Paid Family and Medical Leave (PFML) Frequently Asked Questions (FAQ's) for Employers

Note: This FAQ is designed to help employers and employees better understand their rights and responsibilities and to navigate Maine Paid Family Medical Leave Law. This document provides guidance but does not replace the authority of the Law or program Rules. The information in this guidance may be subject to change. Visit https://www.maine.gov/paidleave/ for the most up-to-date information.

Overview of the Paid Family and Medical Leave law:

1. What is the Paid Family and Medical Leave Program (PFML Program)?

Maine's PFML law will provide up to 12 weeks of paid leave for family leave, medical leave, to deal with the transition of a family member's pending military deployment or stay safe after abuse or violence. This law went into effect in October 2023, with the major components of the law having 2025 and 2026 implementation dates. The Maine Department of Labor (MDOL) is responsible for the implementation of this new program.

Contributions:

2. Where do the contributions come from beginning January 1, 2025? Are the contributions paid by the employee, the employer, or combined?

Both the employer and the employee contribute to the PFML Fund. All funds are pooled to pay for future claims and other administrative costs. Payroll withholdings from employee's pay for the Paid Family Medical Leave program will begin with pay dates on or after January 1, 2025, and be transferred to the Maine Paid Family and Medical Leave Fund. ("PFML Fund").

3. If benefits do not go live until 2026, why are contributions being made in 2025?

Although benefits are scheduled to begin on May 1, 2026, payroll contributions will begin in 2025 to allow time to accumulate sufficient funds to pay for benefits and the operations of the program.

4. What is the contribution rate for Paid Family and Medical Leave?

For calendar years 2025-2027, the joint contribution rate for employers and employees is set at either 0.5 or 1 percent of wages based on the size of the employer. No more than 0.5 percent can come from the employee. Employers with 15 or more employees will contribute 1 percent of wages and may deduct up to half of the contribution from the employees' wages. Employers with less than 15 employees will contribute 0.5 percent of wages and may deduct the entire amount from the employees' wages.

5. What is the definition of wages for the program?

Wages include all forms of compensation for personal services, such as regular salary, tips, commissions, bonuses, and severance pay. It does not cover payments made to independent contractors.

For payroll and premium purposes, wages are calculated similarly to how Maine Unemployment wages are determined but applied to a larger base of employees that are not traditionally subject to the Maine Unemployment contributions tax. All wages earned in Maine should be reported on wage reporting and the premium amount will be calculated to exclude amounts above the annual base limit set by the U.S. Social Security Administration.

6. How is the locality of Wages earned in Maine determined?

The PFML program will use the same test of locality under the Maine unemployment law. In general – if an employer subject to Maine Unemployment Insurance (UI) includes an employee on a Maine UI report based on UI locality, that employee is also subject to Maine PFML. If an employer includes an employee on a UI report to another state based on UI locality, PFML takes the position that the employee's work is localized in that same state for PFML purposes. However, in instances where an employer or an employee type is not subject to Maine or other state unemployment law but is subject to Maine PFML, then locality must be established. A worker earning Maine wages can be determined through a four criteria sequential test, applied to the employee:

Four factors, taken in sequence, determine whether or not employment is reportable in Maine:

- **Place Where Work Is Performed:** If the employee performs all work in Maine, or if the work outside Maine is incidental (temporary or minor), then Maine law applies. If this does not apply, continue to next factor.

- **Base of Operations:** If the employee performs work in Maine and other states, if the base of operations is in Maine, Maine law applies. The base of operations is the primary location from which the employee starts work and returns regularly. If this does not apply continue to next factor.

- **Place from Which Service Is Directed or Controlled:** If the employee performs some work in Maine and the service is directed or controlled from Maine, Maine law applies. This refers to the place of general authority rather than direct supervision. If this does not apply, continue to next factor.

- **Place of Residence:** If none of the above criteria apply, and the employee performs work in Maine and other states, and resides in Maine, then Maine law applies. If none of the above apply, the employment is not reportable in Maine.

7. Who is responsible for remitting contributions to the PFML Fund?

Employers are responsible for remitting contributions to the PFML Fund through the Maine Paid Leave portal.

8. Are PFML wages gross wages?

Similar to State Unemployment Insurance definition of wages, PFML wages are not gross wages but "total subject wages". Total subject wages are gross wages excluding the same exempted payment types as specified in State Unemployment Insurance statute and Federal Unemployment Tax Act. More information on excluded payment types can be found in IRS Publication 15 Circular E: 2025 Publication 15.

