

Paid Family and Medical Leave

Maine overview

December 2024
Law & Policy Group

A business of Marsh McLennan



Paid family and medical leave

National landscape

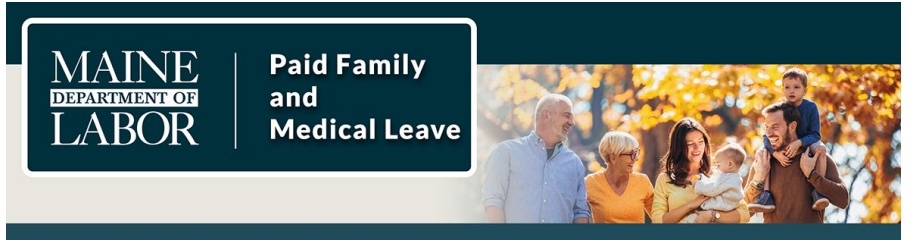
Fourteen states, along with **Washington, DC**, and **Puerto Rico**, have enacted laws requiring paid leave for an employee's own serious health condition or disability and — with the exception of Hawaii and Puerto Rico — for qualifying family or caregiving reasons.

Jurisdiction	Program type
California	State Disability Insurance (SDI) Paid Family Leave (PFL)
Colorado	Family and Medical Leave Insurance Program (FAMLI)
Connecticut	Connecticut Paid Leave (CT PL)
Delaware	Delaware Paid Leave (DPL)
District of Columbia	Universal Paid Leave (UPL)
Hawaii	Temporary Disability Insurance (TDI)
Maine	Paid Family and Medical Leave (PFML)
Maryland	Family and Medical Leave Insurance (FAMLI)
Massachusetts	Paid Family and Medical Leave (PFML)
Minnesota	Minnesota Paid Leave (MPL)
New Jersey	Temporary Disability Insurance (TDI) Family Leave Insurance (FLI)
New York	Disability Benefits Law (DBL) Paid Family Leave (PFL)
Oregon	Paid Leave Oregon (PLO)
Puerto Rico	Nonoccupational Disability Insurance (SINOT) Working Mothers Protection Act (WMPA)
Rhode Island	Temporary Disability Insurance (TDI) Temporary Caregiver Insurance (TCI)
Washington	Paid Family and Medical Leave (PFML)

Maine PFML

Contribution and benefits snapshot

Payroll tax begins Jan. 2025 | Benefits begin May 2026



12 weeks of paid leave

In a benefit year for medical leave (employee's own serious health condition) or family leave that includes:

- Bond with a new child
- Care for a family member with a serious health condition
- Handle a qualifying exigency for a military family member
- Safety reasons related to violence, assault, stalking or any other act resulting in a protective order
- Organ donation for human transplant
- Death or serious health condition of a military family member

Benefit max is 100% of the state average weekly wage (AWW)

Weekly wage replacement amount depends on the employee's AWW relative to the state AWW (SAWW), with lower earners receiving up to 90% of their AWW.

1.0% of wages

- Payroll tax to fund the PFML program on eligible wages up to the Social Security taxable wage max.
- Employers can charge employees up to 50% of the premium.
- Employers with fewer than 15 employees (within Maine) are exempt from contributions; employees are still required to contribute 0.5% of wages.

Eligibility

- Employee must have earnings at least 6 times the state average weekly wage in the first 4 of the last 5 completed calendar quarters.
- Family member includes spouse, domestic partner, child, parent, sibling, grandparent, grandchild, and a designated individual with a significant personal bond.
- Job protection and continued health benefit rights available after 120 days of employment.

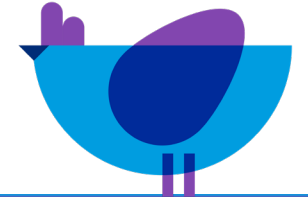
Covered employers and employees

Employer



- All employers, including state and local government employers, with one or more employees working in Maine.
- US government, self-employed individuals are not covered employers.
- Employers with fewer than 15 employees are not required to make employer contributions.
 - Size determined annually on Oct. 1.
 - Based on covered employees on payroll in 20 or more calendar weeks in the 12-month period preceding Sept. 30.
 - Includes full time, part-time, temporary and intermittent employees, and employees on paid leave.
 - Separately determined for each Federal Employer Identification Number (FEIN).

