

Paid Family and Medical Leave

In July 2023, Maine enacted a paid family and medical leave (PFML) [program](#) that will provide workers up to 12 weeks of paid, job-protected leave per year, starting in May 2026. Leave will be permitted for family and medical reasons, military exigency, and reasons resulting from abuse or violence. Contributions to fund the program begin in January 2025, and are split between employees and employers with 15 or more employees. The program is administered by the Maine Department of Labor, which has created a paid family and medical leave [website](#).

Covered Employers

All public and private employers are covered by the program; however, employers with fewer than 15 employees are not required to contribute to PFML funding. All employers must register in the Maine Paid Leave Portal, which is expected to be operational in early 2025.

Employer size is determined by the number of employees (per the employer's federal employer identification number) on their established payroll in 20 or more calendar workweeks in the 12-month period preceding Sept. 30 of each year. This count includes the total number of full- and part-time employees who received pay for any part of the pay period. Temporary and intermittent employees are included, as are any workers who are on paid sick leave, on paid holiday or who work during only part of the specified pay period.

Employers calculate their size on Oct. 1, 2024, and Oct. 1 of each year thereafter for the following calendar year. Employers report their employee count when they first register in the portal and annually thereafter during third-quarter wage reporting.





Eligible Employees

The law covers employees who have earned wages in Maine of at least six times the state average weekly wage during their base period, which is the first four calendar quarters immediately preceding the first day of the employee's benefit year. The benefit year is the 12-month period beginning on the first day of the calendar week immediately preceding the day PFML begins.

"Wages" include all forms of compensation for personal services, such as regular salary, tips, commissions, bonuses and severance pay, but not payments to independent contractors. For payroll and premium purposes, wages are calculated similarly to the way in which Maine unemployment insurance wages are determined but applied to a larger base of employees.

Wages do **not** include earnings from federal employment or federal work study, during incarceration, by certain volunteers or by an employee subject to the Railroad Unemployment Insurance Act.

The test for determining whether wages are earned in Maine is the four-criteria sequential test used for Maine unemployment insurance, as shown in the chart below.

Factor	Analysis
1	<p style="text-align: center;">Place where work is performed:</p> <p>If the employee performs all work in Maine, or if the work outside Maine is incidental (temporary or minor), then Maine law applies.</p> <p>If this does not apply, the assessment moves to Factor 2.</p>
	
2	<p style="text-align: center;">Base of operations:</p> <p>If the employee performs work in Maine and other states, Maine law applies if the base of operations is in Maine. The base of operations is the primary location from which the employee starts work and returns regularly.</p> <p>If this does not apply, the assessment moves to Factor 3.</p>
	
3	<p style="text-align: center;">Place from which service is directed or controlled:</p> <p>If the employee has no base of operations or no work is performed in the base state, but the service is directed or controlled from Maine, Maine law applies. This refers to the place of general authority rather than direct supervision.</p> <p>If this does not apply, the assessment continues to factor 4.</p>
	
4	<p style="text-align: center;">Place of Residence:</p> <p>If none of the above criteria apply, and the employee performs work in Maine and other states and resides in Maine, then Maine law applies.</p>
	<p>If none of the above apply, the employment is not reportable in Maine.</p>

Opt-in for Self-employed Workers

Individuals who are **self-employed** may opt into the program for an initial period of at least three years. They are not subject to the minimum earnings requirements.

Collective Bargaining Agreements

Public employers and employees under a **collective bargaining agreement** in effect on Oct. 25, 2023, are not eligible to participate in the PFML program until the collective bargaining agreement expires. Neither party may make contributions to the program until that collective bargaining agreement expires, and individuals are not eligible for benefits until either the expiration of the collective bargaining agreement or May 2026, whichever comes later.

The exemption does not apply to private-sector collective bargaining agreements.

Reasons for Leave

Eligible employees may take PFML if they have a serious health condition that makes them unable to work. They may also take PFML to:

- Bond with their child during the first 12 months after the child's birth or placement with them for adoption or foster care;
- Care for a family member with a serious health condition;
- Attend to a qualifying military exigency (as defined by the federal Family and Medical Leave Act [FMLA]);
- Care for a family member who is a covered service member; and
- Take safe leave.

Employees may also take PFML for any other reason allowed by the Maine family and medical leave [law](#).

“**Family member**” is defined expansively and includes:

- A child of any age, including a biological, adopted, foster or stepchild; or a child to whom the employee or spouse or domestic partner of the employee stands in loco parentis or has under legal guardianship; or any individual to whom the employee or employee's spouse or domestic partner stood in any of these relationships when the individual was a minor child;
- A parent, including a legal, biological, adoptive, foster, step- or de facto parent, or a legal guardian or person who stood in loco parentis when the employee or their spouse or domestic partner was a minor child;
- A grandparent, including a legal, biological, adoptive, foster, step- or de facto grandparent;
- A grandchild, including a legal, biological, adoptive, foster, step- or de facto grandchild;
- A sibling, including a legal, biological, adoptive, foster, step- or de facto sibling;

- A spouse or domestic partner of an employee; and
- An individual with whom the employee has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship, as designated by the employee in accordance with the rule.

