

Massachusetts Releases Paid Family and Medical Leave Employer Guide, Workplace Poster

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The Massachusetts Department of Family and Medical Leave has released [a new guide](#) for employers on the Massachusetts Paid Family and Medical Leave Act (PFMLA), G.L. c. 175M. The guide clarifies some questions generated by draft regulations published in January. The guide, released on March 26, 2019, explains what actions employers must take in the coming months.

The Department also issued the mandatory PFMLA workplace poster.

Revised draft regulations for the PFMLA are scheduled for release on March 29, 2019, for public hearing and comment.

Workplace Poster

The PFMLA requires employers to notify employees of the law and its requirements. The Department's [mandatory workplace poster](#) for employers provides information on the weekly benefits available, defines covered individuals and their rights to job protection, and describes the anti-retaliation and anti-discrimination provisions of the law and the option for private plans. Employers must display the poster in a conspicuous place at each of their Massachusetts premises. This poster should be displayed immediately.

Employers also must distribute notices provided by the Department to every member of the workforce about the PFMLA. If the individual is classified a W2 employee, the notice must explain the availability of benefits, provide the contribution amounts and obligations, give contact information for the employer and the Department, and provide the employer's identification number assigned by the Department and instructions on how to file for benefits. If the individual is classified a 1099-MISC contract worker, the notice must contain much of the above information, as well as explain how the worker can obtain coverage as a self-employed individual and the contribution obligations they would assume if they choose to obtain such coverage. For each notice, the employer must receive a written statement from the individual acknowledging receipt or a statement indicating refusal to acknowledge the notice.

The Department intends to release the notices by March 29, 2019. Employers should plan to distribute them and collect the signatures of acknowledgment by June 1, 2019.

Deductions, Contributions, Reporting

Beginning July 1, 2019, employers must make deductions from wages (or from payments for services paid to covered individuals) to fund the Trust Fund that will pay out benefits beginning in 2021. The guide instructs employers to report their workforce information and submit contributions through the Department of Revenue's MassTaxConnect system beginning in October 2019. Employers not registered with the MassTaxConnect system can do so at <https://www.mass.gov/how-to/register-your-business-with-masstaxconnect>.

The guide also contains information on employers' reporting obligations under the PFMLA. The Department expects to release more information before July 1, 2019, with the specifics of the report. Employers should plan to include at least the names, social security numbers, and wages of all of their Massachusetts workforce. Employers also will have to provide their federal employer identification number. Employers will be required to provide this information for W2 and 1099-MISC contractors, regardless of whether the worker qualifies for individual coverage under the PFMLA.

Private Plan Exemption Process

The guide clarifies that beginning April 29, 2019, employers may apply for an exemption from the PFMLA if they have a "private plan" by going through the employer's MassTaxConnect account. Employers can choose to apply for a private plan exemption from either the medical leave or the family leave

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contributions, or both. The private plan offered must provide benefits greater than or equal to those provided by the PFMLA to be granted an exemption. If the plan is approved, the employer must upload a copy of the plan. If the plan is denied, the employer may seek review. Employees continue to be entitled to the job protection, anti-discrimination, and anti-retaliation provisions under the PFMLA, even if a private plan exemption is granted. To qualify for an exemption, the private plan must meet the Department's [minimum requirements](#).

Interactive Tools

The Department also offers employers two interactive tools for analyzing coverage questions and contribution amounts. The [first](#) allows employers to determine if they are responsible for paying the employer share of PFMLA contributions by comparing the number of 1099-MISC contract workers to the number of W2 employees. The [second](#) is a calculator that provides employers with a breakdown of required contributions based on the size of their workforce and payroll.

Next Steps

Jackson Lewis will continue to monitor PFMLA developments. Employers with a private plan, or planning to implement one, should consult with counsel and prepare to apply for an exemption. Finally, employers should continue preparing to implement payroll adjustments to reflect the new contributions to the Trust Fund.

Please contact Jackson Lewis with any questions about the PFMLA.

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