

August 13, 2024

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## Family and Medical Leave Updates

### California Family Rights Act (CFRA) – Small Employer Family Leave Mediation Program

California's Civil Rights Department's "small employer family leave mediation pilot program" provides a means through which, in the event of a [CFRA](#) or [Bereavement Leave](#) dispute, small employers (5 to 19 employees) and their employees may mediate with CRD's Dispute Resolution Division prior to a civil action being filed.

Originally established in 2020, the program was set to expire January 1, 2025. On [July 18](#) the governor approved [AB2011](#), removing the repeal date and adding the new [Leave for Reproductive Loss](#) to the program.

For more information visit CRD's dedicated [webpage](#).

### California Paid Family Leave (CA PFL) – Grants for Small Businesses

The California Employment Training Panel and the California Labor and Workforce Development Agency have (re-)funded a grant to assist small businesses with costs associated with employees utilizing the CA PFL program, such as cross-training existing staff and hiring and training new and/or temporary employees. Businesses with 100 employees or fewer\* may apply to receive up to \$2,000 per employee collecting CA PFL benefits on or after [June 1, 2024](#). Applications will be accepted through [May 31, 2026](#), or until funds are exhausted. More information may be found on the California Paid Family Leave Grant [website](#).

\* Based on employee count as reported under a company's California Employer Account Number (CEAN).

### Colorado Family and Medical Leave Insurance (CO FMLI) – SAWW and Maximum Weekly Benefit Increase

Colorado's Department of Labor and Employment (CDLE) recently announced an increase in the State Average Weekly Wage (SAWW), from \$1,421.16 to [\\$1,471.34](#), effective [July 1, 2024](#). Per the CDLE's [statement](#), this impacts CO FMLI benefit recipients as follows:

- Claimants whose weekly benefit amounts are [under the current \\$1,100 maximum](#) will see a slight increase in their weekly benefit beginning July 1; however, claimants who are already receiving the maximum benefit will not see a change.
- Benefits for [CO FMLI claims filed on or after January 1, 2025](#) will be capped at [\\$1,324.21 per week](#).

### Delaware Paid Leave (DE PL)

#### Amendment

On [June 30](#) the governor of Delaware signed [SB248](#), amending the definition of employer under the DE PL law (*located in [DE Code §3701](#)*) to clarify that, when an employer leases employees through an employee leasing company or a professional employment organization (PEO), the employer is considered the employees' employer for purposes of the DE PL program, and not the leasing company or PEO.

#### Model Notice Available

Employers must notify their employees of the availability of paid leave under the DE PL program, the protections provided under the law, and the procedure for applying for benefits. This notice must be provided [in writing](#):

- 1) [to each employee](#) working in Delaware
  - a) [no later than December 2, 2024](#);
  - b) at time of hire; and
  - c) when an employee requests covered leave, or when the employer acquires knowledge that an employee's leave may be for a qualifying event under DE PL.
- 2) by [displaying a poster](#) in a conspicuous place accessible to employees at the employer's place of business in English, Spanish, and any language that is the first language spoken by at least 5% of the employer's workforce, if the poster has been provided by the DE DOL.

The model [Notice of Employee Rights](#) is now available in English on the [DE PL webpage](#); translated versions are forthcoming.

Please refer to the [‘Important Reminders’](#) below for more information on DE PL.

## District of Columbia Paid Family Leave (DC PFL) – Changes Effective July 1, 2024

### Contribution Rate Increase

The District of Columbia Paid Family Leave (DC PFL) program provides D.C. employees up to 12 weeks of paid benefits during an absence from work for needs associated with their own health, bonding with a new child, or caring for a family member. The program is funded through a payroll tax paid by employers; employees are not required to contribute.

When enacted in 2017 the original law stated that each employer would contribute an amount “equal to 0.62% of the wages of each of its covered employees”. This verbiage was amended in 2021 to reflect that employers would contribute “0.62% *or a lower rate*”, which would be determined following an annual review of the Universal Paid Leave Fund’s (“the Fund”) balance and projected revenues and expenditures. Subsequently, the contribution rate was reduced from .62% to **.26%** effective July 1, 2022, and remained there through 2023 and into 2024.

On **July 15** the D.C. Council enacted the [Fiscal Year 2025 Budget Support Emergency Act of 2024 \(B25-0875/D.C. Act 25-506\)](#)<sup>\*</sup>, which included an amendment to the PFL law significantly **increasing the contribution rate to .75% of wages effective July 1, 2024**. There is no cap on wages subject to the contribution rate (*this is not a change*). Additional amendments remove the requirement that the contribution rate be reduced if warranted by the results of the annual review of the Fund, and add instead that any amounts collected in excess of the amount that would be needed to maintain the solvency of the Fund will be deposited into the General Fund of the District of Columbia.

The increase in contributions should be reflected in each employer’s remittance for the third quarter of 2024, due by October 31. More information may be found on the [2024 PFL Tax Rate Change FAQ and Preparation Guidance](#) webpage.