9. Are wages for the PFML program calculated pre-tax or post-tax?

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

10. Are PFML Premiums taxable?

The question of whether PFML premiums are taxable is reliant on the guidance and processes of the Federal Internal Revenue Service. The IRS has released formal guidance on issues of taxability which can be viewed here: RR-25-04.

11. How do PFML premiums affect the taxable wages for employees?

PFML premiums do not reduce wages imputed for other federal and state tax programs. PFML premiums are withheld from employee pay after federal and state taxes are deducted.

If an employer has made the determination to cover the employee portion of PFML premiums, the employer contribution is additional compensation and is included in the in the employee's federal gross income as wages.

Employees may be entitled to deduct PFML premium payments as a state income tax if they itemize their deductions on their federal income tax return. Review RR-25-04 for more information on this.

12. How do PFML premiums affect employer taxes?

Employers may deduct the required employer portion of PFML premiums as an excise tax.

If the employer chooses to pay the employee's portion of PFML premiums, they may deduct that as an ordinary and necessary business expense.

Review RR-25-04 for more information.

13. What should be listed in Box 14 on the W-2 form for employee contributions?

Employee premium contributions must be listed under Box 14 of the W-2 form with the label "MEPFML".

If an employer pays the premium contribution for the employee's portion, this must be included as wages on the employee's Form W-2.

14. Are employer-sponsored disability payments and third-party sick pay subject to Maine PFML premiums?

In accordance with the State Unemployment Insurance definition of wages, that PFML also uses, employer-sponsored disability payments and third-party sick pay (short term disability payments provided by the agent of an employer, generally an insurance company) are considered

to be wages until the "*expiration of 6 calendar months following the last calendar month in which the employee worked for that employer*" and therefore subject to PFML premiums.

If these payments are made by a third party, the employer should speak with their agent to account for these wages. If the employee is receiving a insufficient paycheck from the employer during this leave to cover these premiums, the employer may retroactively deduct the missed premiums owed by the employee under PFML rules Section X (L) and report those wages in the quarter in which those deductions were made.

15. Are PFML benefits taxable?

Please note: On December 19th, 2025, the IRS issued an extension for certain requirements of PFML benefit taxation as it relates to the treatment of medical leave benefits as wages: Extension of Transition Period to Calendar Year 2026 for Certain Requirements in Revenue Ruling 2025-4. For tax year 2026, Maine PFML will report the taxable portion of medical leave benefits as income and issue Form 1099-G to the employee. The employee will have the option to withhold state and federal income taxes, but no PFML benefits will be subject to payroll taxes for Social Security and Medicare during 2026. Starting in tax year 2027, the taxable portion of medical leave benefits will be treated as wages and reported on Form W-2 to the employee as specified above. The taxable portion of PFML benefits for medical leave will be subject to payroll taxes for Social Security and Medicare in 2027 and going forward. Our guidance for tax year 2027 on the treatment of PFML benefits is below:

Sometimes Maine PFML benefits are taxable, and sometimes they're not. The Internal Revenue Service (IRS) is the best source of information on taxability questions. They have released formal guidance on this question. You can view that here: IRS Revised Rule 2025-4. Table 2 on page 29 provides a good summary, along with the information below.

Benefits paid for family leave claims are considered taxable income, but they are not considered wages. This is similar to how unemployment benefits are treated. You can choose to have withholdings from your benefits for state and federal income taxes. You'll get a Form 1099-G at the end of the year for when you file your income tax return. Benefits paid for medical leave claims are treated differently depending on who is required to pay the premiums for coverage: the employee or the employer.

- When the employee pays all of the premiums, their medical leave benefits are not taxable at all. In Maine, employers who have less than 15 workers are exempted from their portion of the premium, so the employee would pay all of the premium.
- When the employee pays only a portion of the premiums, then only the proportion of benefits corresponding to their contributions are exempt from tax. The proportion attributable to the employer's contribution would be taxable wages.

- Even if an employer voluntarily pays a portion of the employee's premium share, the taxation rules are still the same as what is assumed in law for cost sharing.

