MERCER
A MARSH BUSINESS

Law & Policy Group

Maryland Paid Family and Medical Leave: Overview

July 2026

Table of contents

- National landscape
- Snapshot
- Covered employers
- Covered employees
- Program funding
- Definitions
- Intermittent leave
- Weekly benefit amount
- Claim application process
- Notices
- Benefit eligibility
- Benefit coordination
- Private plans
- Employee rights
- Enforcement and penalties
- Taxes and tax credit
- State FAMLI-federal FMLA comparison
- Resources

Paid family and medical leave

National landscape

Fifteen 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.

Note: New Hampshire enacted a paid family and medical leave mandate for state employees in which private employers can voluntarily participate.

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) (unofficial English version) Working Mothers Protection Act (WMPA)
Rhode Island	Temporary Disability Insurance (TDI) Temporary Caregiver Insurance (TCI)
Virginia	Paid Family and Medical Leave (PFML)
Washington	Paid Family and Medical Leave (PFML)

Maryland Time to Care Act (FAMLI)

Contribution and benefits snapshot

Maryland FAMLI FAMILY AND MEDICAL LEAVE INSURANCE

Contributions begin in January 2027 | Benefits available in January 2028

12 weeks of paid leave in a 12-month period

- For employee’s own serious health condition
- To care for a family member with a serious health condition
- To bond with a new child
- To care for a service member who is next of kin with a serious health condition caused by military service
- To handle a military exigency

+12 weeks of paid leave

To bond with a new child or for employee’s own serious health condition if both are needed within the same 12-month period

$1,000 max weekly benefit

- Weekly wage replacement amount depends on employee’s average weekly wage (AWW) relative to the state AWW, with lower earners receiving up to 90% of their AWW.
- Maximum weekly benefit indexed annually after 2028.

Rate equals 0.9% of wages

Contributions are capped at the SS max.

- Employers can charge employees up to 50% of the premium.
- Employers with fewer than 15 employees (nationally) are exempt from contributions; employees are still required to contribute 0.45% of wages.

Rate is adjusted every November for the following calendar year.

Eligibility

- Employee must have at least 680 hours of employment in Maryland in the four most recently completed calendar quarters.
- Family member includes spouse or domestic partner, child, parent, sibling, grandparent and grandchild, including by blood, marriage, adoption, foster care or in loco parentis relationships.
- Job protection and continued health benefit rights except where it would create “substantial and grievous economy injury to the operations of the employer.”

Covered employers

All employers, including state and local government employers, with one or more employees working in Maryland.

- Employers with fewer than 15 employees nationwide are not required to make employer contributions, but employees still must contribute half of the required premium.
- Not included:
  - Federal employers
  - Sole owner and only employee of a sole proprietorship, limited liability company, C corporation, or S corporation

Employer size determined:

- On a quarterly basis, for 2027
- On an annual basis, for 2028 and beyond

Covered employees

All individuals whose primary work location is Maryland

- Full-time and part-time employees
- No exception for temporary or seasonal employees
- Self-employed individuals who elect to participate

Excluded individuals

- Federal government workers
- Self-employed individuals who have not opted in

Eligibility for benefits

Covered employees must have at least 680 hours of *qualified employment* in the four calendar quarters before FAMLI starts.

Qualified employment is work localized in Maryland

- Litmus test: Work is localized if covered by MD's Unemployment Insurance program.
- If unemployment insurance is not paid to any jurisdiction, work is localized in MD if:
  - Employment is performed in MD (including on federal land or in interstate commerce)
  - Employment is partially in MD and only incidentally, temporarily, or transitorily outside the state
  - Employment is partially in MD and is not incidental to work in another state, and:
    - the base of operations or place of control or direction is in MD, or
    - individual resides in MD and work is not done in part in another state that is the base of operation or is the state from which the work is controlled or directed

Program funding

Contribution rate is 0.9% of wages (2027); future rate is set every November for next calendar year (capped at 1.2%).

Employer payroll contributions assessed against wages paid up to the Social Security taxable wage max.

- Large employers with 15 or more employees can charge up to 50% of the premium to employees.
- Small employers with fewer than 15 employees are not required to contribute, but their covered employees must pay 50% of the total premium.
- For 2027 only, employer size will be determined quarterly; thereafter, annually.

Note: Certain licensed community health providers will be reimbursed some or all of the required employer contribution for select employees.