<sup>\*</sup> *As emergency legislation, this Act will be in effect for 90 days (until October 13, 2024). Permanent legislation that includes the changes noted here, the Fiscal Year 2025 Budget Support Act of 2024 (B25-0784/D.C. Act 25-550), was enacted by the Council on July 26, and becomes effective following a 30-day congressional review period and publication in the [DC Register](#).*

### Minimum Wage and Weekly Benefit Increase

The minimum wage for (non-tipped) District of Columbia employees **increased** from \$17.00 per hour to **\$17.50 per hour effective July 1, 2024**. As this value factors into the calculation of DC PFL benefits, beginning **July 1, 2024** the benefit formula is:

- Employees who earn an average weekly wage\* **equal to or less than \$1,050\*\*** are entitled to weekly benefits equal to **90% of their average weekly wage**, rounded to the nearest dollar.
- Employees who earn an average weekly wage\* **greater than \$1,050\*\*** are entitled to weekly benefits equal to **the sum of the following**, rounded to the nearest dollar:
  - **\$945\*\*\* plus**
  - 50% of the amount by which their average weekly wage exceeds **\$1,050\*\***.
- Maximum Weekly Benefit: **\$1,118**

*(the maximum would apply for employees earning ~\$72,500 and above annually; this maximum is adjusted in October)*

<sup>\*</sup> *An employee’s Average Weekly Wage is the total wages subject to contribution under [§32-541.03](#) earned during the 4 quarters during which the employee’s wages were the highest out of the 5 quarters immediately preceding the qualifying leave event, divided by 52. Multiple sources of income may be combined to determine average weekly wage.*

<sup>\*\*</sup> *150% of the DC minimum wage multiplied by 40 (\$54,600 annual earnings)*

<sup>\*\*\*</sup> *90% of 150% of DC minimum wage multiplied by 40*

## Massachusetts Paid Family and Medical Leave (MA PFML) – Retroactive Private Plans

The Department of Family and Medical Leave (DFML) recently announced that effective **July 1, 2024**, they will **no longer approve retroactive private plan exemptions that span more than four calendar quarters** from the date of the request. As an example, a private plan application made any time within the 2<sup>nd</sup> quarter of a year may only be applied as far back as the 2<sup>nd</sup> quarter of the previous year.

More information about retroactive private plan exemption requests, including detailed lists of conditions and requirements, may be found on the [Employer Requests for Retroactive Exemption](#) webpage.

Please refer to the [‘Important Reminders’](#) below for more information on MA PFML.

## Oregon Family Leave Act (OFLA) – Updated Model Notice

In our [June 6 Update](#) we noted that Oregon’s Bureau of Labor and Industries (BOLI) would be revising the OFLA worksite poster to reflect changes in the law effective **July 1, 2024**. In late June BOLI released the updated poster in several languages on its [Required Worksite Posters](#) webpage.

Employers must display the poster in each building or worksite in an area that is accessible to and regularly frequented by employees. In the absence of a physical workplace, it is recommended that the poster be posted and/or distributed electronically.

Please see the [OFLA website](#), as well as our [March 20](#) and [June 6](#) Updates, for more information on the July 1 changes.

## Paid Leave Oregon (PLO) – SAWW and Maximum Weekly Benefit Increase Effective July 7, 2024

In a [June 13 Press Release](#) the Oregon Employment Department (OED) announced that the State Average Weekly Wage (SAWW) increased from \$1,269.69 to **\$1,307.17**. With this change,

- the **minimum** weekly PLO benefit amount will increase from \$63.48 to **\$65.36**; and
- the **maximum** weekly PLO benefit amount will increase from \$1,523.63 to **\$1,568.60**.

These increases apply for PLO claimants with **benefit years beginning on or after July 7, 2024**; claimants whose PLO benefit years were established prior to July 7 will continue to receive the same benefit amount.

Below is the weekly benefit formula using the new SAWW:

- Employees who earn an average weekly wage\* **equal to or less than \$849.66\*\*** are entitled to weekly benefits equal to **100% of their average weekly wage**.
- Employees who earn an average weekly wage\* **greater than \$849.66\*\*** are entitled to weekly benefits equal to **the sum of the following**:
  - 1) **\$849.66\*\* plus**
  - 2) 50% of their average weekly wage that is greater than **\$849.66\*\***.
- Maximum Weekly Benefit: **\$1,568.60**  
(120% of SAWW; would apply for employees earning ~\$119,000 and above annually)

\* An employee’s Average Weekly Wage is the total wages earned by an eligible employee during the base year divided by the number of weeks in the base year. The Base Year is the first 4 of the last 5 completed calendar quarters preceding the commencement of leave.

\*\* 65% of the SAWW (~\$44,182 annual earnings)

[PLO Weekly Benefits Calculator](#)

Please refer to the [‘Important Reminders’](#) below for more information on PLO.

