

Maine Enacts New Paid Family and Medical Leave Act

By Debra Weiss Ford & Samuel H. Martin

July 17, 2023

Meet the Authors



Debra Weiss Ford

Office Managing Principal
603-559-2700
Debra.Ford@jacksonlewis.com



Samuel H. Martin

Associate
603-559-2700
Samuel.Martin@jacksonlewis.com

Related Services

Disability, Leave and Health
Management

Beginning May 1, 2026, Maine's [new paid family leave law](#) will allow Maine employees up to 12 weeks of family and medical leave benefits over a one-year period.

Benefits will be financed by a mandatory “premium” based on employee wages of up to 1%, to be split evenly between employee and employer, with each bearing a maximum burden of 0.5% of weekly wages as a premium. Maine employers with fewer than 15 employees will not be subject to the payment of the employer’s portion of the premium, though they will still be obliged to collect and remit the employee portion. While coverage is delayed until the May 1, 2026, start date, Maine employers and employees will begin paying the 1% premium beginning on January 1, 2025.

The program will be administered by the Maine Department of Labor and will cover virtually all employees in Maine, including public employees except for employees of the federal government. Self-employed Mainers will have the option of voluntarily participating in the program, as will tribal governments.

Employee Entitlements

The program will pay covered employees “the portion of the covered individual’s average weekly wage that is equal to or less than 50% of the state average weekly wage” at a rate of 90%. Further, the program will pay covered employees “[t]he portion of the covered individual’s average weekly wage that is more than 50% of the state average weekly wage” at a rate of 66% up to the maximum weekly benefit of 100% of the average weekly wage.

Benefits paid from the program will not be subject to Maine state income tax and will be provided weekly. Leave under the program will run concurrently with federal and state Family and Medical Leave Act leave.

Employee Eligibility, Exceptions, Notice, Reinstatement

The definition of covered employee is broad and covers all Maine employees earning at least six times the state average weekly wage subject to premiums during the prior year. Exceptions exist for tribal employees, the self-employed, and employees subject to an existing collective bargaining agreement. Upon the expiration of existing collective bargaining agreements, those employees will become covered by the new law.

In order to take leave, employees must provide reasonable notice to the employer of their intention to take leave. Leave must be scheduled to prevent undue hardship on the employer. The statute provides exceptions to these requirements in situations of emergency, illness, or other sudden necessity.

The law prohibits retaliation against employees taking family or medical leave and specifically requires that employees employed for longer than 120 days be returned to the same or equivalent position when returning from leave.

Employee Reasons for Taking Leave

The new law entitles employees to leave under a broad list of circumstances that includes all of the reasons for leave under Maine's existing unpaid Family and Medical Leave law:

- To bond with the covered individual's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption or foster care with the covered individual;
- To care for a family member (which includes individuals with significant personal bonds like a family relationship regardless of biological or legal relationship) with a serious health condition (defined as an illness, injury, impairment, pregnancy, recovery from childbirth or physical, mental, or psychological condition that involves inpatient care in a hospital, hospice, or residential medical care center or continuing treatment by a healthcare provider);
- To attend to a qualifying exigency;
- To care for a family member of the covered individual who is a covered service member;
- To take safe leave;
- A serious health condition of the employee;
- The birth of the employee's child or the employee's domestic partner's child;
- The placement of a child 16 years of age or younger with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;
- A child, domestic partner's child, grandchild, domestic partner's grandchild, parent, domestic partner, sibling, or spouse with a serious health condition;
- The donation of an organ of that employee for a human organ transplant; or
- The death or serious health condition of the employee's spouse, domestic partner, parent, sibling, or child if the spouse, domestic partner, parent, sibling, or child as a member of the state military forces, as defined in Title 37-B, section 102, or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.

Employer Private Plans

Like the separate Maine Earned Paid Leave program, Maine employers will be entitled to substitute their own private plans in place of participation in the state plan. Such private plans must confer the same or greater rights, protections, and benefits to employees as they would receive under the state plan.

Employers will be required to seek approval of the Maine Department of Labor in order to institute private plans.

Employer Posting, Notice Requirements

The new law comes with a posting requirement for Maine employers. The poster will be furnished by the program administrator. Once the law comes into effect and the poster is issued, all Maine employers will be required to post it in a conspicuous place in the workplace, consistent with preexisting posting obligations.

Employers will further be required to notify employees in writing of their rights under the statute within 30 days of beginning employment.

Additional Guidance Expected

Employers can expect more detailed guidance and regulations to be published by the Department of Labor prior to the act coming into effect, but no later than January 1, 2025, when payment of premiums will begin.

The Maine paid family leave law will be included in our leave law map database that provides subscribers a detailed explanation of state and local leave laws around the country. The Leave and Accommodation Suite is developed and updated continually by our Disability, Leave & Health Management attorneys. Register here if you would like to learn about our Leave & Accommodation Suite.

If you have any questions regarding this or other legislation affecting the workplace, please contact the Jackson Lewis attorney with whom you regularly work.

©2023 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.