Generally, this will mean that if you take leave from an employer with less than 15 employees (where the law assumes all of the premiums are paid by employees), none of your medical leave benefits are taxable. If you take leave from an employer of 15 employees or more (where the law assumes half of the premiums are paid by employees and half of the premiums are paid by the employer), half of your medical leave benefits will be taxable as wages. Payroll taxes for Social Security and Medicare will be taken out of this taxable part of medical leave benefits. You can also elect to voluntarily withhold state and federal income taxes. You'll get a Form W-2 for the taxable portion for when you file your income tax return.

16. Who is responsible for paying employer payroll taxes for the taxable portion of PFML benefits?

For the portion of medical leave benefits that are subject to payroll taxes, the Department will cover the responsibility of calculating and paying the required employer payroll tax matches. The Administrator will remit payroll taxes and issue Forms W-2 to employees as needed, on behalf of the Department.

Starting in tax year 2027, the Department will assume this responsibility and associated costs during the initial phase of the program to reduce complexity in the tax treatment of benefits. The Department acknowledges that employers already comply with the payroll tax requirements for short-term disability programs and reserves the right to adopt a comparable process for PFML benefits in the future.

17.What are the penalties for an employer if the employer fails to pay contributions or submit wage reports on time?

The penalty for an employer failing to pay contributions and/or submit wage reports is 1 percent of the employer's total quarterly payroll. This penalty shall be assessed if the employer fails to pay all or a part of the contributions owed to the Department on a quarterly basis. Employers will receive a notification if they have failed to pay contributions or submit a wage report and will have a period of time to correct the issue before the penalty is assessed. If an employer discovers they need to amend a wage report after the due date to make corrections, they will be provided with a timeframe to remit a new premium obligation before the penalty is assessed.

18. I am a self-employed individual, am I eligible?

Self-employed individuals are eligible for Paid Family and Medical Leave but must choose to opt in for coverage. For calendar years 2025-2027, the premium rate has been set at 0.5 percent of the individual's income from self-employment. Self-employed individuals can elect coverage through the Maine Paid Leave portal.

19. I am a self-employed individual but earn wages as an employee of my company, am I automatically covered in the law?

The wages that a self-employed individual makes as an employee of their company are subject to premiums and must be included in wage reports. For example – the reasonable wages that a self-employed individual receives as an employee of their S-Corp business is subject to premiums and must be included on wage reports.

20. How are Tribal Governments affected by this law?

Tribal governments have the option in the law to elect coverage for their employees if they wish. Tribal governments can opt-in as an employer through the Maine Paid Leave portal to elect this coverage.

Collective Bargaining Agreements:

21. How does the PFML law apply to public sector collective bargaining agreements?

Public employers and employees that are subject to a collective bargaining agreement that was in effect on October 25, 2023, are not required to participate until the collective bargaining agreement expires. Neither party will make contributions pertaining to the Paid Family and Medical Leave program until that collective bargaining agreement expires, and individuals will not be eligible for benefits until either the expiration of the collective bargaining agreement or May 2026, whichever comes later. MDOL will use the end date listed on the applicable collective bargaining agreement, regardless of when the subsequent collective bargaining agreement is ratified.

22. What if both parties in a public sector collective bargaining agreement agree to contributions prior to the agreement expiring?

Public employers and employees who agree, through relevant public bargaining law and process, to contribute to the Paid Family Medical Leave program prior to the expiration of a collective bargaining agreement that was in effect on October 25, 2023 may do so. Withholdings would begin on the first pay date after an agreement was ratified or the first pay date in January 2025, whichever is later.

23. How does this apply to public employees not subject to a collective bargaining agreement?

The Paid Family and Medical Leave law will apply to any public employees who were not subject to a collective bargaining agreement on October 25, 2023. Also, any public employees who are not subject to a collective bargaining agreement in general are covered by the program in the same manner as private sector employees.

24. Are employees exempted from the law due to a public collective bargaining agreement described above listed on wage reports?

Employees who are exempt from the law due to being subject to a public collective agreement should not be included in wage reports until the end date of the collective bargaining agreement.

25. How does PFML law apply to private sector collective bargaining agreements?

The exemption in section 850-B (10)(D) does not apply to private sector collective bargaining agreements.

Maine Paid Leave Portal:

26. Where will employers be able to submit premiums and wage reports?

Employers can submit premiums and wage reports through the **Maine Paid Leave Portal that will be available in early 2025**. All employers will be required to register with the Department via this portal to determine their liability for PFML contributions and to designate a third-party payroll or employee leasing company if they wish. All liable and active employers must create an account in the portal to electronically file quarterly wage reports and make contribution payments.

