



October 26, 2015

By Nicole Rodriguez

FAQ: Paid Family & Medical Leave

Nearly all workers need to take time away from work at some point in their careers to care for a new child or deal with a serious personal or family illness. Paid family and medical leave (PFML) provides families with protections and flexibility to meet their needs without losing pay. Workers in Massachusetts do not have a guaranteed right to PFML, and most don't have access to employer-provided PFML either. Many workers have access to *unpaid* leave, but many cannot afford to use it.¹ Below are answers to some frequently asked questions about this important issue.

What is paid family and medical leave (PFML)?

PFML allows workers to take paid time off in order to address a serious health condition, support a family member with a serious health condition, or care for a new child. Paid leave can be mandated by federal or state governments, as well as provided by individual employers on a voluntary basis.

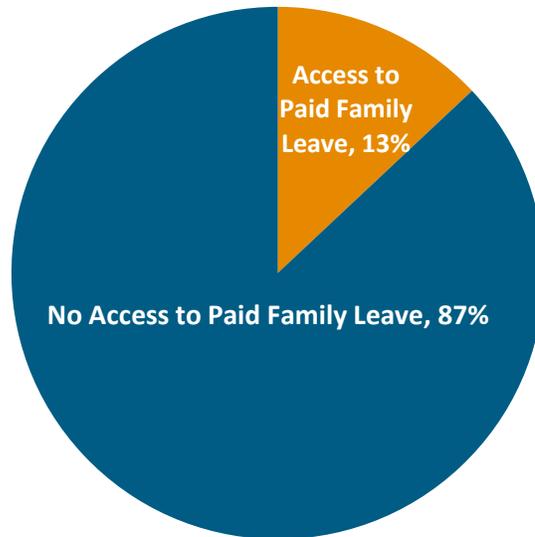
PFML policies vary widely, including:

- **Whether they are required by law and administered through a state program:** California, New Jersey, and Rhode Island are the first three states to require employers to offer PFML benefits to their workers. These benefits are managed through state-run programs. Outside of these states, PFML policies are not required and are left to the discretion of employers.
- **Funding sources:** PFML policies grant workers full or partial pay during a worker's time off. Depending on the policy, leave is funded either by the employer or by a payroll tax on employees through a disability insurance system. A common approach in countries with PFML is through a universal program, funded by payroll taxes at the national level.²
- **Length of leave:** States that administer paid family and medical leave (Rhode Island, California, and New Jersey) offer between 4 to 6 weeks of partial paid leave. Individual employers that offer voluntary leave policies vary more widely in the length of leave offered.
- **Who is defined as a family member:** Parents, spouses, children, and domestic partners are typically covered. However, coverage for grandparents, siblings, and in-laws vary from policy to policy.

Don't we have PFML?

In Massachusetts, some workers have access to paid family and medical leave through their individual employers. However, most workers are not guaranteed paid time off to address the serious health conditions or birth of a child.³ In fact, only 13 percent of New England civilian workers have access to paid family leave, according to the U.S. Department of Labor.⁴

Most New England workers don't have paid family leave, 2014



U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey 2014

Nevertheless, certain workers do have access to unpaid leave through the federal Family and Medical Leave Act (FMLA) and through a state-level parental leave law.

The FMLA provides up to 12 weeks of unpaid and job-protected leave to eligible workers to deal with serious health conditions or the birth, adoption, or foster care of a child. It requires that employees work close to full-time and for large employers (companies with 50 or more workers). As a result of these limitations, about 40 percent of the workforce is not covered by the FMLA.⁵

Massachusetts has a parental leave law that expands the parental leave scope of the FMLA to those at smaller employers. It offers up to 8 weeks of unpaid leave to parents employed by companies with six or more employees for the purpose of giving birth or adopting a child, provided that the worker has completed the initial probationary period of three months or shorter probation period established by the employer.⁶

FMLA & MA's Parental Leave Act Comparison



	FMLA	Parental Leave Act
Length of Leave	12 weeks	8 weeks
Company Size	50 or more	6 or more
Offers Job Protection	Yes	Yes
Minimum Work Requirements	Worked consecutively for 1 year and at least 1250 hours	Worked consecutively for 3 months or completed employer-set initial probationary period
Job Restoration After Leave	Previous or similar status, pay, length of service credit, and seniority	Previous or similar status, pay, length of service credit, and seniority
Overlap	If leave is used for caring for a new child, then the employee may be covered simultaneously by both the FMLA and the MA paternal leave act. In other instances, an employee may use both leaves separately if FMLA leave is taken for purposes other than parental leave. ⁷	

U.S. Department of Labor, [Family and Medical Leave in 2012](#);

Commonwealth of Massachusetts, [Massachusetts Law about Employment Leave](#).

How does PFML affect employers?