## Rhode Island Temporary Disability Insurance and Temporary Caregiver Insurance (RI TDI/TCI)

### Maximum Weekly TDI and TCI Benefit Increase Effective July 1, 2024

Effective [July 1, 2024](#) the maximum weekly benefit for Rhode Island Temporary Disability Insurance (RI TDI) and Temporary Caregiver Insurance (RI TCI) increased from \$1,043 to **\$1,070** (\$1,444 with the Dependency Allowance, described below). The minimum weekly benefit remains \$130.

### Maximum TCI Benefit Duration Increase Effective January 1, 2025

On [June 26](#) the governor of Rhode Island signed [SB2121](#) / [HB7171](#), amending RI TCI as follows:

- 1) The maximum duration for RI TCI benefits is currently **6 weeks per 52-week period**; this maximum will increase to:
  - **7 weeks** effective [January 1, 2025](#); and
  - **8 weeks** effective [January 1, 2026](#)
- 2) Currently claimants with dependents under 18 years of age, and/or incapacitated children over 18, may be entitled to a Dependency Allowance, which is limited to 5 dependents and is equal to the greater of **\$10** or 7% of the claimant's weekly benefit. Effective [January 1, 2025](#) this changes to the greater of **\$20** or 7% of the claimant's weekly benefit.

## Washington Paid Family and Medical Leave (WA PFML) – SAWW and Maximum Weekly Benefit Increase

In a [June 13 News Release](#) Washington's Employment Security Department (ESD) announced that the State Average Weekly Wage (SAWW) increased from \$1,618 in 2022 to **\$1,714** in 2023. With this change the **maximum** weekly WA PFML benefit amount will increase from \$1,456 to **\$1,542** for new claims filed on or after [January 1, 2025](#). The minimum weekly benefit will remain \$100.

## Paid Family Leave as a Class of Insurance – South Carolina

On [May 21](#) the governor of South Carolina approved [HB4832](#), which immediately amended the state's insurance code ([SC Code Tit. 38](#)) to establish the [Paid Family Leave Insurance Act](#). The Act provides that paid family leave insurance may be issued to an employer as an amendment or a rider to a group disability income policy, included in a group disability income policy, or issued as a separate group insurance policy.

Family leave insurance must provide paid benefits for at least **two weeks** per 52-week period for reasons such as:

- caring for a family member with a serious health condition;
- bonding with a new child within 12 months of birth, or placement for adoption or foster care;
- addressing needs associated with a qualifying exigency;
- caring for a family member who is a service member injured in the line of duty; or
- for any other family leave as specified in the policy.

**Accrued Paid Leave Updates**

**Michigan Accrued Paid Leave – Reinstatement of the Earned Sick Time Act (MI ESTA)**

Michigan’s accrued paid leave law was originally adopted via ballot initiative in 2018 as the [Earned Sick Time Act \(MI ESTA\)](#); shortly thereafter it was amended and renamed the [Paid Medical Leave Act \(MI PMLA\)](#) by the state legislature. As summarized in our [October 28, 2022](#) and [February 27, 2023](#) Updates, this “adopt and amend” action was challenged in court, with the [case](#) ultimately landing with the Michigan Supreme Court for a final determination. Members of the Supreme Court drafted opinions on the matter, and on [July 31](#) ruled that the enactment of MI PMLA was unconstitutional. As a result, [accrued paid leave requirements will revert to their original form under MI ESTA effective February 21, 2025](#).

Below is a comparison of current accrued leave requirements and how they will look in February, with the most significant changes being:

- 1) accrued paid leave requirements will apply to **all employers regardless of size**, except the federal government;
- 2) the definition of **eligible employees** is vastly expanded, most notably to include employees exempt from overtime under the FLSA, as well as part-time and temporary employees;
- 3) the accrual rate increases to **1 hour for every 30 hours worked**;
- 4) employees may use up to **72 hours** of leave per year;
- 5) there is **no cap on accruals**; and
- 6) family relationships include **domestic partners** and those by “**blood or affinity**”.

Guidance on MI ESTA’s requirements and the transition from MI PMLA is expected in the coming months. There is also the possibility of amendments to the law itself. We will continue to monitor and provide updates as possible; in the meantime, employers are encouraged to review their policies and procedures to ensure compliance.

*Note: The July 31 ruling also reinstated another 2018 ballot initiative, the Improved Workforce Opportunity Wage Act, which established a schedule for [increases to the state minimum wage](#). As the original Act is dated, the Court’s ruling adjusted this schedule beginning [February 21, 2025](#) (see pages 33 and 34 of the [ruling](#)).*