27. How frequently are employers to submit premiums and wage reports for the PFML Program?

Employers must submit their premium amounts and contribution reports **quarterly** and are due on or before the last day of the month following the end of each quarter. Payments and reports are considered timely if received electronically by the due date. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next business day. Employers may have their payments and reports submitted by an employee leasing company or an authorized third-party administrator.

28. Will there be an ability to submit bulk uploads to the portal?

Third party administrators will be able to submit bulk wage reports in specified file formats. Employers will be able to upload an excel sheet of their employee and wage information in their quarterly wage report. They will have to follow a template that the Department provides.

Definition of Covered Employee and Premium Liability:

29. Who is the covered employee?

A “covered employee” is an employee who earns wages in Maine. However, wages do not include wages earned from federal employment, federal work study financial aid, during incarceration, by certain volunteers as specified in the proposed rule, or by an employee subject to the Railroad Unemployment Insurance Act. Independent contractors may elect coverage, and if so would report wages earned and submit contributions in order to be a covered individual.

30. To determine premium liability for employers, how do you count the number of employees?

For the purposes of determining premium liability, any employer that employed 15 or more covered employees per the employer's Federal Employer Identification Number (FEIN) on their established payroll in 20 or more calendar workweeks in the 12-month period preceding September 30th of each year, will be considered to be an employer of 15 or more covered employees for the calendar year thereafter. This count includes the total number of persons on establishment payrolls employed full or part time who received pay for any part of the pay period.

Temporary and intermittent employees are included, as are any workers who are on paid sick leave, on paid holiday, or who work during only part of the specified pay period. On October 1, 2024, and October 1 of each year thereafter, the employer shall calculate its size for the purpose of determining premium liability for calendar year 2025 and each calendar year thereafter. This employer count will be reported upon first registering with the Maine Paid Leave Portal, and during Quarter 3 wage reporting annually thereafter.

31. Are employees included in the employer size count and on wage reports even if they do not earn enough to be eligible for benefits?

For the purposes of employer size count, wage reporting, and premium liability, employees with any wages earned in Maine must be included. Thus, the employee has the opportunity to earn the wage base necessary for benefit eligibility across multiple jobs and through changes in employment throughout their benefit year. Eligibility of benefits from meeting the wage threshold is determined when a covered employee applies for benefits.

Private Plans:

32. I am an employer with a current policy that provides paid time off (PTO), sick leave and/or a short-term disability policy. Can my leave policy be considered a substantially equivalent plan under the Maine PFML Law?

Section 850-H(2) states that to be approved as a substantially equivalent private plans, among other requirements which will be outlined in rule, the plan must be either a self-funded plan that requires a surety bond paid to the State or a fully-funded plan purchased from an insurance company. An internal leave policy, on its own, does not meet these requirements. Additional details regarding the process and requirements for private plans are outlined in rule.

Type of Private Plans:

33. What types of plans are considered to be a private plan under the Maine Paid Family and Medical Leave law?

A plan must be a fully insured plan or a self-insured plan.

34. What is a fully insured plan?

A fully insured plan is an insurance plan offered by an insurance carrier authorized to do business in the State of Maine. The plan must have been certified as compliant with the requirements under the Maine Paid Family and Medical Leave Act and Rule. Insurance plans that have not received certification of compliance with the Act and Rule are not eligible for substitution.

35. What documentation is required for a fully insured substitution application?

Fully insured plans will require the name of the insurance company, policy number, and an uploaded scan of the insurance policy issued to that specific employer. While the employer must have been issued the policy of a certified plan at the time of their application, the employer can choose to delay benefit coverage for claims until May 1, 2026.

36. What is a self-insured plan?

A self-insured plan is an insurance plan provided directly by an employer, rather than through an insurance carrier.

37. What documentation is required for a self-insured plan?

Employers must provide through the Maine Paid Leave Portal a scan of the proposed plan documents, the self-insurance private plan application, provided by the Department, along with a scan of the surety bond from an authorized surety company in the form and amount specified by the Department in the application document. The surety bond must be signed by a corporate officer of the surety company or an attorney-in-fact under an appropriate Power of Attorney. If signed by an attorney-in-fact, both the surety bond and the Power of Attorney must be uploaded into the portal.