Employee



- All employees (including full-time, part-time) earning wages in the state are included.
- Does not include US government employees.
- Self-employed individuals can opt in.

Program funding

Initial contribution rate (2025 – 2027) is 1.0%

Employee withholdings for premium contributions begin on wages for the first pay period with a Jan. 2025 payment date.

- Employers can charge up to 50% of the premium to employees.
- Employers with fewer than 15 employees do not have to contribute the employer portion but must collect (and remit) 50% of the premium from employees.
- Rate subject to annual MDOL review, starting in 2028.

Premium payments and contribution reports can be submitted by an authorized TPA on behalf of the employer.



Wages subject to premium contributions

All remuneration for personal services, including:

- tips and gratuities;
- severance and terminal pay;
- commissions; and
- bonuses.

Includes remuneration for services performed in Maine or wages otherwise subject to Maine unemployment tax.

Premiums are calculated on total subject wages, before federal income tax, state income tax, and Social Security and Medicare taxes are deducted.

Required employer notices



Provide a detailed notice to employees within 30 days of employment.



Post a written notice in a conspicuous place in the workplace.

- If another language is primary for three or more employees, employer must also post the notice in those other languages.
- Posters are available from MDOL in English, French, Portuguese, Somali, and Spanish.



Serious health condition

Statutory definition, 26 M.R.S. § 850-A(28)



An illness, injury, impairment, pregnancy, recovery from childbirth or physical, mental or psychological condition involving:

- inpatient care in a hospital, hospice or residential medical care center or
- continuing treatment by a health care provider.

Note. Neither the statute nor the rules dictate how many days constitute “continuing treatment.” Federal FMLA requires continuing care for more than 3 days to constitute a serious health condition.

Family member

Statutory definition, 26 M.R.S. § 850-A(19)



With respect to covered individual, spouse or domestic partner of covered individual:

Child (regardless of age), including child whose parentage has been determined under the Maine Parentage Act or any other biological child, adopted child, foster child or stepchild, or a child to whom the covered individual or spouse or domestic partner of the covered individual stands in loco parentis or a child the covered individual or spouse or domestic partner of the covered individual has under legal guardianship or any individual to whom the covered individual or spouse or domestic partner of the covered individual stood in any of these relationships when the individual was a minor child;

Parent, including legal parent, biological parent, adoptive parent, foster parent, stepparent, de facto parent or legal guardian or a person who stood in loco parentis when the covered individual or spouse or domestic partner of the covered individual was a minor child;

Grandparent, including a legal grandparent, biological grandparent, adoptive grandparent, foster grandparent, step-grandparent or de facto grandparent;

Grandchild, including a legal grandchild, biological grandchild, adoptive grandchild, foster grandchild, step-grandchild or de facto grandchild;

Sibling, including a legal sibling, biological sibling, adoptive sibling, foster sibling, stepsibling or de facto sibling;

Spouse or domestic partner of a covered individual; or

Designated individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.

Significant personal bond

12-702 C.M.R ch. 1, § VI (A)(4)

A significant personal bond is one that, when examined under the totality of the circumstances, is like a family relationship, regardless of biological or legal relationship.

May be demonstrated by – but is not limited to – the following factors:

- Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills or beneficiary designations;
- Emergency contact designation of the employee by the other individual in the relationship or the emergency contact designation of the other individual in the relationship by the employee;
- The expectation to provide care because of the relationship or the prior provision of care;
- Cohabitation and its duration and purpose;
- Geographic proximity; and
- Any other factor that demonstrates the existence of a family-like relationship.

No single factor is determinative.





