Understanding Minnesota's Paid Family and Medical Leave Law: A Legal Briefing for Employers

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THE BASICS

PFML – What is it?

- Effective January 1, 2026
- State social insurance program for qualifying employee leaves
- Administered by Paid Leave division of MN Department of Employment and Economic Development (“MN DEED”)
- Two Components:
  - Job protected leave for qualifying personal medical leave or family leave
  - Paid benefits from state via application to MN DEED to cover a portion of employee’s wages during leave
    - Alternative option to comply through a private insurance plan approved by MN DEED

Who's Eligible?

- Covered Employer – all MN employers regardless of size (except federal government and tribal nations)
- Covered Employee – full-time, part-time, temporary and most seasonal employees that:
  - Either (i) work 50% or more of prior year in Minnesota or (ii) if splitting time between multiple states, lived at least 50% of calendar year in Minnesota and some work was done in Minnesota; and
  - Have earned 5.3% of the state's average annual wage, rounded down to the next lower $100 in the past year (expected to be $3900 in 2026)
    - MN DEED will consider all wages earned, including from prior employers, during the look-back period

Who’s Eligible?

- Individuals Not Covered –
  - Independent contractors (can opt in)
  - Self-employed (can opt in)
  - Certain seasonal hospitality employees as defined in statute

Covered Reasons for PFML Leave – as of 1/1/2026

Medical Leave	Family Leave
Up to 12 weeks of paid medical leave per year for employee's own serious health condition*	Up to 12 weeks of paid family leave per year for a qualifying family leave reason):* • To care for a covered family member with a serious health condition; • Bonding time related to the birth, adoption, or foster care placement of the employee's child; • Safety leave for employee or a covered family member experiencing domestic abuse, sexual assault, or stalking; and/or • Qualifying exigency related to a family member on active military duty
Most medical absences for a serious health condition require at least a 7 day period of incapacity	
***Total PFML Leave Per Year is Capped at 20 weeks**	

What Constitutes a “Year”

- If employer complies through MN DEED program, the benefit “year” is a roll forward year from the date of the qualifying event
- An employer may select their “year” if using a private insurance plan:
  - a calendar year;
  - any fixed 12-month period, such as a fiscal year or a 12-month period measured forward from an employee's first date of employment;
  - a 12-month period measured forward from an employee's first day of leave taken; or
  - a rolling 12-month period measured backward from an employee's first day of leave taken.

What is a Serious Health Condition?

- A physical or mental illness, injury, impairment, condition, or substance use disorder that involves:
  - inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or
  - continuing treatment or supervision by a health care provider (HCP) which includes at least one of the following:
    - (i) a period of incapacity of at least 7 days and any subsequent treatment or period of incapacity relating to the same condition that also involves:
      - (a) treatment two or more times within 30 days of the first day of incapacity by, or upon the orders or referral of an HCP, unless extenuating circumstances beyond the individual's control prevent a follow-up visit from occurring as planned; or
      - (b) treatment by an HCP on at least one occasion that results in continuing treatment under HCP's supervision;
    - (ii) a period of incapacity due to medical care related to pregnancy;

What is a Serious Health Condition (cont.)?

- continuing treatment or supervision by a HCP which includes at least one of the following:

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(iii) a period of incapacity or treatment for a chronic health condition that:

(a) requires periodic visits (at least twice a year) for treatment by or on referral by an HCP;

(b) continues over an extended period, including recurring episodes of a single underlying condition; and

(c) may cause episodic rather than continuing periods of incapacity;

(iv) period of incapacity which is permanent or long term due to a condition for which treatment may not be effective and where the employee or family member is under the continuing supervision of an HCP; or

(v) a period of absence to receive multiple treatments, including any recovery from treatments, by, or upon the orders of or referral of, an HCP for:

(a) restorative surgery after an accident or other injury; or

(b) a condition that would likely result in a period of incapacity of more than seven full calendar days in the absence of medical intervention or treatment.

Who is a Covered Family Member?

- spouse or domestic partner;
- child (biological, adopted, foster, step, or in loco parentis relations);
- parent (biological, adoptive, de facto, foster, or step) or legal guardian;
- sibling;
- grandchild;
- grandparent or spouse’s grandparent;
- son-in-law or daughter-in-law; and/or
- individual with relationship that creates an expectation of reliance of care by the employee without compensation

What’s a Qualifying Military Exigency?

