

State Paid Leaves

March 23, 2023

Sue Murphy, Director
Absence & Disability Product Management



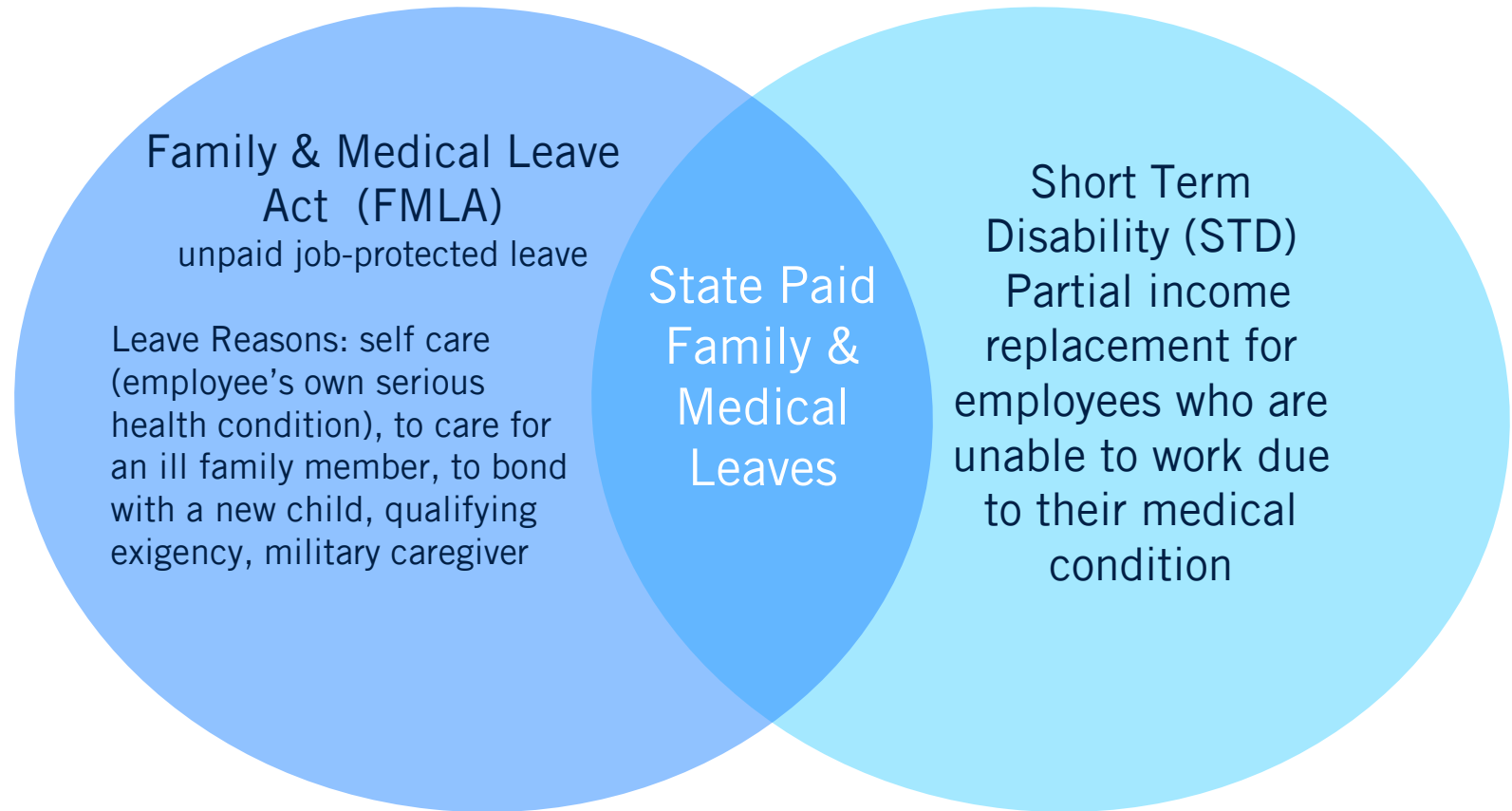
The Prudential Insurance Company of America, Newark, NJ
1068436-00001-00