Benefit year

The 12-month period beginning on the first day of the calendar week immediately before the date on which leave benefits start. (26 M.R.S. § 850-A(5))

Up to 12 weeks of leave can be taken **continuously**, **intermittently** or as a **reduced schedule**.

Benefits are prorated for partial weeks or partial days of leave.

Intermittent leave is available for all qualifying leave reasons.

Increments may not be less than **one workday** unless employer and employee agree otherwise in writing, but in no case can be less than **one hour**.



Employee notice to employer



Employee must **give reasonable** notice of the intent to use leave

- **30 days written notice is presumed to constitute reasonable notice.**
- **In the case of an emergency, illness or other sudden necessity,** employee must make **good faith effort** to provide written notice **as soon as is feasible under the circumstances.**

Notice must contain:

- Reason for the leave being requested (e.g., family, medical, safe leave, qualifying exigency)
- Type of leave needed (e.g., continuous, reduced schedule, or intermittent leave)
- Actual or anticipated timing and duration of leave
- Any other relevant information

Notice must be in writing (e.g., standard form, letter, email, or text)

Employer can't require notice use of a prescribed form if sufficient information is provided.

Employer can reasonably determine that the timing or duration of the leave creates an **undue hardship**.



Scheduling leave

Leave must be scheduled to prevent undue hardship

Undue hardship means a significant impact on the operation of the business or significant expenses, considering:

- financial resources of the employer,
- size of the workforce, and
- nature of the industry

that cannot be overcome with the notice given.



Determination of **undue hardship is reasonable** if:

- Employer provided written explanation to employee;
- Employee can take leave within a reasonable time relative to the proposed schedule; and
- Employer made good faith attempt to work out a leave schedule that meets the employee's needs.

For medical leave, the employee's healthcare provider must approve the employer's proposed schedule.

Benefit eligibility

Financial requirement

Earnings of at least six times the state average weekly wage during the base period.

No minimum hours worked requirement, but individual must be employed as of the application date (if in advance) or date of leave (if retroactive).

Benefit payments

Benefit payments are made weekly by direct deposit into a checking or saving account.

Weekly benefits can be paid in the form of a debit card, upon request.



Benefit reductions

PFML benefits are reduced by receipt of these other benefits:

- Workers' compensation
- Unemployment compensation
- Any other government program or law
- Permanent disability benefits received under an employer-sponsored policy or program
- Other state or federal temporary or permanent disability benefits laws

Elimination period

Benefits are not paid during the first seven calendar days of medical leave.

There is no elimination period for family leave.

Benefit proration

Benefits are prorated if the employee takes leave intermittently or works on a reduced schedule.



Weekly benefit amount

Benefit amount depends on the employee's average weekly wage (AWW) relative to the state average weekly wage (SAWW), up to the weekly benefit maximum.