- A need arising out of a military member's active duty service or notice of an impending call or order to active duty in the U.S. armed forces, including:
  - providing for the care or other needs of the family member's child or other dependent;
  - making financial or legal arrangements for the family member;
  - attending counseling;
  - attending military events or ceremonies;
  - spending time with the family member during a rest and recuperation leave or following return from deployment;
  - or making arrangements following the death of the military member
- A "military member" means a current or former member of the U.S. armed forces, including a member of the National Guard or reserves who is a resident of the state and a family member of the applicant taking leave related to the qualifying exigency

What is Safety Leave?

- Leave from work because of domestic abuse, sexual assault, or stalking of the employee or their covered family member, provided the leave is to:
  - seek medical attention related to the physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
  - obtain services from a victim services organization;
  - obtain psychological or other counseling;
  - seek relocation due to the domestic abuse, sexual assault, or stalking; or
  - seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to, or resulting from, the domestic abuse, sexual assault, or stalking.

What is Bonding Leave?

- Leave to care for a new child welcomed through birth, adoption or foster care placement
- Leave must be taken within 12 months of birth or placement or, if child is in hospital longer than birth mother, within 12 months of child leaving the hospital

Continuation of Benefits and Job Protection

- While on PFML, employees may continue participating in any health and welfare benefits plan in which they were enrolled prior to their leave, paying their portion of premiums
- Leave is job-protected after 90 days of employment
  - When leave is done, employee must be reinstated to the same or an equivalent position, with the same benefits, pay, and other employment terms and conditions.
  - If an employee is no longer qualified due to inability to attend course, renew license, or similar condition, they must be given a reasonable opportunity to fulfill those conditions
  - Employee is entitled to any *unconditional* pay increases that occurred during the leave (e.g. COLA increase)
- Retaliation for taking PFML is prohibited

PFML Funding – Employer Premiums

- Employers participating in state program will pay quarterly premiums via a payroll tax to DEED - at a rate set annually
  - Payroll tax for 2026: .88 percent
  - Cap on DEED-issued premium increases: 1.2%
- Larger employers must fund at least 50% of the premium and may collect the remaining 50% from employees through employee payroll deductions
  - Employee share cannot cause employee to dip below minimum wage, if non-exempt, or their exempt salary level
- Small employers (30 or fewer employees and the average employee wage is less than 150% of the statewide average weekly wage) pay a reduced premium rate

How are the PFML Paid Benefits Calculated?

- Subject to maximum weekly benefit amount, the PFML weekly benefit amount is calculated by adding the amounts obtained by applying the following percentage to an applicant's average weekly wage during the high quarter of the base period:*
  - 90% of wages that do not exceed 50% of the state's average weekly wage; plus
  - 66% of the wages that exceed 50% of the state's average weekly wage, but not 100% of that average; plus
  - 55% of the wages that exceed 100% of the state's average weekly wage

  **Maximum weekly benefit is state average weekly wage (currently $1423/week)*

- There is no "waiting" period to apply for leave and paid benefits
- Estimated PFML Benefit Calculator: https://mn.gov/deed/paidleave/employees/leave-time/

Taxes?

- IRS Revenue Ruling 2024-04 - https://www.irs.gov/pub/irs-drop/rr-25-04.pdf
- Employer Premiums
  - Employers may deduct their minimum required premium contributions as an excise tax under §174; if an employer pays more than their required minimum, they can deduct the excess as an ordinary business expense under §162
  - Employer-paid premiums are wages to the employee to be included on the employee's Form W-2
  - An employee's required premium portion is a post-tax deduction from their pay
- PFML Benefit Payments
  - Family Leave benefits are not considered wages and are not subject to employment taxes.
    - Paid leave benefits will be reported on a Form 1099 to the recipient.
    - Recipient can elect to withhold state and federal taxes.
  - Medical Leave Benefits
    - The portion attributable to the employer's contribution is W-2 wages (e.g. 50% for large employers and 33% for small employers)
    - The remaining portion attributable to the employee's contribution is excluded from federal gross income and not taxable.

