

# Massachusetts Employers Need to Prepare as Paid Family and Medical Leave Effective Date Approaches



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Monday, April 22, 2019

As we [previously reported](#), last summer Massachusetts legislators passed a bill adding that state to the growing list of locations requiring that employers offer some sort of paid family leave. That bill ultimately was signed by the governor, meaning that Massachusetts employers should be preparing to comply with several provisions of the Massachusetts Paid Family and Medical Leave (PFML) law, which goes into effect on July 1, 2019. The Massachusetts Department of Family and Medical Leave, which was created to administer the PFML law, recently released [revised proposed regulations](#), which highlight several immediate compliance steps for employers with Massachusetts workers – including both employees and covered independent contractors – to take.

The PFML law creates a state insurance program to provide Massachusetts workers with paid leave to welcome a new child, for their own serious illness or injury, to take care of an ill or ailing relative, or in relation to certain military circumstances. The leave is administered and paid through the state program, which is funded through payroll deductions from covered Massachusetts workers and employers.

While Massachusetts workers will not be eligible to take paid family and medical leave through the state program until 2021, employers of Massachusetts workers

will be required to provide notice of the benefits to covered workers in advance of the effective date, to begin making PFML contributions as of July 1, 2019, and to file their first mandatory quarterly reports in October 2019.

## **Notice Requirements Should Be Met by May 31, 2019**

By May 31, 2019, employers should provide written notice to their current work force of PFML benefits, contribution rates, and other provisions. The department has posted form notices for employees and independent contractors, which are available for download [here](#). Or employers can create their own forms as long as the notices meet the minimum requirements set out by the department.

The notice can be provided electronically or in paper form and must include the opportunity for an employee or independent contractor to acknowledge receipt or decline to acknowledge receipt of the information. Employers must collect and maintain acknowledgements in either paper form or electronically. New employees and independent contractors should receive the written acknowledgment within 30 days of hiring.

Before July 1, 2019, employers must also display the [Massachusetts Paid Family and Medical Leave poster](#) at each Massachusetts work location.

Employers that fail to provide the required notice can face a fine of \$50 per individual for a first violation, and \$300 per individual for a subsequent violation.

### **Action Items:**

- Prepare notices to be distributed to employees and independent contractors regarding PFML deductions, benefits and eligibility. Confer with legal counsel as necessary to review notices if you are not using the department's forms.
- Create a system for receiving and tracking notice acknowledgment forms.
- Post the required PFML poster in every Massachusetts work location.
- Provide the poster electronically to employees and independent contractors who do not have a specified work location.

## **Payroll Deductions Begin July 1, 2019**

Employers with Massachusetts covered workers will be required to start making contributions to the state paid leave fund on July 1, 2019. The contribution rate for 2019 is set at 0.63 percent of each covered worker's wages on the first \$132,900 of annual gross earnings (this earnings cap is tied to the annual limit for federal Social Security payroll deductions). The contribution rate may be changed annually and will be determined by October 1 for the following calendar year.

The 0.63 percent payroll tax rate will be split between the two leave programs: 0.52 percent for medical leave and 0.11 percent for family leave. Employers can deduct all of the 0.11 percent family leave contribution and up to 40 percent of the 0.52 percent medical leave contribution from wages paid to covered workers. Employers with fewer than 25 covered workers in Massachusetts do not have to pay any employer share of the medical leave contribution, but larger employers will be required to pay the remaining 60 percent of the medical leave contribution rate.

Employers are responsible for remitting the full 0.63 percent contribution to the state paid leave fund, including both the employee portion withheld through payroll deductions and any required employer portion. Contributions for July 1, 2019 through September 30, 2019 must be paid through the [MassTaxConnect portal](#) by October 31, 2019. Failure to make the required contributions will result in a penalty of 0.63 percent of an employer's total annual payroll for each year of compliance failure (or fraction thereof), in addition to the total amount of the benefits paid to covered individuals for whom no contributions were made.

**Action Items:**

- Work with your payroll department or payroll provider to set up payroll deductions to begin July 1, 2019.
- Ensure you are registered with MassTaxConnect and make payments for the first quarter contributions (for July 1, 2019 through September 30, 2019) by no later than October 31, 2019.

**First Mandatory Quarterly Report Due in October 2019**

Employers are required to submit the first mandatory quarterly report through the MassTaxConnect portal in October 2019. Specific reporting and documentation guidelines will be announced by July 1, 2019, but employers should expect quarterly reports to include the following information for employees and 1099 workers: the name, Social Security number, and wages paid or other earnings for each employee and 1099 worker.

The department will use the quarterly report to determine the total quarterly contribution owed, which must be paid through MassTaxConnect within 30 days after the end of the quarter.

**Action Item:**

- Check the department's website or confer with your legal counsel in June to confirm specific reporting requirements.

**Employers Can Apply for Exemption for Private Plan**

If you already provide employees with a paid leave benefit, you can apply for an annual exemption through the MassTaxConnect portal beginning April 29, 2019. A private benefit plan, whether self-funded or through a third-party insurer, must be at least as generous as the benefits provided by the PFML law and cannot be more expensive for an employee than the contributions allowed under the PFML. Applications for exemptions will be reviewed and acceptances conveyed on a rolling basis, will be effective for one year, and may be renewed annually.

**Action Item:**

- Consider whether your private leave benefit plan might qualify for an exemption and, if it does, apply for the exemption as soon as April 29, 2019.

As a reminder, when PFML benefits become available, covered workers will be

eligible for the following annual benefits:

- Up to 20 weeks of paid medical leave related to a worker's own serious health condition that prevents him or her from working;
- Up to 12 weeks of paid family leave related to the birth, adoption, or foster care placement of a child;
- Up to 12 weeks of paid family leave to care for a family member with a serious health condition;
- Up to 12 weeks of paid leave related to a qualifying exigency due to a family member being on or being called to active duty in the armed forces; and/or
- Up to 26 weeks of paid family leave to care for a family member who is a covered service member with a serious health condition.

Total annual benefits for all qualifying reasons will be capped at 26 weeks per year. All types of paid leave benefits will be available to covered workers on January 21, 2021, except leave related to care for a family member with a serious health condition, which will be available on July 1, 2021.

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**Source URL:** <https://www.natlawreview.com/article/massachusetts-employers-need-to-prepare-paid-family-and-medical-leave-effective-date>