Wages subject to premium contributions

- "All compensation that is due for employment," including:
  - Bonuses
  - Commissions
  - Tips
  - Cash value of compensation in any medium other than cash
- **These are not wages:**
  - Retirement benefits
  - Workers' compensation benefits
- Premiums calculated on gross earnings, before federal income tax, state income tax, and FICA taxes are deducted.

Premium payments and wage reports must be submitted quarterly by employers participating in the public plan through paidleave.maryland.gov; employers with private plans must submit wage/hour and claims reports quarterly.

Definitions

Family member

- Covered individual's spouse, child, domestic partner, grandparent, grandchild, or sibling (including foster, adoptive, step, *in loco parentis*)
- Parent, legal guardian or ward of the covered individual or of the covered individual's spouse (including foster, adoptive, step, *in loco parentis*)
- No designated individuals

Serious health condition

An illness, injury, impairment, or physical or mental condition involving:

- Inpatient care
- Continuing treatment by licensed healthcare provider (including at-home supervision)
- Donation of a body part, organ, or tissue

Continuing treatment includes incapacity and treatment; pregnancy or prenatal care; chronic conditions; permanent or long-term conditions; and conditions requiring multiple treatments.

Application year

12-month period beginning on the Sunday of the calendar week for which FAMLI leave starts.

- Definition applies to employers in the public plan and employers with an approved equivalent private insurance plan (EPIP).

Intermittent leave

All types of FAMLI can be taken on an intermittent basis.

Requirements for intermittent leave

- Minimum leave duration is **four hours** unless scheduled shift is shorter.
  - Private plans may allow shorter intermittent leave durations.
  - Note that federal FMLA allows intermittent leave in periods of whole weeks, single days, hours, and smaller increments.
  - Under federal FMLA, employers must allow employees to use leave in the smallest increment of time allowed for other forms of leave, as long as it is **not more than one hour**.
- Absent good cause, covered individuals must submit intermittent leave requests within **five business days** of leave being taken.
  - Notice must include expected **frequency** and **duration**.
  - Covered individuals must make reasonable effort to **schedule leave** so as to “not cause significant difficulty or expense in relation to the resources and specific operations of the employer’s operations.”

Weekly benefit amount

Individual AWW. Total wages paid in the highest of the prior four calendar quarters ÷ 13.

State AWW determined every July 1. Changes take effect following January 1.

Calculation

- **If employee's AWW is ≤ 65% state AWW, benefit equals** 90% of individual AWW.
- **If employee's AWW is > 65% state AWW, benefit equals** [90% of individual AWW (up to 65% of state AWW)] + [50% x (individual AWW – 65% state AWW)]
- Calculations use the state AWW in effect when approved leave begins and are set for the duration of the claim.

Maximum weekly benefit. $1,000 in 2028 (adjusted annually based on CPI).

Minimum weekly benefit. $50 in 2028 (adjusted annually based on CPI).

Claim application process

1 → 2 → 3 → 4

1. Employee files claim with MDOL

- Filed within 60 days before or after leave start date.
- Deadline can be waived for up to one year for good cause.
- Supporting documentation is required.
- Employee must update material information within 10 days, or as soon as practicable if good cause is shown.

2. MDOL notifies employer

Employer has five business days to respond before MDOL adjudicates claim.

3. MDOL adjudicates the claim

- Within 10 business days of the completed application
- And notifies the employee and employer.
- Employee has 30 days to appeal, absent a showing of good cause.

4. First payment is due within five business days of claim approval or leave start (whichever is later).

Other payments must occur every two weeks.

Serious health condition certifications must include:

- Leave start date, whether continuous or intermittent, probable duration
- Serious health condition start date
- Other appropriate facts within the knowledge of the licensed healthcare provider

Additional requirements may apply:

- Family member's serious health condition must have statement indicating the covered individual needs to care for family member and estimated amount of time needed
- Covered individual's serious health condition must have statement indicating the employee is unable to perform the functions of the position.
- Bonding requires birth certificate or other government documents

Required employer notices

Employers must give employees written notice about their FAMLI rights and duties:

- Six months before benefits start (i.e., July 2027)
- At hire
- Annually thereafter
- When employer knows leave or leave request may be eligible for PFML, within five business days

If an electronic or physical acknowledgement of receipt is collected, the claimant is considered notified.

Notice content

- Right to receive benefits
- Procedure for filing a claim
- Employee’s obligation to provide notice before leave starts and penalties for failing to do so
- Rights to file a complaint and job protection
- Prohibited acts, penalties and complaint procedures

Separate written notice is required at least one pay period in advance of the start of contribution withholdings or any changes to withholdings.