There are important employer considerations to address when designing paid family and medical leave policies, including:

- **How are the costs of providing PFML paid for and what is the most administratively efficient program design?** While this depends on how the program is structured, states with programs through social insurance structures, like Temporary Disability Insurance systems (TDIs), find minimal costs to employers. For instance, a 2010 survey of 243 California business groups found that after five years of experience with its paid leave program, which is funded entirely through employee contributions, 87 percent experienced no cost increases.⁸ Further, in a recent statement, California Human Resources Professionals have stated that the program was not overly burdensome to implement.⁹ When a program is funded by employer contributions, there are costs to the employer that need to be weighed against the benefits to the employer and employees.
- **What benefits can businesses expect by offering PFML?** Businesses that offer PFML as an employment benefit, and states that require it by law, find that it can bolster businesses by reducing staff turnover, thereby reducing recruitment and training costs.¹⁰ Providing this benefit also can improve workers' productivity and morale. For instance, in California, virtually all employers (99 percent) reported that the state's program had positive or neutral effects on employee morale. Furthermore, businesses that already offer PFML are in better positions to attract skilled workers. Some California employers who provided paid family leave prior to state enactment, learned that their companies benefited by allowing workers to access the state leave program and then offering different benefits.¹¹
- **Whether PFML program utilization is for lawful purposes:** Some employers express concern about workers taking leave under these policies and filing claims that are not compliant with program requirements. However, businesses in states with PFML programs find that abuse had minimal or no noticeable effect on their operations.¹² In fact, 91 percent of employers surveyed in California reported that they did not suspect abuse.¹³
- **How can businesses accommodate a long absence of a key employee?** The absence of workers with highly specialized positions can pose a particular challenge for some employers, especially small businesses. To provide employers with the flexibility needed to conduct a highly specialized business, a PFML program can include a provision similar to the "key employee" exception under the FMLA.¹⁴ This provision allows an employer to deny job-protected leave to certain FMLA-eligible workers if their leave would cause "substantial and grievous economic injury" to the employer's business operations. Furthermore, these exempted workers must be salaried and among the highest paid 10 percent of all employees at the business.¹⁵

How is Earned Paid Sick Time (EPST) different from PFML?

EPST is used to recover from a short-term illness, such as the flu, or to care for an immediate family member with a short-term health need. Conversely, PFML is designed for longer-term medical issues or the birth of a child.

Massachusetts implemented an EPST law in July of 2015. EPST guarantees that all workers can earn time off in order to address a health issue for themselves or for family members, and to address the effects of domestic violence experienced by the worker or child of the worker. People who work for employers with eleven or more employees can earn and use up to 40 hours of paid sick time per calendar year, while employees working for smaller employers may earn and use up to 40 hours of unpaid sick time per calendar year.¹⁶

What are the program specifics on states that have PFML programs?

Three states administer statewide paid family and medical leave programs: California (implemented in 2004), New Jersey (implemented in 2009), and Rhode Island (implemented in 2014).¹⁷ All three states fund their programs through employee-paid payroll taxes. And they administer their programs through their respective state temporary disability insurance programs, which are dedicated state funds. These funds provide both employers and employees financial stability and predictability because they spread the costs of paid time off among employers and employees through a predictable baseline of support through a fund.

Current Statewide Paid Family Leave Programs

	 California	 New Jersey	 Rhode Island
Length of Leave	6 weeks	6 weeks	4 weeks
Leave is Paid	Yes	Yes	Yes
Offers Job Protection	No	No	Yes
Benefit Structure	Approximately 55 percent of weekly wages	Approximately 66 percent of weekly wages	Approximately 66 percent of weekly wages
Benefit Amount	Maximum of \$1067/wk, depending on earnings	Maximum of \$524/wk, depending on earnings	Maximum of \$752/wk, depending on earnings
Employer Contribution	No	No	No
Part-time Workers Eligibility	Yes	Yes	Yes
Covers Companies with < 50 Employees	Yes	Yes	Yes

National Conference of State Legislatures. (2014). [State and Medical Leave Laws](#);

State of Vermont. (2014). [Report of the study committee on employee-funded paid family leave](#).

-
- ¹ U.S. Department of Labor, [Family and Medical Leave in 2012](#).
- ² Ray, R., Gornick, J. C., & Schmitt, J. (2009). [Parental Leave Policies in 21 Countries: Assessing Generosity and Gender Equality](#): Center for Economic and Policy Research. pg. 23
- ³ U.S. Department of Labor. (2015). [DOL Factsheet: Paid Family and Medical Leave](#)
- ⁴ U.S. Department of Labor, Bureau of Labor Statistics (2014) [National Compensation Survey](#), Table 32 Leave Benefits.
- ⁵ U.S. Department of Labor, Wage and Hour Division, [FMLA is Working](#).
- ⁶ Commonwealth of Massachusetts, [Massachusetts Law about Employment Leave](#).
- ⁷ Commonwealth of Massachusetts, [Maternity Leave Act Guidelines](#).
- ⁸ Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. pg. 8
- ⁹ [Statement of California Human Resources Professionals for the FAMILY Act](#)
- ¹⁰ Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. pg 7
- ¹¹ Firestein, N., O'Leary, A., & Savitsky, Z. (2011). [A guide to implementing paid family leave: Lessons from California](#). CA: Berkeley Center on Health, Economic & Family Security, UC Berkeley School of Law & Labor Project for Working Families. pg 15
- ¹² Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. pg. 7;
- Lerner, S., & Appelbaum, E. (2014). [Business as usual](#): New Jersey employers' experiences with family leave insurance (No. 2014-12). Center for Economic and Policy Research (CEPR). pg 24
- ¹³ Appelbaum, E., & Milkman, R. (2011). [Leaves that pay](#): Employer and worker experiences with paid family leave in California. DC: Center for Economic and Policy Research. pg 8
- ¹⁴ U.S. Department of Revenue, Wage and Hour Division. (2012). [Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act](#). pg. 2
- ¹⁵ Ibid. pg. 2
- ¹⁶ Commonwealth of Massachusetts. (2015). [Earned Sick Time: Notice of Employee Rights](#).
- ¹⁷ University of California, Davis, Center for Poverty Research. (2015). [Paid Family Leave, Job Protection and Low Take-up among Low-wage Workers](#).