MN DEED Resources

- Paid Family Leave Website: https://mn.gov/deed/paidleave/
- For Employers: https://mn.gov/deed/paidleave/employers/role/
- Resource Toolkit: https://mn.gov/deed/paidleave/employers/resource/
- Employer Accounts: https://mn.gov/deed/paidleave/employers/accounts/
- Private Plans: https://mn.gov/deed/paidleave/employers/equivalent/
- MN ESST and PFML Comparison Chart: https://mn.gov/deed/assets/paid-leave-comparison-acc_tcm1045-611627.pdf
- FAQ’s: https://mn.gov/deed/paidleave/employers/faq/
- MN DEED Presentations: https://mn.gov/deed/paidleave/about/events/#7
- Sign Up for Updates: https://mn.gov/deed/paidleave/employers/information/

PFML IN PRACTICE

PFML First Steps

- Starting **October 31, 2024**, employers must provide DEED with quarterly wage detail via the existing Unemployment Insurance (“UI”) system
  - If an employer has a UI account already, their UI wage reporting will be used for PFML reporting purposes
  - If an employer does not have an existing UI account, it needs to create a Paid Leave Only account and submit a wage detail report each quarter
  - “Wages” has same definition as UI definition
- Employers must decide which PFML option to move forward with:
  - State plan
  - Privately insured plan
    - Approved third-party insurer
    - Self-insured
- Request small employer assistance funding, if applicable

State Plan—Setting Up Employer PFML Account

- Employers will need to set up an online portal account with MN DEED that is in addition to any UI account for PFML coordination with MN DEED
  - Portal will allow employer to review leave applications, PFML determinations, and more.
- MN DEED plans to have employers designate an internal point of contact for MN DEED
  - The “PFML Administrator”

State Plan—Applying for PFML Leave and Paid Benefits

- The leave process starts with the employee applying for leave directly from the employer per its PFML policy and then applying to MN DEED
  - Employees cannot apply for PFML benefits from the state until they have notified their employer of their need for leave
- Employer may require (i) 30 days advance notice for foreseeable leave; and (ii) notice as soon as practicable for unforeseeable leaves
  - Employers may require less notice if they prefer
- After requesting leave from employer, employee applies with MN DEED by phone or online through the portal

State Plan—Applying for PFML Leave and Paid Benefits

- Employee will need to provide:
  - Information about themself and their job
  - Reason for and type of leave applying for
  - Certification from medical professional, service provider or other supporting documentation about reason for leave
- Employers can (and should) review and confirm information is correct
- MN DEED will notify employer of information throughout the application and claim review process
- MN DEED is the decision maker, however, the employer or employee may appeal DEED's decision to grant or not grant the benefit within 30 days of the decision, which leads to a hearing
- If approved, MN DEED will require weekly reports from employees

State Plan—Employer Payment Deadlines

- Starting **April 30, 2026**, employers must begin paying quarterly premiums to MN DEED
  - The April 30, 2026, payment covers the prior quarter of January 1, 2026-March 31, 2026
- This information will determine the premiums paid by employers and employees, and the eligibility and benefit amount for individuals under PFML.
- Estimated premium calculator can be found here: https://mn.gov/deed/paidleave/employees/leave-time/

Private Plan—Setting Up Employer PFML Account

- Employers with a privately insured plan will still need to set up an online portal account with MN DEED that is in addition to any UI account for PFML coordination with MN DEED in order to request an equivalent plan substitution.
- Employers can submit a request at any time, and an equivalent plan can take effect at the start of any quarter.
- If an employer wants its private plan to be in place when the PFML program launches on January 1, 2026, requests should be submitted by **November 10, 2025**.
- Equivalent Plan Substitutions must be renewed annually, one year after the policy effective date.

Private Plan—Equivalent Plan Benefits

- Meet with insurer to ensure equivalent plans meet the following requirements:
  1. Eligibility requirements cannot be stricter than those in the state plan.
  2. Weekly payments must be at least equal to those provided by the state plan and separate from other benefits.
  3. The total amount of leave available must be at least equal to the amount provided by the state plan.
  4. Job protections must be at least equal to those provided by the state plan.
  5. Costs to employees cannot be more than what their premiums would be under the state plan.
  6. For Medical Leave, the equivalent plan must cover any serious health condition, or medical care related to pregnancy, that would be covered under the state plan.
     – Recommend mirroring application/notice requirements from state plan for private plan
     – Can also require weekly reporting from employees similar to state plan

