

# Complying with Connecticut's Paid Family and Medical Leave Act

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Connecticut's Paid Family and Medical Leave Act (the PFMLA), enacted in 2019, created the Connecticut Paid Leave program (the CTPL) and amended the Connecticut Family and Medical Leave Act (the CFMLA), by expanding the availability and amount of paid leave.

As of November 1, 2020, employers may register with the Connecticut Paid Leave Authority or opt out of the CTPL and, instead, provide paid leave through a private insurance plan. PFMLA premium withholdings begin on January 1, 2021, and covered employees can start receiving CTPL benefits on January 1, 2022.

## What are the paid leave benefits for employees?

The PFMLA will provide 12 weeks of CTPL benefits in a 12-month period for employees who take time off for the reasons listed below. Employees who are absent from work due to a pregnancy-related health condition resulting in incapacitation may be entitled to an additional two weeks of CTPL benefits, for a total of 14 weeks. CTPL benefits may be used:

- (1) to care for a family member of the employee with a serious health condition;
- (2) for the employee's own serious health condition;
- (3) to bond with a newly born, adopted, or fostered child;
- (4) to serve as an organ or bone marrow donor;
- (5) in connection with a qualifying military exigency of the spouse, son, daughter, or parent of the employee under the federal FMLA;
- (6) for military caregiver leave; or
- (7) for certain absences related to the employee's status as a victim of family violence.

Effective January 1, 2022, the definition of "family member" will include a (1) spouse; (2) son or daughter; (3) parent; (4) parent-in-law; (5) sibling; (6) grandchild; (7) grandparent; or (8) an individual related to the employee by blood or whose close association to the employee is the equivalent of one of the enumerated family relationships. This is a major expansion of coverage previously available under the CFMLA, which covered only spouses, children, and parents. Now, eligible relatives may be related by blood, marriage, adoption, and foster relationships. Finally, step-parents and legal guardians who acted in loco parentis to the employee when the employee was a child are also considered "family members."

As of January 1, 2021, eligible employees are entitled to the following CTPL benefits:

- If the employee's wages are less than or equal to the Connecticut minimum wage multiplied by 40, the weekly benefit rate under the PFMLA will be 95% of the employee's average weekly wage. (Note: 40 times the minimum wage will be equal to \$520 weekly in January 2022, increasing to \$560 on July 1, 2022, and \$600 on June 1, 2023)

- If the employee's wages exceed the Connecticut minimum wage multiplied by 40, the weekly benefit rate will be 95% of the Connecticut minimum wage multiplied by 40 plus 60% of the amount the employee's average weekly wage exceeds the Connecticut minimum wage multiplied by 40. The benefit rate is capped at 60 times the Connecticut minimum wage. (Note: 60 times the minimum wage will be equal to \$780 weekly in January 2022, increasing to \$840 on July 1, 2022, and \$900 on June 1, 2023)

### How is the CTPL funded?

The new CTPL is funded entirely by employee contributions through a payroll tax. Employers do not contribute to the program. However, employers are responsible for withholding contributions from employee wages and remitting them to the state. The CTPL contribution amount is currently set at one-half of one percent (0.5%) of an employee's wages that are subject to Social Security taxes.

### Which employees are eligible to apply for paid leave under the CTPL?

Employees are eligible for paid leave under the CTPL if they earned at least \$2,325 in the highest quarter of the first four of the five most recent quarters immediately before their application for leave and either: (1) are currently employed by a Connecticut employer; or (2) were employed by a Connecticut employer during the 12 weeks immediately preceding the application.

Eligible wages include salary or hourly pay, vacation pay, holiday pay, tips, commissions, and severance pay.

Effective January 1, 2022, an employee must have been employed for at least three months by the employer from whom leave is requested.

### Which employers are impacted by the PFMLA?

"Employer" is defined as any entity that employs one or more employees. Thus, the PFMLA applies to all private employers in Connecticut. This is a major change from the CFMLA's 75-employee threshold.

### What are the employer notice requirements?

Employers should provide notice to employees promptly that payroll deductions will commence by January 1, 2021. Starting July 1, 2022, covered employers must provide written notice to employees at the time of hire, and annually thereafter, of the following: (1) employees' entitlement to the CTPL; (2) that the PFMLA prohibits retaliation for requesting or using paid leave under the CTPL; and (3) the right to file a complaint with the Connecticut Department of Labor for violations of the law.

### How can employers prepare for the implementation of the PFMLA?

While employees will not be eligible to receive CTPL benefits until January 1, 2022, employers should take steps to prepare for the law's implications. Employers should consider:

- (1) determining whether their current leave plan fits the requirements of the PFMLA and, if not, revising the plan to provide, at a minimum, the same rights, protections, and benefits at the same cost to the employee as provided under the law;
- (2) training human resources, or appropriate personnel, about the administration of the new leave policies;
- (3) updating an anti-retaliation policy to apply to employees who use the CTPL benefit; and
- (4) establishing a process for employees to receive the required notices, at time of hire and annually thereafter.

### What are the penalties for employer non-compliance?

Employers are responsible for withholding payroll deductions for employees and for submitting the funds quarterly to the Connecticut Paid Leave Authority. An employer's failure to submit CTPL contributions may result in an assessment of penalties in addition to the required withholdings.

The PFMLA does not provide for a private right of action. Instead, employees may file a complaint with the Connecticut Department of Labor, which will investigate the complaint. If the Department of Labor determines that an employer violated an employee's right under the PFMLA, the employee may be entitled to damages including reinstatement, lost wages, and other benefits.

## Is paid leave under the PFMLA different from COVID-19 leave?

The Families First Coronavirus Response Act (the FFCRA) is a federal law and is unrelated to the requirements imposed by the PFMLA. However, like the FFCRA, the PFMLA provides paid leave benefits to employees who cannot work due to their own serious health condition or the serious health condition of a family member. The PFMLA, unlike the FFCRA, does not apply when an employee cannot work due to school or daycare closures.

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