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
<b>Website</b>	<a href="https://www.michigan.gov/leo/bureaus-agencies/ber/wage-and-hour/paid-medical-leave-act">https://www.michigan.gov/leo/bureaus-agencies/ber/wage-and-hour/paid-medical-leave-act</a>	TBD
<b>Employers</b>	Employers with <b>50 or more employees</b> Excludes the U.S. government, another state, or a political subdivision of another state.	Employers with <b>1 or more employees</b> Excludes the U.S. government.
<b>Employees</b>	All Employees from whom an employer is required to withhold for federal income tax purposes Excludes: <ul style="list-style-type: none"> <li>• employees whose primary work location is not in Michigan;</li> <li>• employees <b>exempt from overtime requirements</b> under <a href="#">§213(a)(1)</a> of the Fair Labor Standards Act (FLSA);</li> <li>• employees who worked fewer than <b>25 hours per week</b> on average during</li> </ul>	All Employees except those of the U.S. government <i>See reference to CBA below.</i>



	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
	<p>the immediately preceding calendar year;</p> <ul style="list-style-type: none"> <li>• individuals employed by an employer for <b>25 weeks or fewer</b> in a calendar year for a job scheduled for 25 weeks or fewer;</li> <li>• variable hour employees as defined in <a href="#">26 CFR 54.4980H-1</a>;</li> <li>• individuals employed by a temporary help firm, as described in section <a href="#">§29(1)(I)</a> of the Michigan Employment Security Act;</li> <li>• employees <b>not</b> employed by a public agency* and covered by a <b>collective bargaining agreement</b> that is in effect;                             <ul style="list-style-type: none"> <li>* as defined in <a href="#">§203(2)</a> of the FLSA</li> </ul> </li> <li>• employees of the U.S. government, another state, or a political subdivision of another state;</li> <li>• employees whose minimum hourly wage rate is determined under <a href="#">§408.934b</a> of the Improved Workforce Opportunity Wage Act (2018 PA 337, <a href="#">MCL §408.931 to §408.945</a>);</li> <li>• individuals employed by an air carrier as a flight deck or cabin crew member that is subject to title II of the Railway Labor Act (<a href="#">45 USC §151 to §188</a>);</li> <li>• employees as described in section 201 of the Railway Labor Act (<a href="#">45 USC §181</a>);</li> <li>• employees as defined the Railroad Unemployment Insurance Act (<a href="#">45 USC §351</a>).</li> </ul>	
<b>Collective Bargaining Agreements</b>	<p>If an employer's employees are covered by a collective bargaining agreement in effect on the law's effective date, the law's requirements apply beginning on the stated expiration date in the collective bargaining agreement, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new collective bargaining agreement.</p> <p><i>See also excluded groups above.</i></p>	<p>If an employer's employees are covered by a collective bargaining agreement in effect on the law's effective date, the law's requirements apply beginning on the stated expiration date in the collective bargaining agreement, notwithstanding any statement in the agreement that it continues in force until a future date or event or the execution of a new collective bargaining agreement.</p>
<b>Accrual</b>	<b>1 hour per 35 hours</b> worked, beginning commencement of employment	<b>1 hour per 30 hours</b> worked, beginning commencement of employment

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
		Employees <b>exempt from overtime requirements</b> under <b>§213(a)(1)</b> of the Fair Labor Standards Act (FLSA) are assumed to work 40 hours per week unless the employee’s normal work week is less than 40 hours, in which case earned sick time accrues based upon that normal workweek.
<b>Accrual Limit</b>	Employers may limit accrual to 1 hour per calendar week, and <b>40 hours</b> per year.	<i>No accrual limit stated; however, see use limits in the ‘Use’ section below</i>
<b>Frontloading</b>	Employers may frontload <b>40 hours</b> at the beginning of the benefit year; time may be prorated for mid-year hires.	<i>Not stated</i>
<b>Reasons for Use</b>	<ol style="list-style-type: none"> <li>1) To care for an employee’s own or a family member’s <b>physical or mental illness, injury, or medical condition</b> that requires home care, professional medical diagnosis or care, or for preventive care.</li> <li>2) To address the psychological, physical or legal effects suffered by the employee or a family member who is a victim of <b>domestic violence or sexual assault</b>.</li> <li>3) For reasons associated with a <b>public health emergency</b>: <ul style="list-style-type: none"> <li>• closure of the employee’s place of business or a child’s school or place of care by order of a public official due to a public health emergency, or</li> <li>• when it has been determined by the health authorities or by a health care provider that the employee’s or employee’s family member’s presence in the community would jeopardize the health of others because of the employee’s or family member’s exposure to a communicable disease.</li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>1) To care for an employee’s own or a family member’s <b>physical or mental illness, injury, or medical condition</b> that requires home care, professional medical diagnosis or care, or for preventive care.</li> <li>2) To address the psychological, physical or legal effects suffered by the employee or a family member who is a victim of <b>domestic violence or sexual assault</b>.</li> <li>3) To attend <b>meetings at a child’s school or place of care</b> related to the child’s health or disability, or the effects of domestic violence or sexual assault on the child.</li> <li>4) For reasons associated with a <b>public health emergency</b>: <ul style="list-style-type: none"> <li>• closure of the employee’s place of business or a child’s school or place of care by order of a public official due to a public health emergency, or</li> <li>• when it has been determined by the health authorities or by a health care provider that the employee’s or employee’s family member’s presence in the community would jeopardize the health of others because of the employee’s or family member’s exposure to a communicable disease.</li> </ul> </li> </ol>



