



# LIVING WITH MINNESOTA'S PAID FAMILY & MEDICAL LEAVE PROGRAM

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Presented By:

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# Who is Employer Solutions?

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- We are a team of employment law attorneys with HR and risk management backgrounds
  - Our primary focus is on the HR and employment law things that make up the people management function within an organization
  - Our advice couples compliance with best practices
- Our flagship service is the Hotline, which provides unlimited phone and email access to the attorneys on the Employer Solutions team for a very low annual fee
- To learn how the Hotline can help you:
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# Agenda

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- PFML Overview
- Lived Experiences – Panel Discussion
- Q&A

# PFML Overview

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# Paid Family and Medical Leave

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## Covered employers and employees

- Covers **all employers** regardless of size, except for 1) federal governmental employers, and 2) self-employed individuals
- All employees in “covered employment” and who have earned 5.3% of the state’s average annual wage over the previous 52 weeks are eligible
  - Currently, that amount is \$3,921.79 (*state’s average wage resets every October*)
  - You shouldn’t care about this number, and you should withhold premiums for all employees, regardless of compensation paid (*the obligation to pay premiums is independent of whether an employee is eligible to receive benefits*)
- With two exceptions (*seasonal hospitality and RLA*), “covered employment” for a covered employer includes any employee (*regardless of FT/PT status*) who either:
  - Physically performs 50% or more of their work in Minnesota, or
  - 1) is a MN resident for 50% or more of the year, 2) performs “some” employment in MN during the year, and 3) has no single state in which 50% or more of their work is performed throughout the year
    - Not covered example: MN resident works 80% in WI and 20% in MN
    - Covered example: MN resident works 40% in IA, 40% in WI, and 20% in MN

# Paid Family and Medical Leave

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## Leave amount and protections

- Provides up to 20 weeks per year of job-protected time off per benefit year
  - Maximum of 12 weeks for medical leave, maximum 12 weeks for family leave, but no more than 20 total weeks per benefit year
  - Up to 480 hours of time can be used intermittently per benefit year (*including for bonding*)
- Employees have a right to reinstatement to same position or true equivalent
  - Same/equivalent position includes compensation, scheduling, geographic location, etc.
  - Right to reinstatement begins 90 days after date of hire
  - No right to reinstatement if employee would have lost employment had they been continuously employed
- Employees cannot waive rights to pursue or receive benefits under the law (*much like unemployment or workers' compensation*)

# Paid Family and Medical Leave

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## Reasons for which leave can be taken and benefits received

1. An employee's serious health condition (*includes work comp injuries and illnesses*)
  - The definition of “serious health condition” is similar to the FMLA’s definition, and specifically includes “telemedicine” and examinations to determine if serious health condition exists
2. Medical care related to an employee's pregnancy
  - Includes prenatal care, recovery from childbirth, stillbirth, and miscarriage
3. Bonding (*includes time off in connection with adoption and foster care placement*)
  - Ends 12 months after birth, unless baby remains in hospital longer than mom
  - Employees can take leave in 2026 for children born in 2025
4. Family care for a family member's or military family member's serious health condition
5. Qualifying exigencies arising from a family member's military active duty
6. Safety for employees/family members who are the victims of domestic assault, sexual assault, or stalking

# Paid Family and Medical Leave

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## Definition of “family members”

- “Family members” for whom leave can be taken include:
  - Spouse
  - Child (includes foster child, *in loco parentis*, legal guardian, and “de facto” custodians)
  - Parent/legal guardian (includes foster parent, *in loco parentis*, legal guardian, and “de facto” custodians)
  - Domestic partner
  - Sibling
  - Grandparent (including spouse’s grandparent)
  - Grandchild
  - Son / daughter-in-law
  - Any “individual who has a relationship with the applicant that creates an expectation and reliance that the applicant care for the individual, whether or not the applicant and the individual reside together”

# Paid Family and Medical Leave

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## Employee notice requirements

- Employee notice to employer
  - At least 30 days in advance of foreseeable leaves
  - As soon as practicable for unforeseeable leaves
  - As soon as practicable if need for leave changes, such as frequency, duration, etc.
  - Employees cannot be required to find a replacement to cover their absences
  - You can require employees to follow normal call-in/reporting procedures and potentially discipline them if they fail to do so