1. What is State Paid Leave (SPL)?
2. Plan Characteristics & Employer Responsibilities
3. SPL Coverage Options
4. Comparing FMLA and PFML
5. Short Term Disability (STD) vs Statutory Disability/Paid Medical Leave (PML)
6. Employer Provided Paid Family Leave Compared to Statutory Paid Family Leave (PFL)
7. Current SPLs
8. On the Horizon
9. Resources



What are State Paid Leaves?

State Paid Leaves share many attributes with Short Term Disability (STD) & federal FMLA (Family and Medical Leave Act)



- Like FMLA, often these programs are mandated by law and cover similar leave reasons.
- Like STD, these programs provide partial income replacement.
- Often, employers can satisfy the law by opting into the public/state option or purchasing an insured or self-insured plan through private insurance carrier.

Paid Family And Medical Leave Models

Mandated State Program

- Employers required to provide by law.
- Initially disability only programs.
- Many states permit employers to satisfy compliance requirements through private plans.
- Typically, 2 state agencies involved: a new agency, usually part of employment department, and the department of insurance

States: CA, CT, DC, DE, HI, MA, NJ, NY, PR, RI, WA

Future States: OR, CO, MD, DE

Voluntary State Program

- Available, but not required, for most employers.
- Single insurance company selected as Insurer.

States: NH, VT

PFL Added to State Insurance Code

- PFL added to State Insurance Code.
- Insurance code amended to permit insurance companies to develop and market paid family leave products.

States: VA, NH, AR



Effective Dates of Programs

Rhode Island:

- Temporary Disability Insurance (TDI) – 1942
- Temporary Caregiver Insurance (TCI) – 2013

California:

- State Disability Insurance (SDI) – 1946
- Paid Family Leave (PFL) – 2002

New Jersey:

- Temporary Disability Benefits (TDB) – 1948
- Family Leave Insurance (FLI) – 2009

New York:

- Disability Benefits Law (DBL) – 1949
- PFL – Jan. 2018

Hawaii:

- Temporary Disability Insurance (TDI) – 1969

Puerto Rico:

- Disability Benefits Act (DBA) – 1969

Washington

- Paid Family and Medical Leave (PFML) – Jan. 2020

District of Columbia (DC):

- Universal Paid Leave (UPL) – July 2020

Massachusetts:

- PFML - Jan. 2021

Connecticut:

- PFML - Jan. 2022

New Hampshire*:

- PFML - Jan. 2023

*Voluntary for most employers

Vermont*:

➤ PFML

- July 2023 – State Employees
- July 2024 – Private and Non-State Public Employers with 2 or more Employees
- July 2025 – Employers with 1 Employee, Self-Employed and Eligible Individual Employees

Oregon:

- PFML – Sept. 2023

Colorado:

- PFML – Jan. 2024

Maryland:

- PFML – Jan. 2025

Delaware:

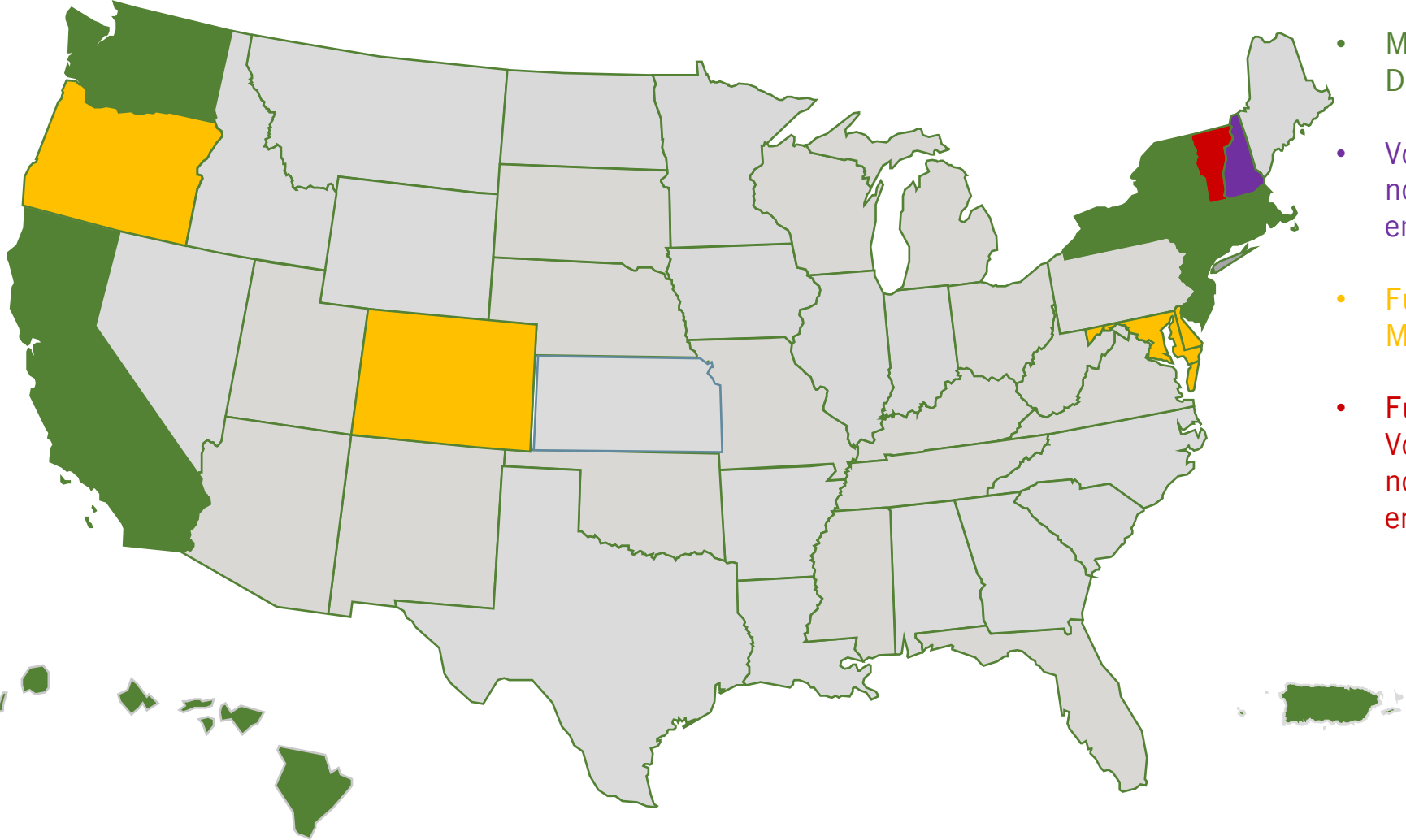
- PFML – Jan. 2026



State Paid Leave Landscape

Key:

- Mandated PFML / Disability / PFL
- Voluntary for private & non-state public employers (NH)
- Future Effective Date - Mandated PFML
- Future Effective Date – Voluntary for private & non-state public employers (VT)



Eligibility



Generally, Not Employer-Specific

- ◆ Eligibility tied to hours worked or wages earned in the SPL jurisdiction
- ◆ Employment waiting period may not be applicable
- ◆ Part-time, temporary, seasonal employees may be eligible

Post-Termination Eligibility

- ◆ Post-termination coverage may be required
- ◆ Benefits may be payable if eligibility requirements met post-termination

Plan Characteristics & Employer Responsibilities

Common Elements

- **Disability / Own Serious Health Condition***
 - Income Replacement Benefits for employees who need to be absent from work due to their own medical condition
- **Bonding Leave**
 - Leave to bond with a new child (through birth, adoption or foster care placement) within 12 months of the event
- **Care for Seriously Ill Family Member**
 - Definition of who constitutes a “Family Member” will vary, but these programs typically allow paid time off for an employee to care for an ill family member

Sometimes Included:

- Qualifying Exigency, Military Caregiver, Safe Leave
- Job Protection

*Hawaii and Puerto Rico only provide disability benefits



Do SPL Regulations Apply to Out-of-State Employers?