MDOL will provide sample notices.

Employee notice to employer

General

- Employee must give notice to employer at least **30 days before** leave starts.
- When 30 days advance notice is not practicable because of lack of knowledge, change in circumstances, or medical emergency, employee must give notice **as soon as practicable.**

Intermittent leave

- Employee must provide reasonable and practicable prior notice of reason, dates, and duration of intermittent leave.
- Employer can take action consistent with its established absence policy if employee fails to provide advance notice.

Method

Law does not address:

- If employee notice can be oral or electronic or must be in writing
- If employer can impose its usual and customary notice requirements on FAMLI leave

Benefit eligibility

Work requirement

Covered employees must have at least 680 hours of *qualified employment* in the four calendar quarters before FAMLI starts.

Qualified employment is work localized in Maryland

Common scenarios:

- Works full-time in Maryland, lives in another state: **Covered.**
- Works full-time in another state, lives in Maryland: **Not covered.**
- Works remotely in another state for Maryland-based employer: **Not covered.**
- Works remotely in Maryland for employer based in another state: **Covered.**

Disqualifications

Individuals receiving unemployment benefits or workers' compensation benefits (other than for permanent partial disability) are not eligible for FAMLI benefits.

Intermittent leave benefits

Benefits are equal to the hourly rate times the hours of leave in one week.

Consequences of employee fraud

- All benefits are treated as overpayment, subject to MDOL enforcement once employee is notified.
- Job and anti-retaliation protections do not apply.

Coordination with other benefits

Alternative FAMLI Purpose Leave (AFPL)

AFPL is a separate bank of employer-provided leave for FAMLI purposes (e.g., new parent leave, family leave) or leave under a disability policy.

- Employer may require concurrent (or coordinated) AFPL use with FAMLI if it is paid, not accrued, not subject to repayment, not available for general purposes, and available without requirement to exhaust other leave.
- AFPL can be used to supplement the FAMLI benefit up to 100% of AWW.
- Advanced written notice is required.

General purpose leave

General purpose leave is employer-provided paid leave like PTO, personal leave, vacation, or sick leave, but not AFPL.

- Employers can't require employees use or exhaust general purpose leave before using FAMLI.
- Employer and employee can mutually agree to supplement FAMLI with general purpose leave, up to 100% of AWW.
  - Mutual agreement must be documented in writing and retained by the employer.
- Employee can choose to use paid sick leave before receiving FAMLI benefits.

Federal FMLA

- FAMLI and federal FMLA run concurrently when available for the same reason.
- Employee's annual entitlement may be reduced by FMLA use if:
  - Leave was eligible for FAMLI;
  - Employee was notified of eligibility for FAMLI by employer when taking FMLA leave; and
  - Employee didn't apply for FAMLI

Reminder: Paid sick leave

Healthy Working Families Act requires employers with 15 or more Maryland employees to provide one hour of paid sick and safe leave for every 30 hours worked (up to a maximum of 40 hours per year).

Smaller employers can provide unpaid leave.

Equivalent private insurance plan (EPIP)

Employers can offer a private plan that is insured or self-insured if the plan is offered to all eligible employees and meets or exceeds the law's rights, protections, and benefits.

Application process

Employers can apply for EPIP approval at any time (beginning in 2027).

- Application fee
  - insured EPIP: $100 - $1,000 based on employer size
  - Self-insured EPIP: $1,000
- Must cure application deficiencies with 30 days.
- Approved EPIP is effective on the first day of the calendar quarter following approval date.
- Annual EPIP application required; submission at least 90 days before EPIP expiration.

Key EPIP limitation

Employee contribution capped at 50% of public plan amount (currently 0.45%).

Declaration of intent (DOI)

The DOI is a legally binding, signed attestation showing employer's commitment to provide an EPIP with an effective date of January 1, 2028.

- DOI submission period is September 1– November 15, 2026.
- Upon DOI approval and until EPIP approval, employer must collect and hold both employer and employee contributions in escrow otherwise due to under public plan.
- If fully insured EPIP is approved, employer returns employee contributions.
- If self-insured EPIP is approved, employer may use the funds to seed a separately accounted EPIP fund.
- If EPIP is not approved, employer is liable for remitting all contributions not made, plus interest and penalties for late payment.

Self-insured EPIPs

Only available to employers with 50 or more Maryland employees, or smaller employers with a FAMLI-compliant plan in place before July 31, 2026.