38. Can an employer hire another entity to administer its self-insured private plan substitution?

Employers can contract with an entity that is licensed with the Maine Bureau of Insurance as a third-party administrator with health authority. Insurance companies licensed with the Maine Bureau of Insurance with health authority can also provide claims administration for an employer's self-insured private plan substitution. Third party claims administrators licensed by the Bureau of Insurance should not register in the Maine Paid Leave Contributions Portal.

39. Are group policies allowed for fully-insured plans? Are group trusts of multiple employers allowed for self-insured plans?

Group policies or trusts are not allowable for private plan substitution consideration. For fully-insured policies, the employer must be listed as the policy holder. For self-insured policies, the individual employer is responsible for the operation of the plan, even if they contract the plan to a third-party benefits administrator, and the individual employer is liable for the bond to the State.

Application Process and Review:

40. When and how can employers apply for a private plan substitution?

Applications may be submitted after April 1, 2025. Applications must be submitted online through the Maine Paid Leave Portal, which is set to release in early 2025.

41. How much does it cost to apply for a private plan substitution?

There is an application fee of $250 for review which is non-refundable whether the application is approved or denied. There is an additional $250 administrative cost reimbursement fee if approved. Fees are subject to increase.

42. How long is an approved private plan substitution valid for?

An approved substitution is valid for three years.

43. Who will be responsible for the review of applications?

The Department will be responsible for review of private plan applications.

44. If an application is approved, when will the substitution take effect?

The exemption from the obligation of premiums begins on the first day of the quarter in which the substitution is approved, except if the application for substitution is submitted less than 30 days prior to the end of a quarter, in which case the exemption is effective on the first day of the quarter following when the application for substitution was submitted, assuming it is approved. Premiums owed prior to the exemption effective date must still be remitted to the program through the Maine Paid Leave Portal.

To view an explanatory graphic when exemptions and deductions start and end relative to private plan type using hypothetical dates, please click on the link below to learn more: PrivatePlanapprovalanddeductionstimeframesv2.pdf

45. Can an employer appeal a decision regarding their private plan substitution?

Yes, an employer can appeal a denial of substitution, a denial of cancellation, a revocation, or the issuance of any penalty for violation. Appeals must be made within 15 business days of receiving notice of the decision.

Employer Requirements for Compliance with Private Plan:

46. Could my private plan substitution be revoked during the three-year period.

Yes, if the Department finds the terms and conditions have been violated. Examples of a violation could be an employer fails to submit quarterly wage reports or fails to submit data reports if the employer is using a fully insured plan.

47. What are the consequences of a violation of the terms and conditions with the approved plan?

Violation of the terms and conditions may lead to revocation of the substitution and the employer will be responsible for paying premiums to the PFML Fund beginning the first quarter following revocation. Employers with a revoked substitution cannot reapply for a new substitution for three years from the date of the revocation. If the employer's plan is self-insured, payments for missed premiums may be collected through the surety bond provided.

48. What reporting requirements are there during an approved substitution period?

Employers must continue to submit wage reports quarterly through the Maine Paid Leave Portal. Premium liability will be zero on these reports during the substitution period. For private plans that began paying benefits May 1, 2026, employers must also submit an annual data report through the Maine Paid Leave Portal by July 31, 2027, and annually thereafter that outlines performance metrics of the private plan. Failure to submit required reports may result in a revocation of a private plan substitution.

Employers should contact their insurance carrier or third-party claims administrator to confirm whether they will be filing the annual claims data report on the employer's behalf.

49. How much can be deducted from an employee to help pay for an approved private plan substitution policy?

The employer may deduct up to what the employee would be required to pay for the State plan to help pay for a private plan substitution policy once it has been approved. This is a maximum of .5% of the employees' wages until at least 2028.

50. Can I deduct more than .5% of wages if the private plan policy costs more that 1% total?

No – the maximum amount that an employee can contribute towards the approved private plan policy is .5% of wages, even if they policy costs more than 1% total of wages.

51. Can I deduct the .5% of wages from the employee if the private plan policy costs less than 1% total?

Yes – the statute and rules only require that the employee is not charged more than what they would pay under the State plan, which is .5% of wages until at least 2028.

52. I have a self-insured private plan substitution approved, but I have delayed the start of benefits until May 1, 2026 as allowed in rules. Can I start deducting from the employee to pay towards the eventual benefits paid by my self-insured private plan?