	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
<b>Covered Family Members</b>	<ul style="list-style-type: none"> <li>• Legal spouse</li> <li>• Child: Biological, foster, adopted, step, legal ward, or a child to whom the employee stands in loco parentis</li> <li>• Parent: Employee’s or Spouse’s biological, foster, step, adoptive, legal guardian, or a person who stood in loco parentis when the employee was a minor</li> <li>• Grandparent</li> <li>• Grandchild</li> <li>• Sibling: Biological, foster, adopted</li> </ul>	<ul style="list-style-type: none"> <li>• Legal spouse or <b>Domestic Partner</b></li> <li>• Child: Biological, foster, adopted, step, legal ward, <b>Domestic Partner’s child</b>, or a child to whom the employee stands in loco parentis</li> <li>• Parent: Employee’s, Spouse’s or <b>Domestic Partner’s</b> biological, foster, step, adoptive, legal guardian, or a person who stood in loco parentis when the employee was a minor</li> <li>• Grandparent</li> <li>• Grandchild</li> <li>• Sibling: Biological, foster, adopted</li> <li>• <b>Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship</b></li> </ul>
<b>Use</b>	<ul style="list-style-type: none"> <li>• An employer may require employees to wait until the <b>90<sup>th</sup> day</b> following commencement of employment to use accrued time.</li> <li>• Employers may limit use to <b>40 hours</b> per benefit year.</li> <li>• Employees may use accrued time in <b>one-hour increments</b>, unless the employer has a different increment policy and the policy is in writing in an employee handbook or other employee benefits document.</li> <li>• An employer may establish a policy that permits an employee to <b>donate</b> unused accrued leave to another employee.</li> </ul>	<ul style="list-style-type: none"> <li>• An employer may require employees to wait until the <b>90<sup>th</sup> day</b> following commencement of employment to use accrued time.</li> </ul> <p><b>Use limits:</b></p> <ul style="list-style-type: none"> <li>• Employers may limit use to <b>72 hours</b> per year.</li> <li>• <b>Exception: small businesses*</b> may limit use to <b>40 hours of paid time</b> per year. <ul style="list-style-type: none"> <li>• If an employee of a small business accrues more than 40 hours of time in a year, the employee is entitled to use an <b>additional 32 hours of unpaid earned sick time</b> in that year, unless the employer selects a higher limit.</li> <li>• Employees of a small business must be entitled to use paid earned sick time before using unpaid earned sick time</li> </ul> </li> </ul> <p><i>* “Small business” means an employer for which fewer than 10 individuals work for compensation during a given week. In determining the number of individuals performing work for compensation during a given week, all individuals performing work for compensation on a full-time, part-time, or temporary basis shall be counted, including individuals made available to work through the services of a temporary services or staffing agency or similar entity. An employer is not a</i></p>

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
		<p><i>small business if it maintained 10 or more employees on its payroll during any 20 or more calendar workweeks in either the current or the preceding calendar year.</i></p> <ul style="list-style-type: none"> <li>• Earned sick time may be used in the smaller of <b>hourly increments</b> or the <b>smallest increment that the employer's payroll system uses</b> to account for absences or use of other time.</li> <li>• An employer may establish a policy that permits an employee to <b>donate</b> unused accrued leave to another employee.</li> <li>• An employer may not require an employee to search for or secure a <b>replacement worker</b> as a condition for using earned sick time.</li> <li>• An employer's <b>absence control policy</b> may not treat earned sick time taken under this act as an absence that may lead to or result in retaliatory personnel action.</li> </ul>
<b>Leave Requests / Documentation</b>	<ul style="list-style-type: none"> <li>• Employees must comply with the <b>employer's usual and customary notice, procedural, and documentation requirements</b> for requesting leave. An employer must give an eligible employee at least 3 days to provide the employer with documentation. <ul style="list-style-type: none"> <li>• An employer may require an eligible employee who is using accrued time because of <b>domestic violence or sexual assault</b> to provide documentation that the paid medical leave has been used for that purpose. However, an employer may not require disclosure of details relating to domestic violence or sexual assault or the details of the employee's or the employee's family member's medical condition as a condition of providing leave.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• If the employee's need to use earned sick time is <b>foreseeable</b>, an employer may require advance notice, <b>not to exceed 7 days</b> prior to the date the earned sick time is to begin, of the intention to use the earned sick time. If the employee's need for the earned sick time is <b>not foreseeable</b>, an employer may require the employee to give notice of the intention <b>as soon as practicable</b>.</li> <li>• For absences of more than <b>3 consecutive days</b>, an employer may require <b>reasonable documentation</b> that the accrued time has been used for a qualifying purpose. If an employer chooses to require documentation for earned sick time, the employer is responsible for paying all out-of-pocket expenses the employee incurs in obtaining the documentation (<i>including medical records charges and/or health plan co-pays</i>). <ul style="list-style-type: none"> <li>• In cases of <b>domestic violence or sexual assault</b>, an employer may not require disclosure of details relating to domestic violence or sexual assault or the details of the</li> </ul> </li> </ul>