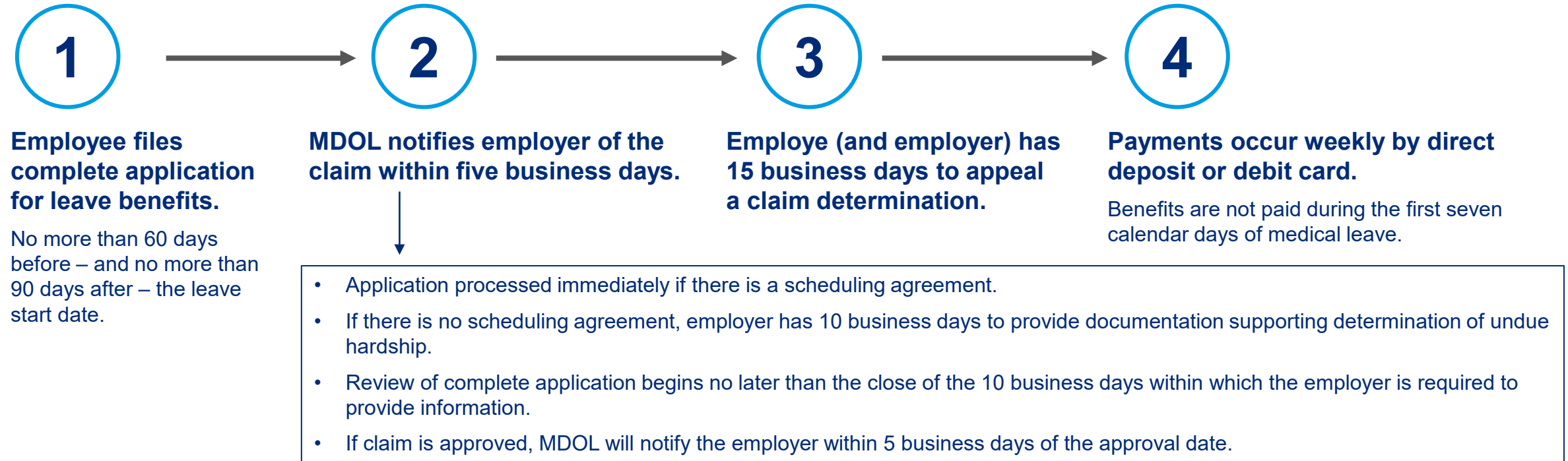
AWW	Weekly benefit
$\leq 50\%$ SAWW	90% AWW
$> 50\%$ SAWW	$[90\% \text{ of } \frac{1}{2} \text{ SAWW}] + [66\% \times (\text{AWW} - \frac{1}{2} \text{ SAWW})]$

Notes

- **Employee's AWW** is the total reported wages in the base period (first 4 of last 5 completed calendar quarters immediately preceding first day of benefit year) divided by 52.
- **SAWW** is set annually by the MDOL, effective July 1.
- **Maximum weekly benefit** is 100% of the SAWW.
- Calculations use the SAWW effective on the July 1 immediately preceding the date of application for benefits or of the start of the leave, whichever is earlier.
- Once the weekly benefit amount is determined for a claim, it remains consistent through the life of the claim.

Claim application process

Employers can require reasonable notice (up to 30 days). Good faith effort to provide notice as soon as feasible required for emergency, illness or other sudden necessity.



Employer waiver may be required. A waiver signed by the employer that the proposed schedule of leave is not an undue hardship may be required to complete the claim application.

- Employees have 10 business days to correct failure to provide necessary information or documentation to process the leave request.
- Both the employer and the employee will be notified of the approval or denial of the leave claim.

Federal FMLA comparison

	ME PFML	Federal FMLA
Pay	Yes	No
Leave use	<ul style="list-style-type: none"> Employee's own serious health condition Care for family member with a serious health condition Bond with new child Handle qualifying exigency related to active military duty Care for a family member who is a covered service member Bereavement of a family member who is a covered service member Safe leave for employee or family member related to violence, assault, sexual assault, or stalking Organ donation 	<ul style="list-style-type: none"> Employee's own serious health condition Care for family member with a serious health condition Bond with new child Handle qualifying exigency related to active military duty Care for next of kin who is a covered service member with a serious illness or injury
Eligibility	Wage credits at least six times the state average weekly wage	One year of service and 1,250 hours worked in the past 12 months
Job protection	Yes, after 120 days of employment	Yes
Leave duration	Up to 12 weeks for medical leave and up to 12 weeks of family leave, subject to a combined maximum of 12 weeks in a benefit year	Up to 12 weeks for most qualifying reasons 26 weeks to care for a covered service member with a serious illness or injury (combined maximum of 26 weeks)
Who is a covered family member?	Same as federal FMLA, plus domestic partners, family members of domestic partner or spouse, grandparents, grandchildren, siblings, and a designated individual	Biological, adoptive, step or foster parent, or any other individual who stood in loco parentis to the employee when the employee was a child; biological, adopted, step-, or foster child, legal ward, or child of a person standing in loco parentis who is either younger than 18, or age 18 or older and incapable of self-care because of a mental or physical disability; spouse

Substantially equivalent private plans

26 M.R.S. § 850-H; 12-702 C.M.R ch. 1, § XII

Employers can satisfy ME PFML requirements with a private plan (insured or self-funded) if the plan is offered to all covered employees and provides **substantially equivalent rights**, protections, and benefits.