Yes. To view an explanatory graphic when exemptions and deductions start and end relative to private plan type using hypothetical dates, please click on the link below to learn more: PrivatePlanapprovalanddeductionstimeframesv2.pdf

Renewal of approved substitution:

53. How can an employer renew an approved private plan substitution?

Employers must apply for renewal at least 30 days before the end date of their approved substitution. The Department will notify employers through the Maine Paid Leave Portal 60 days before the end date of the employer's approved substitution.

54. What happens if an employer fails to renew an approved private plan substitution?

If an employer does not apply to renew their substitution or if the renewal is denied, the employer is responsible for premiums to the PFML Fund starting on the day of the substitution expiration.

Changes & Cancellations of Private Plan Substitution:

55. What happens if an insurer decides to stop offering a fully insured plan?

If an insurer decides to stop offering a fully insured plan, the insurer must notify the Maine Bureau of Insurance three months in advance and provide six months' notice to the affected employers prior to non-renewal.

56. Can an employer cancel an approved substitution before it expires?

Employers may only request cancellation if they can demonstrate a significant direct negative business impact, such as a evidence of an unanticipated and unreasonable premium increase. If a cancellation is approved by the department for the employer to return to coverage from the State fund, the employer cannot apply for another substitution for a period of 3 years. Requests to withdraw a substitution can be done through the Maine Paid Leave Portal.

57. Can an employer make changes to an approved plan?

Employers must notify the Department at least 60 days in advance of any material changes to the plan and receive written approval.

58. Can an employer switch an approved plan (between insurance carriers or between fully insured and self-insured)?

The employer can apply for a new private plan substitution through the Maine Paid Leave Portal during a period of a substitution. The application and administration fee must be repaid and if approved, the substitution 3 years will start anew based on the new approval date.

59. Can an employer with an approved private plan require a new hire to build wages with the employer before the employee can apply for benefits under the private plan?

A new employee is eligible for paid family and medical leave benefits under the private plan immediately upon the date of hire, provided they have met the wage threshold with previous Maine earnings. Benefit amounts and prior wage earnings should be calculated consistent with the terms of

the insurance policy purchased or the terms of the self-insured private plan document and cannot require a new hire to earn wages with the current employer prior to applying for benefits.

60. Can the employer with an approved private plan implement human resource policies and procedures that differ from the terms of the insurance policy they purchased or the language and terms of their approved self-insured private plan document?

No. An approved private plan must administer and implement the plan consistent with the terms of the approved insurance policy or approved self-insured plan document. No changes can be made to the plan document without prior approval of the Department. Implementing terms that have not received prior approval may result in the revocation of the private plan.

Collective Bargaining Agreements and Private Plans:

61. How does the provision in the PFML law on public sector collective bargaining agreements (CBA) apply to private plans?

Per rule, for a private plan to be eligible for a substitution, the plan must provide benefit coverage for all employees in their organization equally, regardless of CBA status.

Benefits and Notice Related Questions

Notice Requirements:

62. What are employers required to include in the written notice about PFML program to employees?

- The benefits available under the program.
- The employee's right to job protection and continuation of health insurance.
- The process for filing a claim.
- Employers are required to display a workplace poster about PFML.

This notice must be given at the time of the hire.

63. What kind of notice must employees give to employers before taking leave?

Employees must provide at least 30 days' written advance notice for leave the employee knows they will need to take. However, in some circumstances for foreseeable leave, 30 days may not be enough advance notice if the type of work performed for the employer requires longer notice and the leave may affect the employer's operations.

64. What kind of notice must employees give to employers in cases of emergency leave?

If an emergency arises, the employee must provide notice to the employer as soon as practicable under the circumstances. Notice must be given in writing, which can include email or text message to the employer. Notice can also be given for the employee through a family member or health care provider to the employer.

65. Do employees on leave have job protection?

Yes, if an employee has been employed with an employer for at least 120 consecutive days the employee must be returned to their own or an equivalent position when they return from leave. An employee who has been employed for less than 120 consecutive days with an employer is not entitled job protections during a leave.

66. What information can an employer request when an employee gives notice?

- The type of leave (e.g., family leave, medical leave, safe leave or situations related to a family members' upcoming military deployment).
- The expected start date and duration of the leave.
- Whether the leave will be continuous, intermittent or reduced schedule.