Other requirements include:

- Proof of solvency (requires a surety bond equal to one year of expected future benefits; waiver is available).
- Separate bank account for employee contributions, from which only benefits are paid.

Employee rights

Health insurance

- Employment-based health benefits must continue in the same manner as required by federal FMLA regardless of whether the leave is also protected by FMLA.
- Presumably, this means the covered individual must continue to pay their share of the health insurance premium while on FAMLI leave.

Other benefits

Neither the law nor the regulations address continuation of other employer-provided benefits, beyond what is required by FMLA rules.

Job protection

Covered individual is entitled to be restored to an equivalent position, unless employer denial is “necessary to prevent substantial and grievous economic injury to the operations of the employer.”

Interference, retaliation, antidiscrimination

For all covered employees, employer cannot discharge, demote, or otherwise discriminate or take adverse action for exercising rights under the law.

Enforcement and penalties

MDOL actions

- Investigate complaints of noncompliance, conduct an informal conference, resolve through mediation, and issue orders.
- Audit employers for compliance.
- Bring action in state court (state attorney general too)
- Assess civil penalties up to $1,000 per employee for violations.

Civil action

- Must first file a complaint with MDOL.
- Damages
  - 3x lost wages, benefits
  - Punitive damages
  - Attorneys' fees
  - Injunctive, other relief

Other provisions

- All administrative remedies (including appeals) must be exhausted before any judicial review.
- Final regulations provide detailed procedure.
- Late contributions after 30 days are subject to interest of 1.5% per month plus penalties.

Federal taxation of contributions and benefits

Starting with 2027 tax year, federal taxation of benefits from public plan

- Family leave benefit payments *are considered gross income* but *not considered wages* for federal employment tax purposes (i.e., FICA).
- Medical leave benefit payments attributable to the required employer contribution *are considered gross income* to the employee and *are considered wages* for federal employment tax purposes.
  - All other medical leave benefit payments *are excluded from gross income* and *are not considered wages* for federal employment tax purposes.

Covered individual may elect to have MDOL withhold federal and state income tax from their benefit payment.

- If elected, federal taxes will be withheld at 10% and state taxes at 3%.
- By the end of each January, MDOL will send each claimant an accounting of the benefits amounts paid and the federal and state taxes withheld during the previous calendar year.
- Any required IRS form 1099G will be sent electronically, if the claimant consented, or by regular mail and to any other government agency as required.

Contributions to public plan

- Employers in the public plan may deduct required employer FAMLI contribution amounts as state excise tax payments.
- Required employee contributions *are included as gross income* on Form W-2 and considered wages subject to federal employment taxes.

For more information, see Revenue Ruling 2025-4, Notice 2026-6, and our GRIST, *IRS clarifies taxation of state and DC PFML contributions, benefits*.

Paid family and medical leave (PFML) employer tax credit

One Big Beautiful Bill Act (HR 1) section 70304, effective 2026

Permanently extends the employer tax credit for PFML, which was first available for wages paid in 2018 and set to expire December 31, 2025.

Provision	Current law	Changes made by OBBBA
Determination of tax credit	Based on wages paid to qualifying employees on leave	Adds employer option to determine credit based on premiums paid for an insured policy*
Eligible employer	If treated as a single employer under IRC § 52(a) and (b), then treated as a single taxpayer	If treated as a single employer under IRC § 414(b) and (c), then treated as a single employer; new exception for a "substantial and legitimate business reason" for an entity within the controlled group not providing the benefit
State-mandated benefits	Not taken into account in determining if the employer policy provides at least 50% wage replacement	Taken into account to determine if employer policy provides at least 50% wage replacement, but not taken into account for determining the credit amount; FAMLI qualifies as PFML
Qualifying employee	Employed at least 1 year and earning less than 60% of the highly compensated employee threshold	Employed at least one year (but employer can reduce this to six months), earning less than 60% of the highly compensated employee threshold ***and*** customarily employed at least 20 hours per week

*Currently eight states allow life or disability carriers to write group paid family leave policies.

For more information, see our GRIST, *Permanent, improved tax credit for paid family and medical leave*.

Background

IRC § 45S provides a tax credit for employers that provide PFML to all eligible employees.

Employer eligibility requirements

- Written paid leave **policy.**
- Provide at least **two weeks of paid leave** for "qualifying employees" who work full-time (and a pro-rata amount for part-time employees).
- Leave can be used for one or more federal **FMLA reasons.**
- Wage replacement is at least **50% of wages.**
- Available general business **tax credit ranges from 12.5% to 25%** of wages paid to qualifying employees on leave (or insurance premium paid).