# Paid Family and Medical Leave

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## Benefit payments

- Benefits eligibility usually (but not always) requires a “seven-day qualifying event”
  - Benefits based on a “single event of at least seven calendar days’ duration”
    - The days must be consecutive, unless the leave is intermittent
  - Benefits are payable retroactive to the 1<sup>st</sup> day of absence
  - Bonding benefits are not subject to the 7-day qualifying event requirement and are payable immediately
- Benefits are calculated as a percentage of the employee’s regular wages based on their highest earning quarter over the previous four quarters capped at a max equal to 100% of the state’s average weekly wage
  - Currently, the state’s average weekly wage is \$1,423 (*this amount is revised annually on October 1<sup>st</sup>*)
- Workers’ Compensation:
  - If work comp pays below PFML benefit levels, PFML will supplement work comp
  - Employers may want to revise work comp claim procedures to include PFML info

# Paid Family and Medical Leave

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## Benefit payments (con't)

- Benefit amount received will be determined by the following formula:
  1. 90% of wages that do not exceed 50% of the state's average weekly wage; plus
  2. 66% of wages that exceed 50% of the state's average weekly wage but not 100%; plus
  3. 55% of wages that exceed 100% of the state's average weekly wage.
- Examples for employee with different average weekly wages:
  - \$576.92/week (\$30,000/year) = \$519.23 (90% of the employee's regular weekly wages)
  - \$807.69/week (\$42,000/year) = \$703.84 (87% of the employee's regular weekly wages)
  - \$1,500/week (\$78,000/year) = \$1,152.84 (77% of the employee's regular weekly wages)
  - \$2,500/week (\$130,000/year) = \$1,423 (formula result exceeds state max, so result is capped at state's max of \$1,423, which = 57% of the employee's regular weekly wages)

# Paid Family and Medical Leave

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## Leave law coordination and processing claims

- Other applicable leave laws (i.e., FMLA and MPLA) will run concurrently with PFML
  - Minn.Stat. §268B.27: “Subdivision 1. **Concurrent leave.** An employer may require leave taken under this chapter to run concurrently with leave taken for the same purpose under [the Minnesota Parental Leave Act] or the Family and Medical Leave Act”
  - Some leaves may be covered by PFML but not FMLA or MPLA
    - Leaves taken for family members not covered by FMLA
    - Leaves taken in the first year of employment aren’t covered by FMLA, so employees will still have 12 weeks of FMLA on their anniversary dates
    - New birth parents can take 20 weeks of leave (MPLA/FMLA limited to 12 weeks)
- Your administrative responsibilities for processing claims should be reduced
  - State or private carrier will do claims intake, obtain necessary confirmatory paperwork, approve or deny the claim, and calculate the benefit payments
  - Employers won’t need to separately obtain medical information for FMLA purposes, since state/carrier approval means claim is covered by FMLA (where applicable)
    - Upon receipt of approval, distribute Notice of Rights and Responsibilities and FMLA Designation Notice

# Paid Family and Medical Leave

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## Taxes on benefit payments

- Paid Family Leave (PFL) benefits are considered non-wage income, and the state will issue a 1099 in connection with benefits paid (private carriers will likely do the same, but you should confirm)
- Paid Medical Leave (PML) benefits are considered to be third-party sick pay that should be treated as W-2 wages subject to FICA, FUTA, and SUTA
  - Because half of the cost of premiums paid for PML benefits come from an employee's after-tax wages, only 50% of benefit payments are subject to tax
  - Employers in the state program are responsible for including 50% of PML payments on W-2s and paying applicable FICA, FUTA, and SUTA
    - Private carriers may offer a buy-up option to issue W-2s and pay FICA, FUTA, and SUTA
- For 2026 tax year, IRS has suspended obligation to report PML payments on W-2s for payments made from a state program
  - Unclear whether exemption applies to private plans, and many carriers have concluded it doesn't and will treat PML payments as W-2 wages

# Paid Family and Medical Leave

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## Coordination with employer paid leave policies