Employers may not request medical records or personal details.

67. What must an employer do after being notified of an employee's claim?

The Administrator will send a notification to each company the worker says they need leave from. It will include a verification form with information gathered during the claim intake process. An employer can use that form to correct or clarify information, or to provide new information. If an employer thinks there's a reason the worker's claim should be excluded, they can use this form to indicate that too. The verification form must be returned within 10 business days. Otherwise, the Administrator will proceed with the information they have.

Also, if an employer feels as though the worker's leave would cause an "undue hardship" – a significant cost or other impact that can't be overcome with the amount of notice provided – and thinks the leave could be rescheduled to a less disruptive time, they can complete an Undue Hardship form to let the Administrator know. This also has to happen within 10 business days.

Undue Hardship:

68. What is "undue hardship," and can an employer deny leave based on it?

No, employers cannot deny Paid Family Medical Leave (PFML) based on undue hardship. However, undue hardship is a factor employers may consider when coordinating timing of the employee's leave.

69. What is considered an "undue hardship"

An undue hardship means a significant impact on the operation of the business or significant expenses that cannot be overcome with the amount of notice given by the employee
It is evaluated based on the employers' financial resource, workforce size and industry type.

70. When can an employer raise an undue hardship concern?

An employer may raise an undue hardship only after receiving notice of an employee's application for PFML from the Administrator.

The employer then has 10 business days to:

- Provide a written explanation to the employee and Administrator describing the specific impact of the requested leave on the business
- Include any proposed alternative leave schedule
- Provide documentation if it believes the leave schedule will cause undue hardship.

71. What happens if my employee and I agree that the scheduling of their leave will not cause an undue hardship?

If the employees requested leave will not disrupt the operations of your business so much that it will cause an undue hardship, you will be able to sign a waiver saying the employees' claim can move forward without waiting the 10 business days you would otherwise have to raise a concern.

Leave Benefits:

72. How much PFML leave can an employee take?

An employee can take up to 12 weeks of paid leave during their benefit year for qualifying reasons.

73. What is a benefit year?

An employee's benefit year is the 52-week period beginning on the Sunday prior to when their leave starts.

74. How are leave benefits effected by the federal Family and Medical Leave Act (FMLA) and unpaid Maine Family and Medical Leave (Maine FMLA)?

Maine PFML is designed to be taken at the same time as unpaid federal FMLA and Maine FMLA when applicable. Employers subject to federal FMLA and Maine FMLA should follow their normal process for designating leave time under these programs.

Some absences will only be approvable under Maine PFML or federal/Maine FMLA, but not the other, because of things like different eligibility rules and different covered leave reasons. Keep in mind, though, employees can't choose to take one leave and "save" the other leave to use later. If an employee used federal or Maine FMLA without concurrent Maine PFML in the previous year, and the employer provides documentation of it, that non-concurrent unpaid leave will reduce the amount of Maine PFML time the employee has available. The employer will be able to provide this documentation to the Administrator after being notified about the employee's claim application for Maine PFML.

75. Can an employer still request medical documentation that's required under the federal Family and Medical Leave Act and other laws?

Yes. Employers subject to federal FMLA and Maine FMLA can still follow their normal process for confirming and designating a leave under those laws. An employer is not entitled to medical information that is provided to the Maine PFML Administrator.

76. Aren't there situations in which an employee may not be eligible for FMLA and PFML at the same time?

Yes. While the intent of the law was to limit employees getting more than 12 weeks of leave in a benefit year from various leave laws, this is not always possible with the structuring of the different laws.

There may be times when an employee is eligible to take Maine PFML but is not eligible to take FMLA – such as the first year of employment at a new employer, or for family members covered under the Maine PFML law but not FMLA.

There also may be times when an employee is eligible for federal or Maine FMLA but is not eligible for Maine PFML. For example, if an employee's Maine PFML claim is rescheduled due to an employer's under hardship, the employee may still be entitled to take unpaid federal or Maine FMLA time if they qualify. Additionally, employees are entitled to take FMLA in smaller units of time for intermittent leave (such as 15-minute blocks), but the smallest unit of time available for Maine PFML is 1 hour.

Employers should track unpaid federal and Maine FMLA as they normally do. The Administrator will track Maine PFML use and adjust time as appropriate when notified by the employer.