Private Plan—Equivalent Plan Benefits

- Requirements (continued):

7. For Family Leave, the equivalent plan must cover any care for a family member with a serious health condition, bonding with a child, a family member called to active duty military service, or any safety leave event that would be covered under the state plan.
8. The equivalent plan must offer intermittent leave or reduced schedules consistent with the state plan.
9. The equivalent plan cannot impose any additional conditions or restrictions on the use of leave beyond those in the state plan.
10. Coverage must continue for 26 weeks after employee separation, or until the individual is hired by a new employer.
11. If a leave application is filed by a former employee, the equivalent plan must pay benefits for the full time of leave. Equivalent plans may not cut off eligibility for a former employee during an approved leave.

Changing Plan Designation

- Employers are able to change from the state-funded program to a private plan and vice versa, at any time.
  - Employees on a protected leave of absence or employees already approved for an upcoming leave of absence will be subject to the terms of the plan in place at the time of their leave approval.
  - If an employer decides to move to a private plan, the plan must be in effect for a period of at least one year before the employer has the option to change to the state-funded plan.

State versus Private Plan—Pros & Cons

	State Plan	Private Plan
Possible “Pros”	- May be lower cost - Possibly more stable premiums year to year - Potential administration time savings	- Ability to pick PFML “year” - Greater control and visibility - Ability to customize, so long as meet PFML requirements (e.g. to cover multiple types of leaves) - Faster processing - Might be more user friendly - Avoid state involvement
Possible “Cons”	- Lack of customization - Less control and visibility - State involvement in leave processing - Potential processing delays	- May be higher cost - May be more employer time on administering leaves - Require state approval on front-end and for annual renewal

Policy Decisions—Block vs. Intermittent PFML Leave

- PFML leave can be taken all at once or intermittently
  - An employee cannot apply for intermittent leave until the employee has already taken 8 hours of accumulated PFML, unless more than 30 calendar days have lapsed since the initial taking of the leave
- If the leave is taken intermittently:
  - Employers have the authority to decide what increment intermittent leave can be taken in (between 15 minutes and 1 day)
    - Employers cannot require intermittent leave be taken in a smaller increment than one calendar day
    - Intermittent leave increments must mirror how other leave is taken
      - If allow smaller increments under FMLA or another leave program, must apply same here
      - Increment obligations under ESST do not apply here

Policy Decisions—Block vs. Intermittent PFML Leave

- If the leave is taken intermittently:
  - Employers have the authority to determine how much leave can be taken on an intermittent basis as long as minimum threshold met
  - An employer is not required to allow more than 480 hours (12 weeks/60 workdays if fulltime) of intermittent leave—if exhausts 480 hours, can require the rest of the employee's leave be taken in a continuous block.
  - Intermittent leave benefits paid at a prorated rate
  - An employer may require an employee to provide a schedule of required absences as soon as possible and to make reasonable efforts to schedule the leave to minimize disruption to the employer's operations
  - If the employer and the employee cannot agree on a schedule, the employer cannot require the employee to change their leave schedule in order to accommodate the employer.

Policy Decisions—Coordination of PFML with Other Leaves

- Requests for leave and benefits under PFML may implicate rights under other leave programs:
  - *Family Medical Leave Act*
    - 12 weeks unpaid leave can be taken concurrently with PFML
    - Different paperwork/application obligations
  - *Minnesota Parental Leave law*
    - 12 weeks unpaid leave during pregnancy or upon birth or adoption can be taken concurrently with PFML
    - Different paperwork/application obligations
  - *Voluntary paid leave programs offered by an employer*
    - Employer specific
    - Manage separately? Or use program to “top off” PFML benefits?

