

## Application Questions

Medical Plan	
Are all of your employees, including full-time, part-time, permanent or seasonal employees, eligible for benefits under your plan?	Y/N
If the question regarding over half of workforce paid through 1099-MISC is answered yes, the following question is displayed: Are Massachusetts 1099-MISC contractors paid by you eligible for benefits under your plan?	Y/N
Does your plan ensure that employees are eligible for up to 26 weeks, in the aggregate, of paid family and medical leave?	Y/N
Does your plan provide employees up to 20 weeks of paid leave if they are unable to work due to a serious health condition?	Y/N
Does your plan pay benefits that are greater than or equal to the state's plan?	Y/N
Do you withhold premiums or contributions from your employees' wages?	Y/N
<b>Required question if the above question is answered Yes:</b> Is the amount withheld less than or equal to the amount required for employee contributions under the state plan?	*Y/N
Does your workplace policy ensure that employees are granted the job protections to which they are entitled under the Paid Family and Medical Leave law in the event they take qualified leave?	Y/N
Does your workplace policy ensure the continuance of employees' existing rights, if any, to vacation time, sick leave, bonuses, advancement, seniority, length-of-service credit or other employment benefits, plans or programs upon their return to employment?	Y/N
Does your workplace policy continue to contribute to the employee's employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of such leave?	Y/N

# Private Plan Exemptions

## Application Questions

Does your plan allow for leave for an employee's own serious health condition to be taken intermittently or on a reduced leave schedule, if medically necessary, with the benefit amount being prorated?	Y/N
Does your plan cover unemployed former employees who apply for benefits for medical leave for up to 26 weeks after separation from employment, or until they obtain other employment, whichever is sooner?	Y/N
Does your plan specifically state that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits?	Y/N
<b>Family and Medical Plan</b>	
Are all of your employees, including full-time, part-time, permanent or seasonal employees, eligible for benefits under your plan?	Y/N
If the question regarding over half of workforce paid through 1099-MISC is answered yes, the following question is displayed: Are Massachusetts 1099-MISC contractors paid by you eligible for benefits under your plan?	Y/N
Does your plan ensure that employees are eligible for up to 26 weeks, in the aggregate, of paid family and medical leave?	Y/N
Does your plan provide employees up to 20 weeks of paid leave if they are unable to work due to a serious health condition?	Y/N
<b>Definition:</b> The Statute defines family member as "the spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the covered individual; a person who stood in loco parentis to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual.	
<b>Definition:</b> A child is considered a family member whether they are biological, adopted, foster, step, or a child of whom the employee had legal guardianship regardless of age or dependency status.	
Does your plan provide employees at least 12 weeks of paid leave to provide care to a family member, as defined above, with a serious health condition?	Y/N

# Private Plan Exemptions

## Application Questions

Does your plan allow employees at least 12 weeks of paid leave to care for a child with a serious health condition?	Y/N
Does your plan provide employees at least 12 weeks of paid leave to bond with a child during the first 12 months after the child's birth, adoption, or foster care placement?	Y/N
If a qualifying exigency arises out of the fact that an employee's spouse, child, or parent is a current member of the Armed Forces is the employee eligible for at least 12 weeks of paid family leave under your plan?	Y/N
Does your plan provided a minimum of 26 paid weeks in a benefit year to care for a family member who is or was a member of the Armed Forces and who requires medical care as a result of an illness or injury related to the family member's active service?	Y/N
Does your plan pay benefits that are greater than or equal to the state's plan?	Y/N
Do you withhold premiums or contributions from your employees' wages?	Y/N
<b>Required question if the above question is answered Yes:</b> Is the amount withheld less than or equal to the amount required for employee contributions under the state plan?	*Y/N
Does your workplace policy ensure that employees are granted the job protections to which they are entitled under the Paid Family and Medical Leave law in the event they take qualified leave?	Y/N
Does your workplace policy ensure the continuance of employees' existing rights, if any, to vacation time, sick leave, bonuses, advancement, seniority, length-of-service credit or other employment benefits, plans or programs upon their return to employment?	Y/N
Does your workplace policy continue to contribute to the employee's employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of such leave?	Y/N
Does your plan allow for leave to be taken intermittently or on a reduced leave schedule, if medically necessary, with the weekly benefit amount being prorated: *To care for a family member's serious health condition; *To care for a family member who is a covered service member, and *For the employee's own serious health condition?	Y/N

# Private Plan Exemptions

## Application Questions

Does your plan allow for leave to be taken intermittently or on a reduced leave schedule, if the employer and employee agree to it, for leave to bond with a child during the first twelve months after the child's birth, adoption, or foster care placement?	Y/N
Does your plan allow for leave to be taken intermittently or on a reduced leave schedule due to a qualifying exigency arising out of a family member's active duty or impending call to active duty in the Armed Forces?	Y/N
Does your plan allow for leave for an employee's own serious health condition to be taken intermittently or on a reduced leave schedule, if medically necessary, with the benefit amount being prorated?	Y/N
Does your plan cover unemployed former employees who apply for benefits for family or medical leave for up to 26 weeks after separation from employment, or until they obtain other employment, whichever is sooner?	Y/N
Does your plan specifically state that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits?	Y/N

# Employer Resources

[Employer Guide](#) to Paid Family and Medical Leaves

Paid Family Medical Leave for Employers [FAQ](#)

Paid Family Medical Leave for Employees [FAQ](#)

Paid Family Medical Leave [Law](#)