- For employers with formal Short-Term Disability or wage continuation programs, PFML benefits are considered primary and will pay first
  - STD can be designed to supplement or pay on top of PFML benefits
- Other types of employer paid leave programs (e.g., paid parental leave, PTO, sick/vacation, etc.) will be considered primary and pay before PFML, unless employers choose to allow them to be used to supplement payments received from PFML
  - If an employer doesn't allow supplementation, employees can choose to use employer paid leave in lieu of receiving state benefits, although few are likely to do so, given richness of PFML benefits
  - Employees can't be required to use employer paid leave
- Employers wanting to allow supplementation must amend their paid leave policies to explicitly state that they can be used as a supplement

# Paid Family and Medical Leave

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## Premium costs of participating in the state program

- Premium costs are based on a percentage of an employee's wages up to the FICA annual maximum rounded to the nearest \$1,000 (*\$176,100 for 2025, but is reset annually*)
  - Premiums don't have to be paid on wages above the FICA annual max
- Premium rates will be reviewed and reset by DEED each year by July 31<sup>st</sup>
  - 2026 rates have been set at .88% of FICA wages (at least .44% must be paid by ER)
    - Small employers (fewer than 30 EEs) must pay at least .22% (EEs will still pay .44%)
- Employers must pay at least 50% of premiums
  - If private plan premiums are **higher** than state rates, employees can only be required to pay up to 50% of state rates
  - If private plan premiums are **lower** than the state rate, employees can probably only be required to pay 50% of lower private premiums
- Employee premium payments paid from after-tax wages (i.e., not pretax)
  - Employee shared portion of premiums can't drop EE pay below minimum wage
  - Employers choosing to pay some/all of EE premium costs will have to treat those payments as imputed income so that EEs are taxed on their value

# Paid Family and Medical Leave

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## Substituting a private plan in lieu of participating in state program

- Employers can substitute a private plan approved by the state
  - Application made through an employer’s Paid Leave Administrator Account
  - Employers substituting a private plan will have to pay a fee to DEED for initial plan approval (*and upon any amendment such as changing insurance carriers*)
    - \$250 for employers with fewer than 50 employees
    - \$500 for employers with 50-499 employees
    - \$1,000 for employers with 500+ employees
- Employers seeking to self-fund must file a surety bond along with its application to use private insurance to opt out of the state’s program
  - “in an amount equal to the employer’s annual premium that it would otherwise be required to pay to the family and medical benefit insurance account”
- Employers can choose to go into a private plan once per quarter
- Employers can leave a private plan and go into public program
  - Employers leaving private plan for state plan are locked into public program for 3 years

# Lived Experiences – Panel Discussion

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# Panel Discussion Participants

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**Kari Kaus**

*HRIS Administrator/Benefits and Leave  
Management*

Mayo Employee Federal Credit Union

**Lacey Lucey**

*Benefits and Compensation Director*

City of Rochester

**Nick Nedland**

*Director of People*

Hilton / Titan Asset Management

**Andy Wadewitz**

*HR Director*

Pharmaceutical Specialties

# Paid Family and Medical Leave

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## Panel Discussion questions

1. Are you going through the public program or are you using a private plan for your PFML benefits obligations?
2. When you evaluated your options, what factors influenced the decision you made?
3. What have you seen as the turnaround time on claim approvals, and has that gotten better over time?
4. What unexpected administrative challenges have you had to deal with when working with the state or a private administrator?
5. How many Minnesota employees do you have?
6. With almost 6 months of PFML experience under our belts, what percentage of your employees have filed PFML claims, or what is the number of PFML claims you received so far, and how does that number compare to what you were expecting?
7. Of the PFML claims you have received, what percentage of them involve intermittent absences?

# Paid Family and Medical Leave

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## Panel Discussion questions (con't)

8. What is the most common reason for which employees have taken leave: 1) birth/bonding, 2) employee serious health condition, or 3) family member medical leaves?
9. If you have a private plan, is your provider treating medical benefits paid as taxable wages reportable on the W-2 on which you have to make FICA/FUTA contributions?
10. Do you suspect any employees of “abusing” their PFML rights, and if so, what have you seen that makes you think that?
11. Have you had any employees with leaves that would be covered by PFML refuse to file PFML claims? How are you documenting it when an employee refuses to file PFML claims? What feedback are you receiving on why employees refuse?
12. Are you requiring or allowing employees to top-off PFML benefits with PTO?
13. How are you handling insurance premium payments for employees on continuous leaves?
14. What efforts have you made to train or educate managers about how to handle PFML situations?

# Q & A

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# Thank You!

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