Safe Leave

Safe leave is any leave taken because the employee or their family member is a victim of violence, assault, sexual assault (as defined by state law), stalking or any act that would support an order for protection under state law.

Safe leave applies if the employee is using the leave to protect themselves or their family member by:

- Seeking an order for protection;
- Obtaining medical care or mental health counseling for themselves or their family member to address physical or psychological injuries resulting from the act of violence, assault, sexual assault or stalking or act that would support an order for protection;
- Making the covered individual's or the covered individual's family member's home secure from the perpetrator of the act of violence, assault, sexual assault or stalking or act that would support an order for protection, or seeking new housing to escape the perpetrator; or
- Seeking legal assistance to address issues arising from the act of violence, assault, sexual assault or stalking or act that would support an order for protection, or attending and preparing for court-related proceedings arising from the act or crime.

Length of Leave

Employees are limited to 12 weeks of combined family and medical leave per benefit year. Eligible employees may take medical leave that is immediately followed by family leave when:

- The medical leave is taken during pregnancy or recovery from childbirth; and
- The medical leave is supported by documentation from a health care provider.

Intermittent Leave

PFML may be taken intermittently in increments of not less than eight hours or on a reduced leave schedule otherwise agreed to by the employee and the employer.

Compensation

Following a seven-day waiting period, employees on leave receive partial wage replacement at the rates described in the chart below, up to the maximum weekly benefit, which is the state average weekly wage.

Compensation Rate	Portion of Worker's Wage
90%	The portion of the individual's average weekly wage that is equal to or less than 50% of the state average weekly wage.
66%	The portion of the individual's average weekly wage that is more than 50% of the state average weekly wage.

Employees may use any accrued paid leave available to them during the seven-day waiting period.

Funding

The PFML program is funded by contributions shared evenly between employees and employers with at least 15 employees. Beginning Jan. 1, 2025, the premium amount may not be more than a combined rate of 1% of wages up to the Social Security wage base. Beginning in 2028, the department will set the premium for the coming calendar year by Oct. 1.

Payroll withholdings begin Jan. 1, 2025. Employers with fewer than 15 employees are not required to contribute to the program; however, they must remit their employees' 0.5% contribution to the state. Contributions and wage reports are made through the Paid Leave Portal, which is planned to be running in early 2025. All Maine employers must register with the portal.

Quarterly contributions and wage reports will be due by the end of the month following the close of each quarter.

Administration

Applications for PFML are submitted to the department or a third party the department selects as a contractor. Employees may file an application for PFML no more than 60 days before the anticipated start date of the leave and no more than 90 days after leave begins. The department (or third-party administrator) will notify the employer within five business days of receiving an employee's application.

Employees' Notice Obligations

Absent an emergency, illness or other sudden necessity for taking leave, employees must provide their supervisors with reasonable notice of their intent to use PFML. Leave must be scheduled to prevent undue hardship on the employer, as reasonably determined by the employer.

If an employer fails to provide notice as required, the employee's obligation to provide notice is waived.

Employers' Notice Obligations

Employers must post this [notice](#) about the law in a conspicuous place at each of its premises.

In addition, employers must provide written notice of the following to each employee not more than 30 days after the start of employment:

- An explanation of the availability of PFML benefits provided under law, including rights to reinstatement of employment and continuation of health insurance;
- The employee's contribution amount and obligations;
- The name and mailing address of the employer;
- The identification number assigned to the employer by the department;
- Instructions on how to file a claim for family leave benefits or medical leave benefits;
- The mailing address, e-mail address and telephone number of the department; and
- Any other information deemed necessary by the department.

The notice must be in a form created or approved by the department.

Violations of the notice requirement are subject to a civil penalty of \$50 per employee for the first violation and \$150 per employee for each subsequent violation.

Job Protection

Employers must restore employees who have been employed for at least **120 days** to their former or equivalent positions upon returning from leave. Any equivalent position must offer equivalent employment benefits, pay and other terms and conditions of employment as the original job.

Private Plans

Employers may meet their PFML obligations with approved private plans. They must apply to the department to have their private plans approved, and the plans must provide rights, protections and benefits substantially equivalent to those provided by the PFML law.

To be approved as a substantially equivalent private plan, the plan must be either a self-funded plan that requires a surety bond paid to the state or a fully funded plan purchased from an insurance company. An internal leave policy, on its own, does not meet these requirements. Additional details about the process and requirements for private plans are expected to be outlined in forthcoming rules.

Interaction With Other Leave

PFML runs concurrently with leave taken under the federal FMLA and Maine family and medical leave. Employees may take PFML while ineligible for FMLA leave in the same benefit year.

Nonretaliation

Employers may not discharge, fire, suspend, expel, discipline (through the application of attendance policies or otherwise), threaten or in any manner discriminate against an employee for exercising their right to PFML.

More Information

The department has issued [FAQs](#), an employer fact sheet and webinars about the program on its PFML [website](#). It is also expected to publish rules on the PFML program.

Contact Allen Insurance | Financial for more information on employee leave laws in Maine.