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
		employee's or the employee's family member's medical condition as a condition of providing leave.
<b>Rate of Pay</b>	<ul style="list-style-type: none"> <li>Leave must be paid at the employee's normal hourly or base wage or the minimum wage rate established in <a href="#">§408.934</a> of the Improved Workforce Opportunity Wage Act (2018 PA 337, <a href="#">MCL §408.931 to §408.945</a>), whichever is greater.</li> <li>An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, or gratuities in the calculation of an eligible employee's normal hourly wage or base wage.</li> </ul>	<ul style="list-style-type: none"> <li>Leave must be paid at the employee's normal hourly or base wage or the minimum wage rate established under the Workforce Opportunity Wage Act (2014 PA 138, <a href="#">MCL §408.411 to §408.424</a>), but not less than the minimum wage rate established in <a href="#">§408.414</a>. <i>Note: With the Court's decision to reinstate the original version of the Improved Workforce Opportunity Wage Act, the minimum wage will be based on the Court's implemented schedule (see Note in introduction above).</i></li> <li>For any employee whose hourly wage varies depending on the work performed, the "normal hourly wage" means the average hourly wage of the employee in the pay period immediately prior to the pay period in which the employee used paid earned sick time.</li> </ul>
<b>Carryover</b>	Required, up to <b>40 hours</b> Not required if time is frontloaded.	Required ( <i>no limit stated; however, use restrictions apply</i> )
<b>Termination of Employment</b>	<ul style="list-style-type: none"> <li><b>No payout</b> at separation of employment required.</li> <li><b>No rehire</b> provision.</li> <li>If an employee is <b>transferred</b> to a separate division, entity, or location, but remains employed by the same employer, the employee retains all leave that was accrued at the prior division, entity, or location and is entitled to its use.</li> </ul>	<ul style="list-style-type: none"> <li><b>No payout</b> at separation of employment required.</li> <li>If the employee is <b>rehired within 6 months</b>, all accrued but unused time must be reinstated and available to the employee for immediate use.</li> <li>If an employee is <b>transferred</b> to a separate division, entity, or location, but remains employed by the same employer, the employee retains all leave that was accrued at the prior division, entity, or location and is entitled to its use.</li> <li>If a different employer <b>succeeds or takes the place of an existing employer</b>, the successor employer assumes the responsibility for the earned sick time rights that employees who remain employed by the successor employer accrued under the original employer.</li> </ul>

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
<b>Notice to Employees</b>	Employers must display a <a href="#">poster</a> in a conspicuous place that is accessible to employees.	Employers must: <ol style="list-style-type: none"> <li>1) provide written notice to each employee at the <a href="#">time of hiring</a>; and</li> <li>2) display a <a href="#">poster</a> in a conspicuous place that is accessible to employees</li> </ol> These notices must be provided in English, Spanish, and any language that is the first language spoken by at least 10% of the employer’s workforce, if such translation of the model notice is available. <p><i>Note: It is expected that employers will be required to provide notice to <a href="#">all employees</a> prior to the February 21, 2025 effective date; a model notice will be made available.</i></p>
<b>Recordkeeping</b>	An employer must retain for not less than <a href="#">1 year</a> records documenting the hours worked and paid medical leave taken by employees.	An employer must retain for not less than <a href="#">3 years</a> records documenting the hours worked and earned sick time taken by employees.
<b>Compliance via Other Employer Policies</b>	There is a rebuttable presumption that an employer is in compliance with the law if the employer provides at least <a href="#">40 hours</a> of paid leave to an eligible employee each benefit year. “Paid leave” includes, but is not limited to, paid vacation days, paid personal days, and paid time off.	An employer is in compliance with the law if the employer provides any paid leave: <ol style="list-style-type: none"> <li>1) in at least the <a href="#">same amounts</a> as provided under the law;</li> <li>2) that is accrued at a <a href="#">rate equal to or greater</a> than the rate required under the law; and</li> <li>3) that may be used for the <a href="#">same purposes</a> and under the same conditions as stated in the law.</li> </ol> In addition, employees of a small business must be entitled to use paid earned sick time before using unpaid earned sick time. “Paid leave” includes, but is not limited to, paid vacation days, personal days, and paid time off.
<b>Non-Compliance Penalties / Private Cause of Action</b>	No private cause of action. <ul style="list-style-type: none"> <li>• An employee may file a claim with the Michigan Department of Licensing and Regulatory Affairs at any time within <a href="#">6 months</a> after the violation. The Department will investigate the complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means.</li> </ul>	<ul style="list-style-type: none"> <li>• An employee affected an employer’s violation of the law may, <a href="#">within 3 years</a> after the violation or the date when the employee knew of the violation, bring a <a href="#">civil action</a> for appropriate relief, and/or file a claim with the Michigan Department of Licensing and Regulatory Affairs.                             <ul style="list-style-type: none"> <li>• “Appropriate relief” may include, but is not limited to, payment for used earned sick time: rehiring or</li> </ul> </li> </ul>