The Minnesota Machine Company (MMC) is headquartered in Minneapolis, and 98% of its employee population works in Minnesota. It recently opened a small distribution center in Newark, New Jersey, with 5 employees.

Is MMC required to comply with the New Jersey Temporary Disability Benefits Law and New Jersey Family Leave Insurance Law?

Answer: YES



Out-of-State Companies

The key to determining whether SPL coverage is required is to look at **where the employee works**, not where the company is located or where the employee resides.

- ◆ Do employees **work** in SPL states?
- ◆ Do we pay payroll taxes to SPL states?
- ◆ Telecommuters?
- ◆ Special projects?
- ◆ Sales territories?



Employer Responsibilities

Coverage

- State sets minimum coverage requirements
- For example, weekly benefit maximum.

Communication

- Employers required to post employee notices of SPL coverage
- Employers required to provide statement of rights at time of claim

Contributions

- State regulates how much an employee may be asked to contribute to SPL coverage

Claims

- Employers must respond to state claim information requests



Employer Responsibilities—Communication

The New Jersey Department of Labor and Workforce Development
 can be found at a compensation plan.
 These employees are entitled to the New Jersey Unemployment
 Compensation and Temporary Disability Benefits Law.
 Unemployment Compensation
 Employees are eligible to receive unemployment benefits if they are unable to work full-time because of a disability, injury, or illness, and are not receiving workers' compensation benefits or disability benefits from another source. Employees who are receiving workers' compensation benefits or disability benefits from another source are not eligible for unemployment benefits.
 Disability Benefits
 Employees are eligible to receive temporary disability benefits if they are unable to work full-time because of a disability, injury, or illness, and are not receiving unemployment benefits or workers' compensation benefits from another source. Employees who are receiving unemployment benefits or workers' compensation benefits from another source are not eligible for temporary disability benefits.
 How to File
 Employees should file a claim for unemployment benefits as soon as possible after becoming unemployed. Employees should file a claim for temporary disability benefits as soon as possible after becoming unable to work full-time because of a disability, injury, or illness.
 For more information, visit www.nj.gov or call 1-800-992-2334.

PAID FAMILY LEAVE
NOTICE TO EMPLOYEES

PAID FAMILY LEAVE IS INSURANCE THAT PROTECTS YOUR JOB WHILE YOU TAKE TIME OFF FOR:

- Care for a family member with a serious health condition
- A child's birth or adoption
- A child's placement in a family
- A child's military service

EMPLOYERS SHOULD NEVER DISCRIMINATE OR RETALIATE AGAINST EMPLOYEES WHO REQUEST OR TAKE LEAVE.

For more information, visit nj.gov or call 1-844-337-6309.

DISABILITY COMPENSATION LAW
NOTICE TO EMPLOYEES

Who is eligible for Disability Compensation?
 Employees who are unable to work full-time because of a disability, injury, or illness, and are not receiving unemployment benefits or workers' compensation benefits from another source are eligible for Disability Compensation.
How to File:
 Employees should file a claim for Disability Compensation as soon as possible after becoming unable to work full-time because of a disability, injury, or illness.
 For more information, visit www.nj.gov or call 1-800-992-2334.

State Notices

In California, it's the law
Paid Family Leave
 Benefits
 To apply online or for more information, visit www.edd.ca.gov/disability

Fast Facts About Paid Family Leave

- Provides eligible workers with partial wage replacement when taking time off work to care for a child, parent, partner, caregiver, grandchild, sibling, spouse, or registered domestic partner.
- Provides coverage to employees who are covered by SDI (or a Disability Plan in lieu of SDI).
- Offers up to six weeks of benefits in a 12-month period.
- Funding benefits are available within one year of birth, adoption, or foster care placement.
- Provides benefits of approximately 55 percent of your wages.
- PFL benefits are considered taxable income.
- Provides benefits but does not provide job protection or return rights.