Employee Job Protections & Benefits:

77. Are employees guaranteed job protection while on PFML?

Yes. Employees who have been employed for at least 120 consecutive days with an employer before taking PFML leave are entitled to:

- Job protection: They must be restored to the same or equivalent position upon return.
- Continuation of health insurance: Employers must continue coverage under the same terms as if the employee were not on leave.

78. Does taking PFML affect employees' ability to earn other benefits (like PTO or bonuses)?

No. Taking PFML does not affect an employee's right to accrue or receive other employment benefits. While on leave, the employee is still entitled to:

- Accrue vacation time and sick time (if employer policy provides for such time).
- Continue earning bonuses, advancement, seniority, or service credit.
- Maintain participation in benefit plans or programs.

This means employers must treat the leave period as if the employee were actively working for the purpose of these benefits.

79. What happens to the employee's health insurance during PFML leave?

During the leave, employers must:

- Continue the employee's health insurance coverage.
- Contribute to premiums at the same level as if the employee were working.

- The employee remains responsible for any employee portion of premiums.
- Maintain coverage under the same conditions as if the employee had not taken leave.

80. How does job protection pertain to employees who take leave without notifying their employer?

An employee is required to give reasonable notice to their employer on their intent to use leave and must provide notice as soon as practicable in cases of emergency use of leave. If an employee fails to give reasonable notice after starting an emergency leave, by failing to follow the employer's usual notice requirement for work absences and provided there are no unusual or extenuating circumstances that prevent the employee from providing such reasonable notice, then the employee may not be entitled to job protection if the leave is approved by the Administrator.

81. How do PFML benefits relate to an employee's accrued paid time off (PTO)?

By law, an employer cannot force an employee to use PTO (such as vacation, sick time, and/or Earned Pay Leave) during a PFML absence, or to use up all their PTO before taking PFML. Keep in mind, PFML benefits don't replace all of an employee's regular earnings. So, employees often want to use some PTO to close that gap (often called a "top up"). This can help an employee end up with the same amount of money they usually get each week. It can also help by making payroll deductions – for things like health insurance premiums – continue uninterrupted. An employer must allow an employee to use accrued time to "top up," consistent with the PTO policy and applicable law. An employer may choose to simply pay employees the amount to close the gap without the employees having to use PTO.

In any event, the PFML program will not reduce benefits paid to account for "top up" payments or PTO usage. PFML is not intended to lead to situations where workers end up with more money in a week than they would have gotten while working. Employers should make sure the amount they're "topping up" (or the amount employees are getting via PTO), combined with their PFML benefits, doesn't add up to more than an approximate estimate of the amount they would have earned while working.

82. How can I help my employees accomplish this "top up" before we know how much they will receive in Maine PFML benefits? And how can I help my employees continue to be paid while they wait for their Maine PFML claim to be processed, knowing they may eventually get benefits, and they're not supposed to get benefits plus their regular pay?

An employer may continue paying employees pending their receipt of PFML benefits. Such payments may be considered an advance against future earnings, which can be deducted from a

future paycheck if the employee later gets Maine PFML benefits for the same week, as long as the employee agrees to that arrangement in writing.

83. How are my employee's PFML benefits affected by other payments from other programs they may be receiving?

It depends on what other payments your employee is receiving.

By law, PFML benefits will be reduced dollar-for-dollar by any payments an employee is receiving at the same time from:

- State unemployment insurance
- Worker's compensation, except for benefits for partial incapacity for an injury that occurred prior to the PFML claim
- Any government provided short-term disability or long-term disability program (such as Social Security Disability Insurance)
- A long-term disability insurance plan provided by your company or by a prior employer of your employee

The Administrator will ask your employee if they're receiving payments from any of these programs when they create a claim. The Administrator will let you know a new claim has been created and give you an opportunity to share any information you may have about payments from one of these programs. If PFML benefits are calculated and paid, then the Administrator later learns that the employee also got payments from one of these programs, the employee will be expected to pay back the amount that should have been reduced from their PFML benefits.

PFML benefits will NOT be reduced for the following:

- Benefits from your company's short-term disability insurance plan
- "Top up" payments you choose to provide to employees to get them to 100% of their regular pay
- Wages from PTO that employees choose to use to get themselves to 100% of their regular pay
- Worker's compensation benefits for partial incapacity for an injury that occurred prior to the PFML claim