<b>Paid Medical Leave Act (MI PMLA)</b> SB 1175/Public Act 369 (12/13/18)	<b>Earned Sick Time Act (MI ESTA)</b> Public Act 338 (9/5/18)
<b>Current Requirements</b>	<b>Effective February 21, 2025</b>
	<ul style="list-style-type: none"> <li>• The Department may impose penalties and grant an eligible employee or former eligible employee payment of all paid medical leave improperly withheld.</li> <li>• An employer that fails to provide paid medical leave in violation of this act is subject to an administrative fine of not more than \$1,000.</li> <li>• An employer that willfully violates the posting requirement is subject to an administrative fine of not more than \$100 for each separate violation.</li> </ul> <p>See <a href="#">MCL §408.967</a> for full text.</p>
	<p>reinstatement to the employee’s previous job; payment of back wages; reestablishment of employee benefits to which the employee otherwise would have been eligible if the employee had not been subjected to retaliatory personnel action or discrimination; and an equal additional amount as liquidated damages together with costs and reasonable attorney fees as the court allows.</p> <ul style="list-style-type: none"> <li>• Filing a claim with the Department is neither a prerequisite nor a bar to bringing a civil action.</li> <li>• Upon receiving a complaint alleging a violation, the Department will investigate such complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means.                         <ul style="list-style-type: none"> <li>• The Department may impose penalties and/or grant an employee or former employee all appropriate relief, including but not limited to payment of all earned sick time improperly withheld, any and all damages incurred by the complainant as the result of the violation, back pay and reinstatement in the case of job loss.</li> <li>• If the Director determines that there is reasonable cause to believe that an employer violated this act and the Department is subsequently unable to obtain voluntary compliance by the employer within a reasonable time, the Department will bring a civil action on behalf of the employee. The Department may investigate and file a civil action under on behalf of all employees of that employer who are similarly situated at the same work site and who have not brought a civil action.</li> </ul> </li> <li>• In addition to liability for civil remedies described, above an employer who fails</li> </ul>

	Paid Medical Leave Act (MI PMLA) SB 1175/Public Act 369 (12/13/18)	Earned Sick Time Act (MI ESTA) Public Act 338 (9/5/18)
	Current Requirements	Effective February 21, 2025
		<p>to provide earned sick time in violation of this act or takes retaliatory personnel action against an employee or former employee is subject to a civil fine of not more than \$1,000.</p> <ul style="list-style-type: none"> <li>An employer that willfully violates a notice or posting requirement is subject to a civil fine of not more than \$100 for each separate violation.</li> </ul>

**Other News**

**New York Paid Breaks for Nursing Employees – Updated Resources**

In our [June 6 Update](#) we summarized an amendment to New York [Labor Law Section 206-C](#) requiring that breaktime provided to employees choosing to express breast milk in the workplace be [paid](#) beginning [June 19, 2024](#). The New York State Department of Labor (NYS DOL) has updated their [Breastmilk Expression in the Workplace](#) webpage to include revised fact sheets and FAQ, plus an updated version of the [Policy on the Rights of Employees to Express Breast Milk in the Workplace](#) that must be provided to all employees at commencement of employment and annually thereafter (*translations available [here](#)*).

**Important Reminders**

**August**

**Massachusetts Paid Family and Medical Leave (MA PFML) – Private Plan Reporting Due August 31**

As noted in our [March 20 Update](#), employers with a private plan exemption in place during any portion of the period July 1, 2023 through June 30, 2024 are required to submit information associated with the plan to the Department of Family and Medical Leave (DFML). This reporting must be provided no later than [August 31, 2024](#).

More information and instructions may be found on the [Employer Private Plan Reporting Obligations](#) webpage.

**Paid Leave Oregon (PLO) – Equivalent Plan Renewals**

Employers offering PLO benefits through an equivalent (private) plan must re-apply for approval of the plan annually for the first three years following its original effective date; afterwards, employers need only seek approval for “substantive” plan amendments that aren’t required by changes in the law, such as a change from insurance to self-funding (or vice-versa) or a reduction in benefits (see [OAR 470-070-2210\(5\)-\(7\)](#)).

Employers sponsoring equivalent plans implemented with an effective date of September 3, 2023 would have received communication from the Oregon Employment Department (OED) in July prompting them to apply for reapproval through [Frances Online](#) by [August 3, 2024](#).

On [July 30](#) OED a [Permanent Administrative Order](#) amending [OAR 470-070-2210\(9\)](#) effective [August 1](#) to align the anniversaries of these “original” equivalent plans with a calendar quarter, so that [future renewals will be effective October 1](#) beginning in 2025.