- Employees can't be required to pay more for the private plan than they would otherwise pay for the state program.
- Plan must provide at least 10 weeks of aggregate leave per benefit year and allow intermittent use.
- Plan must provide the same or greater aggregate monetary benefit
 - Determined by comparing wage replacement amount times the maximum number of weeks to the state plan's maximum weekly benefit times 12.
- Self-insured private plan requires a bond to the State.
- MDOL can withdraw approval for plan failures like untimely payments, misuse of funds, reporting.



Substantially equivalent private plans



QUESTION: If an approved private plan has a total premium of less than 1.0% of wages through the end of 2027, what is the highest employee contribution allowed?

Is the limit equal to 50% of the private plan premium?

or

Is the limit equal to 50% of the state program premium?

For example, if private plan premium is 0.8%, is the employee contribution capped at 0.4% or 0.5%?

ANSWER: Cost to employees cannot be greater than the state program.

For 2025-2027, maximum employee cost under the state plan is 0.5% of wages. A private plan premium cost cannot exceed this maximum employee cost.

Based on the example above, if a private plan were to charge 0.8%, the employee's portion can be up to 0.5%.

- Employers with 15 or more employees: Premiums cost is 1% of wages, and half of that 1% (i.e., 0.5%) can be deducted from employee's pay.
- Employers with fewer than 15 employees: Premium cost is 0.5% of wages, which can be deducted from employee's pay.

Substantially equivalent private plans

Applications (in accordance with FEIN) can be made after April 1, 2025



Application fee - \$250

Administrative reimbursement fee - \$250

Approval period - three years

Renewals and cancellations

- Submit renewal application at least 30 days before end of approved substitution.
- Can cancel approved private plan prior to expiration date only with demonstration of significant direct negative business impact (e.g., unanticipated and unreasonable premium increase).
- If carrier cancels or won't renew, employer must notify MDOL at least 10 days before termination takes effect.



Data submissions

- Quarterly contribution reports for each employee
- Annual data submission (by July 31), including total claims and percentage for each qualifying reason, claimant demographics, claim denials, average leave duration, etc.



Exemption from premiums begins first day of quarter in which substitution is approved.

If application is submitted less than 30 days before end of quarter, exemption is effective first day of next quarter.

Employee withholdings must be refunded within 30 days of private plan approval.

Premiums owed prior to the exemption date must be remitted to the state and are non-refundable.



Benefits start May 1, 2026, or earlier

For substitutions approved before May 1, 2026, if benefit coverage starts after May 1, employer must pay premiums to the state from the date of the exemption to May 1 and can't deduct employees' share of premium for the retroactive premiums.

For substitutions approved after May 1, 2026, benefit coverage must begin on the first day of the first month following approval.

Taxes

If the Internal Revenue Service determines that **ME PFML benefits** are subject to federal income tax, when a covered individual files a claim, the MDOL will notify the covered employee:

- Benefits are subject to federal income tax;
- Requirements for estimated tax payments apply; and
- Covered individual can elect to have federal income tax withheld from benefits and change a previously elected withholding status.

Statute and rules do not address whether benefits are subject to state income tax.

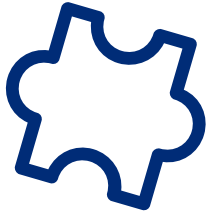
Employers and employees should work with tax advisors regarding deductibility of the **premium contribution amount** from federal income tax.

Employee premium contributions should be listed under Box 14 of the W-2 form with the label “MEPFML”.



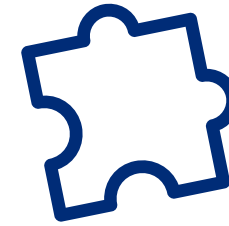
Employer with private plan must provide appropriate tax forms for benefits to employees taking leave based on guidance from the Internal Revenue Service and Maine Revenue Services around the taxability of such benefits.