Policy Decisions—Coordination of PFML with Other Leaves

- *ESST, vacation, PTO Policies*
  - Employers may allow employees to elect to supplement (e.g. “top off”) PFML benefits with other paid time off available from employer, provided that the total amount of weekly pay does not exceed the employee’s usual base weekly pay
  - MN ESST law – employees have the right to decide whether or not to use ESST time but cannot require employees use it
  - Employers have the right to determine qualifications for top off, including limitations on the amount of top off an employee is eligible for per leave
  - If employer does not offer “top off”, employee cannot get PFML benefit for any day on which they receive paid time off benefits from employer; however, that time off counts towards leave allowance
  - Total pay can’t exceed 100% of employee’s regular pay

Policy Decisions—Coordination of PFML with Other Leaves

- *Workers' Compensation, UI, or Social Security Disability Benefits*
  - Employee usually cannot obtain PFML benefits while also receiving workers' compensation, unemployment insurance, or social security disability benefits
- *Short-Term Disability*
  - Employee may receive PFML benefits at the same time and MN DEED will not decrease the PFML benefit, but the short-term disability provider may reduce its benefit per plan terms they pay to the employee.
  - STD providers may change terms from 2025 onward as a result of PFML, worth discussing with your plan administrator to understand potential impact

Employer Notice Obligations

- By December 1, 2025, employers must provide employees notice:
  - Written notice must be in English and any primary language spoken by at least five employees; must obtain signed acknowledgments
    - MN DEED is developing a model form
  - Post MN DEED Poster: https://mn.gov/deed/assets/paid-leave-mandatory-employer-poster-acc_tcm1045-700342.pdf
- Employers must provide written information regarding the availability of PFML benefits to all employees by the later of December 2, 2025, or 30 days from beginning employment
  - Adopt and distribute a PFML policy in employee handbook and any related updated policies

Hypotheticals

Hypo #1

Mark has been an employee with your company for the last 10 months. His wife had their first baby in late June of 2025. Mark decided to take 12 weeks of leave under the MN Parental Leave act starting July 1, 2025, and he’s due back at work soon when that leave ends. The company has separate vacation and sick time policies, and Mark elected not to use his sick time during his parental leave. He used his available vacation time and also received six weeks of additional pay under a company voluntary paid parental leave policy. Mark spoke recently with his supervisor about his upcoming return to work and told the supervisor that he’s thinking of taking more bonding leave in 2026 under the PFML law.

- *Can Mark do that?*
- *Can the company make him use up his sick time when he takes PFML?*
- *What, if any, impact would it have on the result if Mark’s initial leave began in June 2026?*

Hypo #2

It's January 1, 2026. Maria has been with your company for five years. She has been on intermittent FMLA leave since December 1, 2025, to address a mental health flare up, taking time off for therapy appointments and for periods of incapacity due to flare-ups. Maria just learned that her sister, who lives in Colorado, has been diagnosed with cancer. Maria has asked to take the month of February off to go take care of her sister. She also indicated that her mental health is worse given this news about her sister and she may need to increase her intermittent FMLA absences.

- *What time off might the company need to grant Maria?*
- *Is she eligible for PFML benefits?*

Hypo #3

Greta has been a paid student intern for your company for the past year. Greta suffers from a medical condition that results in flare ups that cause her to miss 4-8 days of work per month. After January 1, 2026, Greta applied for and was approved for intermittent PFML. However, soon after, funding for the program Greta was working on was pulled and she was let go as a result.

- *Is Greta still eligible for PFML benefits?*
- *What if Greta applies for unemployment as a result of her dismissal?*
- *What obligation does the company have if Greta finds new employment?*

PFML CHECKLIST

Compliance Steps

1. Ensure you have and continue to meet your wage reporting obligations to MN DEED through employer UI or PFML portal account (quarterly reporting started 10/31/24)
2. Pick your Compliance Method – state program or private insurance plan
3. If using private insurance plan, obtain product, get MN DEED approval, and timely issue employee notices
4. If using the state program:
   - Set up your MN DEED PFML portal account
   - Designate a paid leave administrator
   - Prepare to pay your premiums by applicable deadlines (first premiums due 4/1/26)

Compliance Steps (cont.)

5. Review your current policies and make decisions on how to coordinate with PFML

6. FMLA; MN Parental Leave
   - Vacation, ESST, PTO, short-term disability
   - Voluntary pay policies (e.g. voluntary paid parental leave)
   - Intermittent leave parameters, consistent with applicable law

7. Prepare for and issue required notice to employees by December 1, 2025
   - Obtain PFML poster and post
   - Provide separate written notice in English and any primary language spoken by at least 5 employees and obtain signed acknowledgements

8. Prepare and roll out your PFML policy and related policy updates to employees by December 2, 2025, and, for new employees, within 30 days of hire

Questions?

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