

CT Paid Family and Medical Leave Act: What You Need to Know

Connecticut passed a new Paid Family Medical Leave Act that will be entirely funded with employee contributions starting January 1, 2021. In an effort to keep our clients updated, we have provided an overview of the new Act and what the expectation is of the employer.

Connecticut's Paid Family and Medical Leave allows employers to provide employees with paid, job-protected leave for health or family-related reasons. Employees will be eligible for compensation after they have completed 12 weeks (3 months) of service preceding the leave request. CT PFML is a program that will be entirely funded by employees through a payroll tax deduction beginning in January 2021, with benefits available to eligible employees beginning in January 2022.

How this is different from current Family Medical Leave Act (FMLA)?

Employers with more than 50 employees are currently required to comply with The Family and Medical Leave Act (FMLA) which entitles eligible employees to take unpaid, job-protected leave for specified family and medical reason.

The FMLA ONLY applies to employers that meet certain criteria. A covered employer is a:

- Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year.
- Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
- Public or private elementary or secondary school, regardless of the number of employees it employs.

While the reasoning behind the leave is very similar to PFMLA, the eligibility criteria outlined in the chart below has changed significantly.

FMLA	PFMLA
Leave includes 16 unpaid weeks in 24-month period	Up to 12 paid weeks in a 12-month period or 14 for pregnancy depending on qualifying condition.
Covers employers with 50+ employees	Covers employers with one or more employees
Must have worked 12 months with employer to be eligible.	Must have completed 12 weeks of service with no minimum requirement for hours worked.
Restrictive qualifications for leave	Significantly broadens what qualifies for paid leave.
Definition of family members that qualify for leave: Spouse, Parent, and Child.	Expanded definition of family members to include: Parent-in-law, sibling, Sibling-in-law, Domestic Partner, Grandparent.

What Reasons Qualify for Paid Leave?

Below is a list of qualifying events for PFML:

- Employees own serious health condition
- Preparation for or upon the birth, adoption, or foster placement of an employee's child.
- To serve as an organ or bone marrow donor
- To care for a family member with serious health condition
- To care for a family member wounded in the military
- Family member called to active military duty
- Employee is a victim of family violence (can apply for up to a 12 day leave)

Do all employers need to participate in PFML?

CT employers who have one or more employees **MUST** participate. Self-employed individuals can opt-in but they must remain in the program for a minimum of three years if they do so.

If the employer offers a private plan option, do they need to participate in PFMLA?

If employers offer a private Paid Family and Medical plan, they can apply to the CT Paid Leave Authority for an exception from the program if:

- The private program is found to be comparable or better than then CT's PFMLA
- The cost employees more than the CT public plan; contribution must be limited to one half of one percent
- The employer can demonstrate the ability to administer claims and benefits
- The employer holds a vote to seek employee approval of the private plan option. It must be a majority vote of all eligible employees who work in CT.
- The CT Paid Leave Authority approves the plan.

If an employer would like to use the private plan, they would include that information when they register with the CT Paid Leave Authority.

What are the Requirements to be a "Covered" Employee?

Employees must have at least \$2,325 in wages in the first four of the past five quarters and fit into the following categories:

- Currently employed and working in CT
- Currently unemployed but have been employed within the last 12 weeks
- Self-employed and resident of CT who chooses to participate

Employees do not need to be a resident of CT; they must work for a CT based company.

Who decides if an employee can take PFML?

The employee must request PFML from their employer 30 days in advance whenever foreseeable (birth, medical treatment, donation of marrow) If the leave is not foreseeable, the employee must give written notice as soon as possible. An employer may require a doctor's note for any employee's leave related to a serious health condition.

It is the employer's decision if the employee can take the leave, not if they will get paid. If the employer approves the leave, the employee must complete and submit an application for paid leave benefits to the CT Paid Leave Authority. If approved, the CT Paid Leave Authority will administer paid leave benefits directly to the employee. The request process is still pending details.

How is PFMLA Funded?

The paid leave will be funded through employee payroll contributions. Employers will not make contributions to the program, but they will be required to deduct and withhold a mandatory tax of 0.5% up to the Social Security tax base of \$142,800 starting January 1, 2021. This is a post-tax deduction and includes vacation, holiday, commission, bonuses and severance. This applies to part-time, seasonal and temporary workers.

How does the Benefit Work?

The CT Paid Leave Authority will pay up to 12 weeks of benefits for an approved PFM leave of absence. A two-week extension may be granted if a healthcare provider determines they may need more time for recovery. The base period used to determine eligibility and pay will be the highest-earning quarter of the first four of the five most recently completed quarters.

The base weekly earnings used to determine compensation during leave are equivalent to 1/26th of an employee's covered unemployment insurance wages during the two highest earning quarters in the base period. The CT Paid Leave Authority determines the amount any employee receives, but the amount is calculated using a multi-step process.

Step 1: Calculate 95% of the base weekly earnings, capped at 40 times the state minimum wage.

Step 2: Calculate 60% of the base weekly earnings above 40 times the state minimum wage.

Step 3: Add the two amounts together to determine the weekly benefit. However, the weekly benefit cannot exceed 60 times the minimum wage.

Example: A full-time worker earning \$20/hour and working 40 hours/week would have base weekly earnings of \$800.00.

In June of 2023, once the minimum wage is fully phased in, they would be eligible to receive 95% of their first \$600.00 in earnings (\$570.00), plus 60% of the next \$200 in earnings (\$120.00), for a total of \$690.00 in weekly compensation

How Does an Employer Submit Contributions?

Contributions will be submitted quarterly to the CT Paid Leave Authority by the employer's payroll provider. Funds are held in the CT Family Medical Leave Insurance Trust Fund.

Important Dates to Remember

November 23, 2020: Employers can start registering with the CT Paid Leave Authority by taking the following steps:

1. Confirming your business has established a state identity at <https://business.ct.gov/>
2. Set up an admin account with ctpaidleave.org
3. Link the account to the business with company FEIN

Jan. 1, 2021	Withholding begins
March 31, 2021	1st quarter contributions due to CT Paid Leave Authority
June 30, 2021	2nd quarter contributions due to CT Paid Leave Authority
Sept. 30, 2021	3rd quarter contributions due to CT Paid Leave Authority
Dec. 31, 2021	4th quarter contributions due to CT Paid Leave Authority
Fall/Winter 2021	Employees can begin submitting applications for paid leave
January 1, 2022	Paid Leave benefits become available

This Act will have many additions and changes in the weeks and months to come. As always, we will update you as things progress and are happy to help you navigate through this process.

For more information on CT PFMLA go to <https://ctpaidleave.org/>.

Please feel free to **contact us** with any questions.