Coordination with other leave



FMLA

Federal FMLA and ME FMLA (unpaid job protected leave) run concurrently with PFML.

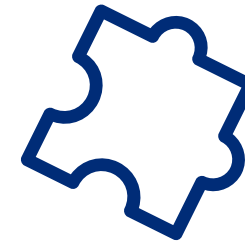


Paid vacation, sick leave, PTO

- Employers can't require employees to exhaust paid vacation, paid sick leave, or other paid time off (PTO) before or during PFML.
- Unclear if employer can require use of accrued paid leave to supplement PFML, so long as the requirement doesn't exhaust the available paid leave.
- Allowing employees to choose to supplement PFML with vacation, sick leave, or other PTO up to 100% of typical weekly wage is not explicitly prohibited by the law or rules.
- Employees can choose to use accrued paid sick, vacation or other PTO during the first seven days of medical leave.

STD, paid family or parental leave

- Supplemental payments from employer-provided STD do not reduce the ME PFML benefit as long as the benefits combined do not exceed the typical weekly wage.
- Offsetting employer-provided STD or paid parental leave with PFML benefits is not explicitly prohibited by the law or rules.



Employee rights



Health insurance

All employment-related health insurance benefits must be maintained under the same conditions applicable before the leave.



Other benefits

Employee's right to other benefits is unaffected by taking of PFML (including accrual of vacation or sick time, bonuses, advancement, seniority, length of service credit, etc.).



Job protection

After 120 consecutive calendar days of service, employee is entitled to job restoration upon return from leave or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment (including any pay and benefits during leave period).



Antidiscrimination

Discrimination, retaliation or interference with a leave application is prohibited.

Anti-waiver provision

Employee rights under ME PFML cannot be waived, not even if authorized in a collective bargaining agreement.

Enforcement and penalties



Civil action

- Right of judicial review exists for aggrieved parties after exhausting all administrative remedies.
- No specifics on potential damages



MDOL actions

- Investigations
- Other enforcement actions



Other penalties

- Employer notice failures: \$50 to \$150 per employee
- Employer contribution failures: 1.0% of total payroll for the quarter
- Private plan violations: \$100 per violation

All penalties go to the PFML Fund.

2025

	TAXABLE WAGE BASE		CONTRIBUTION RATE (% OF WAGES TO MAX)		MAXIMUM WEEKLY BENEFIT	
	2025	2024	2025	2024	2025	2024
California	No cap	No cap	1.2%	1.1%	\$1,681	\$1,620
Colorado	\$176,100	\$168,600	0.9%	0.9%	\$1,324.21	\$1,100
Connecticut	\$176,100	\$168,600	0.5%	0.5%	\$981.00	\$941.40
Delaware	\$176,100	N/A	0.8%	N/A	N/A	N/A
Hawaii	\$1,441.72 (weekly)	\$1,374.78 (weekly)	0.5%	0.5%	\$837	\$798
Maine	\$176,100	N/A	1.0%	N/A	N/A	N/A
Maryland	\$176,100	N/A	0.9%	N/A	N/A	N/A
Massachusetts	\$176,100	\$168,600	0.88%	0.88%	\$1,170.64	\$1,149.90
Minnesota	Contributions and benefits will start on Jan. 1, 2026					
New Jersey	\$165,400	\$161,400	TDI 0.23%; FLI 0.33%	TDI 0.0%, FLI 0.09%	\$1,081	\$1,055
New York	DBL NA PFL \$91,373.88	DBL NA PFL \$89,343.17	DBL 0.5% (max \$0.60/wk) PFL 0.388%	DBL 0.5% (max \$0.60/wk) PFL 0.373%	DBL \$170 PFL \$1,177.32	DBL \$170 PFL \$1,151.16
Oregon	\$176,100	\$168,600	1%	1%	\$1,568.60 Jan.-June TBA July-Dec.	\$1,523.63 Jan.-June \$1,568.60 July-Dec.
Rhode Island	TBA	\$87,000	TBA	1.2%	\$1,070 Jan.-June TBA July-Dec.	\$1,043 Jan.-June \$1,070 July-Dec.
Washington	\$176,100	\$168,600	0.92%	0.74%	\$1,542	\$1,456
Washington, DC	No cap	No cap	0.75% - Jan.-June TBA July-Dec.	0.26% - Jan.-June 0.75% July-Dec.	\$1,153 Jan – Sept. TBA Oct. – Dec.	\$1,118 Jan – Sept. \$1,153 Oct. – Dec.

