

Family Leave

Premium collection for new, state paid family and medical leave for workers begins January 1, 2019

The federal Family and Medical Leave Act (FMLA) allows use of up to 12 weeks of job-protected unpaid leave during a 12-month period for birth of a child, placement of an adopted or foster child, or a serious illness of the employee or a member of the employee's immediate family. It also requires that their health plan benefits be protected during the leave. The FMLA applies to public agencies, public and private elementary and secondary schools, and private employers with 50 or more employees. Under the FMLA, an employee may also take leave for a qualified exigency related to active or impending active military duty of the employee's spouse, child, or parent.

How will the state law affect my operation?

The Washington Paid Family and Medical Leave Law, administered by the Washington State Employment Security Department, is similar to the federal FMLA, but provides paid family and medical (PFML) leave benefits after the birth of a child or adoption of foster placement of a child under the age of 18, and paid medical leave for serious illness of an employee or a member of his/her immediate family. Major provisions of this law include:

- A maximum of 12 weeks of family leave and/or 12 weeks of medical leave during a 52-week period. However, the combined total of family and medical leave cannot exceed 16 weeks during a 52-week period.
 - An additional 2 weeks of leave for an employee who has a serious health condition related to a pregnancy.
- Employees are qualified for leave under this program after working 820 hours.
 - Beginning January 1, 2020, eligible workers may apply for leave and benefits.
- Program costs are funded by paycheck contributions made by both employers and employees.
 - Businesses with less than 50 employees are exempt from paying the employer share of premiums.
 - Employees of businesses with less than 50 employees must still pay the employee share of the program premiums and are eligible for benefits under the program.
- Optional coverage for self-employed individuals.
 - Self-employed individuals who elect coverage pay only the employee share of premiums.
- Job protection that requires that an eligible employee be returned to the same or equivalent position.
 - This provision applies to an employee working for a business with 50 or more employees and who has worked for the current employer for at least 12 months/1250 hours during the past year.

Beginning on January 1, 2019, employers must start withholding PFML premiums from employee paychecks. On April 1, 2019, employers must begin to report wages, hours and additional information to the Washington State Employment Security Department on a quarterly basis.

The initial premium rate is 0.4 percent of wages, beginning on January 1, 2019, with annual adjustments by Employment Security possible after December 31, 2020. The total wages subject to a premium assessment is capped at the maximum wage subject to social security tax.

Two thirds of the premium rate is for medical leave, and one third for family leave. Employers may deduct 100 percent of the family leave premium and up to 45 percent of the medical leave premium from the employee's wages.

The employer is responsible for 55 percent of the medical leave premium. An employer may elect to pay all of the premiums.

What are the details?

Under the Washington Paid Family and Medical Leave Law, family members are defined as the employee's spouse, child, grandchild, parent, grandparent, parent-in-law, and sibling. A child may include a biological, adopted, foster, stepchild, or child where the employee stands in *loco parentis*.

An employer may allow an employee to use accrued vacation, sick, or other paid time off, or receive benefits under the program.

The maximum weekly benefit under the program is \$1000, and will be adjusted annually to 90 percent of the state average weekly wage. The minimum weekly benefit is \$100 per week, unless the worker's average weekly wage is less than \$100—then the weekly benefit is the employee's full weekly wage.

An employer may opt out of either the state program for medical leave and/or family leave by creating a voluntary plan that meets Employment Security standards. ESD will charge a fee of \$250 for reviewing each voluntary plan.

The Washington Paid Family and Medical Leave Law does not include leave for a military hardship. However, the Washington Military Leave Law allows 15 days of job-protected leave when the employees' spouse is notified of impending active duty or is on leave from active duty.

State grants of \$3000 are available for an employer with 150 or fewer employees if a temporary worker is hired to replace an employee on leave for 7 or more days, or up to \$1000 for reimbursement for significant wage-related costs caused by an employee's leave under the program. The employer may be eligible for an additional grant of up to \$2000. Employers are limited to no more than 10 grants per year and to only one grant per employee. Eligible employers must have paid all program premiums for 3 years.

More Information:

Employment Security Department <https://esd.wa.gov/paid-family-medical-leave>

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