State FAMLI and federal FMLA comparison

	State FAMLI	Federal FMLA
Paid	Yes	No
Leave use	• Employee's own disability • Care for a 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 health condition	• 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 with a serious illness or injury
Eligibility	680 hours worked in Maryland in the four most recently completed calendar quarters	1 year of service and 1,250 hours worked in the past 12 months
Job protection	Yes	Yes
Leave duration	Up to 12 weeks for all qualifying reasons, plus an additional 12 weeks if medical leave and child bonding leave needed in the same year	Up to 12 weeks for most qualifying reasons 26 weeks to care for a covered service member with a serious illness or injury (26-week combined max)
Who is a covered family member?	Same as federal FMLA, plus domestic partners, parents of spouse, grandparents, grandchildren and siblings of the covered 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, foster, or step-child, legal ward, or child of a person standing in *loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability; spouse

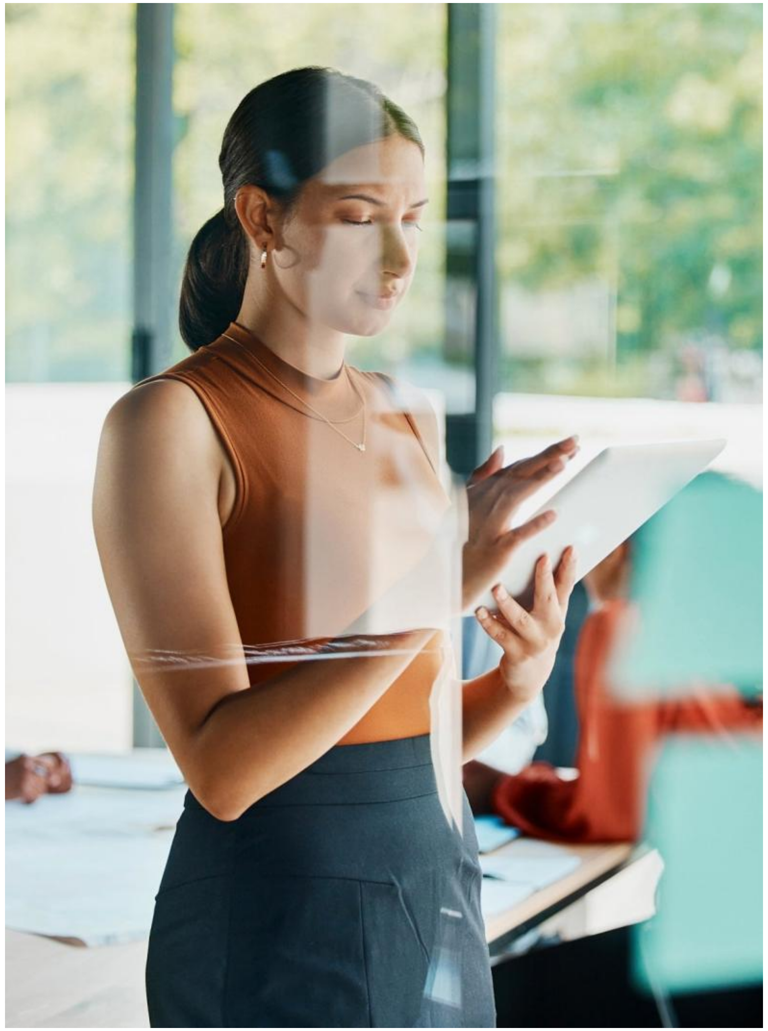
Maryland Paid Leave resources

State resources

- Time to Care Act: MD Code Ann. Lab. & Empl. tit. 8.3
- Regulations: COMAR 09.42
- FAMLI website: https://paidleave.maryland.gov/
- Employers website: https://paidleave.maryland.gov/employers/
- Notice of Employee Rights in English and Spanish
- MDOL Family and Medical Leave Insurance: 410-525-4010 or paid.leave@maryland.gov

Mercer Resources

- State paid family and medical leave contributions and benefits (February 6, 2026)
- Maryland revises paid family and medical leave law (September 2, 2025)
- Law & Policy Insights



Employer responsibilities for 2026 (per MDOL)

1. Register business in Fall 2026 and create online account
2. Designate an authorized officer
3. Grant access to a third-party agent, if applicable
4. Notify employees in advance of withholdings
5. Understand withholding

MERCER
A MARSH BUSINESS