Our fourth and final topic in the Minnesota Legislature update series is the introduction to Minnesota Paid Family and Medical Leave (PFML), which applies to all employers in Minnesota, regardless of size. Luckily, we have some time before this new law goes into effect on January 1, 2026. Employees and employers will contribute to a state fund that will support the program, which will be administered by a new Family and Medical Benefit Insurance Division (Division).

Here are the basics:

**When does PFML take effect?**

Employees may begin taking PFML on January 1, 2026, which is the same time employers and employees begin paying into the fund. Some portions of the statute will be implemented before this date so the state can build the necessary infrastructure to administer it by the start date.

**Eligible employees include:**

* All employees in Minnesota, with the exception of:
	+ Certain seasonal employees
	+ Self-employed and independent contractors, though they may elect to purchase coverage under the program.
* To receive benefits, an employee must have earned at least 5.3% of the state average annual wage over their *base period*, defined as the most recent four completed calendar quarters before the employee’s application for benefits. Currently, this amounts to annual earnings of about $3,500. The employee can aggregate wages earned from multiple employers to satisfy the financial eligibility test.

**Eligible reasons to use PFML leave:**

Coverage falls into two categories:

1. leave for the employee’s own serious health condition; and
2. other leave, including family care, bonding, safety, or qualifying exigency, defined as follows:
	1. *Bonding Leave* – time off for a biological, adoptive, or foster parent to spend time with a child in connection with the birth, adoption, or placement of that child.
	2. *Family care leave* – time off to care for a family member with a serious health condition or to care for a family member who is a military member.
	3. *Safety leave* – time off because of domestic abuse, sexual assault, or stalking of the employee or a family member to seek medical attention, victim services, counseling, relocation, or legal advice.
	4. *Qualifying exigency leave* – time off due to a military member’s active-duty service or notice of active duty.

**Amount of paid time**:

* Up to 12 weeks of paid leave for own serious health condition
* Up to 12 weeks of paid leave for bonding, family care, safety, or qualifying exigency
* Limited to an aggregate of 20 weeks paid leave in a benefit year:
	+ i.e., if an employee takes 12 weeks of serious health care leave, they can only use 8 more weeks for other types of leave

Except for bonding leave, a claim for benefits must be based on a single qualifying event of at least seven calendar days. The days must be consecutive unless the leave is intermittent. An employer may limit intermittent use of leave to 480 hours in any 12-month period.

**Amount of pay an employee receives:**

* A maximum weekly benefit amount computed by statute is applied and calculated by applying the following percentage to the employee’s typical workweek and weekly wage during the highest-paid-quarter of their *base period*:
	+ 90% of wages that do not exceed 50% of the state’s average weekly wage; *plus*
	+ 66% of wages that exceed 50% but are less than 100% of the state’s average weekly wage; *plus*
	+ 55% of wages that exceed 100% of the state’s average weekly wage.
* Employees may choose to use any accrued benefit, such as PTO, vacation, and sick time to supplement PFML, but it is not required.

**Can you offer a private plan instead?**

Yes, so long as the plan provides benefits and protections that are the same or greater than those under the public plan and approved by the Division.

Private plans:

* Can be self-insured or insured through a carrier.
* Once approved, employers and employees are not required to pay the tax premiums required by the statue; however, they must pay a private plan approval and oversight fee.
* Must post notice of the private plan for employees.

**Employer premiums:**

* Employers pay quarterly tax premiums to the family and medical benefit insurance account on the taxable wages paid to each employee. Beginning January 1, 2026:
	+ 0.7% for an employer participating in both family and medical benefit programs
	+ 0.4% for an employer participating in only medical benefit programs with an approved private plan for the family benefit program
	+ 0.3% for an employer participating in only the family benefit program with an approved private plan for the medical benefit program
* Employers must pay at least half of the annual premiums. Employees must pay the remaining premium not paid by the employer through a wage deduction.
	+ Small business exclusion – employers with fewer than 30 employees will pay a reduced amount, with the fund absorbing the shortfall. Employees at smaller employers will pay the same as those at larger employers.

**How the employee obtains benefits:**

* Employee must file an application and establish a benefits account with the new Division.
* Application may be filed up to 60 days before the leave is taken.
* Must include certification supporting the request.
* Likely, the Division will determine whether employees are eligible and Benefits will be paid from state funds, not directly by the employer. Employer may have the ability to appeal.
* Employee must provide at least 30 days advance notice to employer, or as soon as practicable.

**Additional Information and protections:**

* Employers may not retaliate (discharge, penalize, interfere with, etc.) or discriminate against any employee seeking, requesting, or obtaining PFML benefits.
* Employer must continue coverage under any group insurance policy for employee and dependents, and employee must continue to pay the employee’s share of benefit.
* Upon return, an employee must be reinstated to the same or equivalent position.
* Employers must include information about amounts deducted and paid to employees for PFML on employees’ earnings statements.

**Actions to take:**

* Talk with your PEO, HR professional, accounting department, and/or outside counsel to:
	+ Determine whether to apply for a private plan approval.
	+ Address the upcoming additional payroll taxes.
	+ Put appropriate infrastructure in place to support PFML and amend employee earnings statements.
	+ Be prepared to review handbooks and policies and identify changes to be made, including how current leave policies will be affected.
* Given that this law does not go into effect until January 1, 2026, and it is expected that other clarifying rules and information will be published before then, employers have some time yet before they need to implement changes. Forthcoming regulations and FAQs should provide insight into various areas of the statute that are not entirely clear at this time. For now, it is most important to start thinking about how the new PFML law may impact your business.

**Resources:**

[MN HF 2](https://www.revisor.mn.gov/bills/bill.php?b=house&f=HF0002&ssn=0&y=2023)
[Minnesota Enacts Paid Family and Medical Leave Statute](https://www.littler.com/publication-press/publication/minnesota-enacts-paid-family-and-medical-leave-statute)