**September**

**Delaware Paid Leave (DE PL) – Employer Registration Begins September 1**

Contributions toward the DE PL program begin [January 1, 2025](#), with benefit payments beginning [January 1, 2026](#). Requirements for participation are based on the number of employees an employer (by FEIN) has working in Delaware:

- Employers with [10 to 24 employees](#) in the state during the previous 12 months are subject to only the [parental leave](#) provisions.
- Employers with [25 or more employees](#) in the state during the previous 12 months are subject to all [parental leave, family caregiving leave, and medical leave](#) provisions.

Contributions are shared by employers and their employees. For [2025](#) and [2026](#), the total contribution rate will be [.8% of employees' wages](#), allocated as follows:

- Medical leave: [.4%](#) of wages
- Family caregiving leave (including qualifying exigency): [.08%](#) of wages
- Parental leave: [.32%](#) of wages

Employers may deduct no more than [50%](#) of the contribution required [for each leave type](#) from employees' wages.

The contribution rates apply only to wages for work physically performed within the state of Delaware, and only up to the [maximum wages subject to social security taxation](#) (*2025's limit will be announced in October*).

**Employer Registration, Private Plan Application, and Opt-In**

The Delaware Department of Labor (DE DOL) is finalizing the development of [Delaware LaborFirst](#), the portal that will be used to manage the DE PL program, including remittance of contributions and submission of quarterly wage and hour reporting beginning in 2025. Employers should monitor the [DE PL webpage](#), as it will include a link to the portal as soon as it is available.

[Between September 1 and December 1, 2024](#) employers may use the Delaware LaborFirst portal to:

- [Register with the DE DOL and set up a DE PL account](#). Once registered, employers required to participate in DE PL are automatically enrolled in the program.
- [Apply for a private plan](#) to satisfy DE PL requirements effective [January 1, 2025](#). For self-insured plans, the employer must also submit the required surety bond by December 1, if not already on file with the Division of Paid Leave. If an employer does not apply for a private plan during this period, the next opportunity to do so will be in the fourth quarter of 2025 for an effective date of January 1, 2026.
- [Opt-in to the state program](#) to voluntarily provide their employees with DE PL benefits, if they are not required to participate based on their size.

Additional notes\*:

- Employers with [fewer than 10 employees are exempt from the law](#). They [are not required to register or report wages/hours](#) to the Division of Paid Leave.
- Employers who ["grandfathered"](#) existing company plans by the January 1, 2024 due date are permitted to continue to use the grandfathered plan(s) through December 31, 2029. They are not exempt from the law; rather, they are providing paid family and/or medical leave benefits using a comparable plan already in existence rather than joining the state plan. If they have grandfathered plans for *all* lines of coverage (i.e., parental, medical, family caregiving) they are required to provide under the DE PL law, they [are not required to register or report hours and wages during the time the grandfathered plan\(s\) is/are being used](#). Once the grandfathering period expires, however, the employer will need to register with the Department of Labor and begin providing paid family and medical leave benefits either through the state plan or an approved private plan.
- Employers who applied prior to January 1, 2024 to [temporarily reduce the maximum DE PL parental leave duration](#) obligation rather than obtain grandfathering approval for a benefit plan, [will need to register and report hours and wages](#). Employers in this situation will still need to provide parental

leave benefits, either through the state plan or a private plan, but the length of parental leave their employees receive would be reduced.

\* Confirmed by a DE DOL representative via email August 11, 2024.

## October

### Minnesota Paid Leave (MN PL) – Quarterly Wage Detail Reporting Due October 31

Our [June 6 Update](#) included confirmation that the first quarterly [Wage Detail Report](#) required under the MN PL law will be due **October 31, 2024**. The report will be based on wages paid between July 1 and September 30, 2024, and must include each employee's first and last name, social security number, wages paid, and hours worked.

The Paid Leave Division will leverage the existing Unemployment Insurance [UI Online system](#) to collect wage detail reports for the Paid Leave program.

- [Employers covered by the UI program don't need to do anything](#) – they will be able to submit a single wage detail file for both programs when they pay their UI taxes. The data used in the UI filing will be used to report wages directly to the MN Paid Leave program. The employer's UI employer account will be automatically converted into a joint UI/Paid Leave account to allow wage detail reports to be submitted using the same process as for UI today.
- [Employers not covered by the UI program](#) must register for a "Paid Leave Only" account through the [UI Online System](#). The Paid Leave Division will post instructions on the MN PL website as soon as Paid Leave Only accounts are available next year.

The initial wage detail reports are for informational purposes only. [The first premiums for Paid Leave will not be due until April 30, 2026](#), and those initial premiums will only apply to wages earned between January 1, 2026, and March 31, 2026.

Visit the [Minnesota Paid Leave](#) website for additional information and resources, including FAQ for [employers](#) and for [employees](#), and to [subscribe](#) for regular updates.

**Please contact your MMA account team members with specific questions about this or other Updates. View past Updates on the Absence, Disability & Life blog at <https://mma-adl.com/blog/>.**

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