Voluntary paid family leave

National overview

State	Program / incentive	State	Program / incentive
<u>Alabama</u>	Paid family leave insurance (group or voluntary employee), first effective August 1, 2023	<u>South Carolina</u>	Group family leave insurance, beginning on enactment date (May 21, 2024)
<u>Arkansas</u>	Group family leave insurance, for policy years beginning on or after Jan. 1, 2023	<u>Tennessee</u>	Group family leave insurance, for policy years beginning on or after Jan. 1, 2024
<u>Florida</u>	Group family leave insurance, for policy years beginning on or after Jan. 1, 2023	<u>Tennessee</u>	Tax credit available for 2024 and 2025
<u>Kentucky</u>	Group family leave insurance, beginning on enactment date (April 5, 2024)	<u>Texas</u>	Group family leave insurance, for policy years beginning on or after Jan. 1, 2024
<u>Michigan</u>	Tax credit available, beginning in 2023 (unfunded)	<u>Vermont</u>	State PFML program; voluntary employer participation began Jan. 1, 2024; The Hartford is insurance partner
<u>New Hampshire</u>	State PFML program; voluntary employer participation began in 2023; MetLife is insurance partner	<u>Virginia</u>	Group family leave insurance, for policy years beginning on or after Jan. 1, 2022

State programs

New Hampshire and **Vermont** created paid family and medical leave programs for state employees in which private employers can voluntarily participate beginning in 2023 and 2024, respectively

Group insurance products

In **Alabama**, **Arkansas**, **Florida**, **Kentucky**, **South Carolina**, **Tennessee**, **Texas** and **Virginia**, employers can purchase state-regulated policies.

Carriers can offer family leave insurance to cover an employee's income loss (or portion thereof) generally due to:

- birth, adoption or foster placement of a child
- a family member's serious health condition
- a family member's military exigency

Tax credits

- **Michigan's** employer tax credit applies to paid parental and adoption leave, up to \$4,000 per employee
- **Tennessee's** temporary employer tax credit equals federal tax credit under IRC §45S, but only with respect for qualifying employees in Tennessee



Mercer is not an “administrator,” “sponsor” or other “fiduciary” within the meaning under applicable law, including the Employee Retirement Income Security Act of 1974, as amended.

Mercer is not engaged in the practice of law, and the content is not intended as a substitute for legal advice. Accordingly, you should secure the advice of competent legal counsel with respect to any legal matters related to this document or the content.

Mercer is not engaged in the practice of medicine and the content herein is not intended as a substitute for medical advice.

Mercer and its affiliates make no representations whatsoever about any third party website that you may access through this document. By including links to such websites in this document, Mercer and its affiliates do not endorse or accept any responsibility for such websites’ content or use or indicate that Mercer or its affiliates are affiliated in any way with such websites’ owner. Mercer and its affiliates do not investigate, verify, monitor, or endorse such websites. In addition, the access to such third-party websites through this document does not imply that Mercer and its affiliates are affiliated with or otherwise endorse any third parties, that Mercer and its affiliates are legally authorized to use any trademark, trade name, logo, or copyright symbol displayed in or accessible through the links, or that any linked site is authorized to use any trademark, trade name, logo, or copyright symbol of Mercer or its affiliates.