

BENEFITS NOW AVAILABLE UNDER THE MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE LAW

Date: 15 January 2021

Labor, Employment, and Workplace Safety Alert

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As of 1 January 2021, individuals covered under the Massachusetts Paid Family and Medical Leave (PFML) law are entitled to receive paid leave for certain events. Specifically, covered individuals may take:

- Up to 20 weeks of leave a year for their own serious health condition;
- Up to 26 weeks of leave a year to care for a family member who is a covered service member with a serious health condition;
- Up to 12 weeks of leave a year related to the birth, adoption, or foster care placement of a child; or
- Up to 12 weeks of leave a year to manage family affairs when a family member is on, or has been called to, active duty in the armed forces.

Beginning 1 July 2021, covered individuals may take up to 12 weeks of leave a year to care for a family member that has a serious health condition.

The amount of PFML benefits that covered individuals are eligible to receive depends on their average weekly wages and the average weekly wage for workers throughout Massachusetts. The maximum weekly benefit covered individuals can currently receive is US\$850.

EMPLOYER CONTRIBUTIONS

Unless approved for a private plan exemption, all Massachusetts employers must continue to make quarterly PFML contributions to the Department of Family and Medical Leave's (DFML) Employment Security Trust Fund. Employers not approved for a private plan exemption were required to begin remitting contributions on 1 October 2019. Any employer that has not already done so should begin withholding employee contributions immediately and register with [MassTaxConnect](#) to begin making the necessary payments. The employer will be responsible for remitting contributions retroactive to October 2019.

Failure to make the required contributions may also lead to penalties. Specifically, the DFML may assess a penalty equal to the amount of the employer's total annual payroll for each year, multiplied by the current annual contribution rate, as well as a penalty equal to the total amount of benefits paid to covered individuals for whom the employer failed to make contributions. However, the DFML may waive or modify any penalties or assessments if the employer can show that good cause exists, as determined by the DFML.

APPLYING FOR PFML BENEFITS

The DFML began receiving applications for PFML benefits from covered individuals on 1 January 2021. To receive benefits, covered individuals must submit an application with the DFML and, per the PFML law, provide at least 30 calendar days' notice to their employers prior to the commencement of leave, unless not practicable. Per the PFML regulations, covered individuals may file applications for paid leave up to 60 calendar days in advance of their leave's anticipated start date.

When applying for benefits, the PFML regulations and DFML website require that a covered individual provide:

- Proof of identity;¹
- Employment details, including the employer's Employer Identification Number² and the date that the covered individual provided the employer with notice;
- Leave details, including the type of leave sought, the anticipated start date and end date of leave, and any other leave that the covered individual took prior to applying for benefits;
- The preferred method for receiving benefits (check or direct deposit); and
- Depending on the type of leave sought, leave certification documents.

A covered individual seeking leave due to his or her own serious health condition, or to care for a family member with a serious health condition, must submit a [Certification of a Serious Health Condition Form](#) completed by a health care provider.³ A covered individual seeking leave due to the birth, foster placement, or adoption of a child must provide documentation to the DFML that confirms the child's birth date and/or placement, but no specific form has been created for this type of leave. Similarly, a covered individual seeking leave to manage family affairs when a familiar member is in the armed forces must provide documentation that confirms the family members' active duty, or call to active duty, in the armed forces, but no specific form has been created for this type of leave either.

Once the DFML receives the application, it will notify the employer of the application within five business days and request that the employer verify certain information within 10 business days. Within 14 calendar days of receiving the application, the DFML will notify both the covered individual and employer of its decision on the application.

The application portal for PFML benefits can be found [here](#).

K&L Gates is advising clients on the parameters of the Massachusetts PFML program and is prepared to assist employers in their efforts to comply with the law.

FOOTNOTES

¹ The easiest way to prove one's identity is by providing a color copy of a Massachusetts driver's license or ID. Other acceptable documents include a valid, unexpired U.S. passport or passport card and a valid, unexpired U.S. State or Territory Real-ID License or ID.

² The Employer Identification Number should also be on all notices that the employer sends to employees about PFML.

³ The contents of the “Certification of Serious Health Condition From” will be shared with both the DFML and the employer.

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