The time you need for times like these.
 Paid Family Leave

Department of Labor and Training - 1001 Parker Avenue - Cranston, RI 02904
Notice to All Employees

Unemployment Insurance Benefits

1. You are eligible for benefits if you are unemployed through no fault of your own.
2. You must be able and ready to accept suitable work.
3. You must have worked in Rhode Island for a certain period of time before you became unemployed.
4. You must have earned a certain amount of wages during that period.
5. You must not be receiving workers' compensation benefits, disability benefits, or other benefits for the same period of unemployment.

Temporary Disability Insurance Benefits

Who is eligible for TDI benefits?
 Employees who are unable to work full-time because of a disability, injury, or illness, and are not receiving unemployment benefits or workers' compensation benefits from another source are eligible for TDI benefits.

How to Apply:
 Employees should file a claim for TDI benefits as soon as possible after becoming unable to work full-time because of a disability, injury, or illness.

Employment and Training Services

Looking for a job? The Department of Labor and Training offers a variety of services to help you find a job, including:

1. Job search assistance and training opportunities.
2. Resume writing and interview preparation services.
3. Job placement assistance and job referrals.
4. Career counseling and job development services.
5. Assistance with job application materials.
6. Assistance with job search strategies.
7. Assistance with job search networking.
8. Assistance with job search resources.
9. Assistance with job search information.
10. Assistance with job search opportunities.



Employer Responsibilities—Claims

Notice Requirements

- ◆ Tells employees they may be eligible for benefits and where they need to go to file a claim
- ◆ Statement of Rights provided within a certain time period of absence
- ◆ May be required at different points in time (new hires, upon absence, etc.)

Respond to Claim Information Requests

- ◆ Complete claim form
- ◆ Employer statement
- ◆ Provide wage, eligibility, and hours worked confirmation



Employer Responsibilities— Contributions

Shared Contributions

- ◆ State Sets Employer and Employee Contribution Rates
- ◆ Can be different for medical versus family leave (e.g. MA paid medical versus paid family leave)

100% Employee-Paid

Examples: NJ FLI, NY PFL

100% Employer Paid

Example: DC UPL



SPL Coverage Options

State

SPL Coverage Options

State Plan

- ◆ Automatic
- ◆ Opt-In
- ◆ Not Available

Private Plan

- ◆ Insured
- ◆ Self-Insured
- ◆ Not Available



Comparing FMLA and PFML

Eligibility: Who Is Eligible?



FMLA

- ◆ Employers with 50 or more employees
- ◆ Employees who work for a covered employer with 1 year of service and worked 1,250 hours in the year immediately preceding the leave.



PFML

- ◆ Typically, if you have 1 or more employees working in subject state
- ◆ Varies by state. May be determined by
 - Service waiting period
 - Minimum earnings criteria

Covered Leaves: When Can Employees Take Time?



FMLA

- ◆ Serious health condition of the employee or an immediate family member
- ◆ Birth and care of a newborn child; placement of a child for adoption/foster care and care for the newly placed child
- ◆ Caregiver leave for an injured service member
- ◆ Family leave due to a call to active duty



PFML

- ◆ All permit serious health condition of employee or immediate family member and bonding
- ◆ Other covered leaves may include:
 - ◆ Military Caregiver
 - ◆ Military Exigency
 - ◆ Other (Domestic Violence)

Leave Benefits: What Do Employees Receive?



FMLA

- ◆ No monetary benefit provided
- ◆ Leave may be taken on a continuous, intermittent, or reduced schedule basis
- ◆ Includes job protection



PFML

- ◆ Income replacement
- ◆ Manner by which time is taken varies by state and reason (example: NY DBL continuous but NY PFL can be continuous or intermittent)
- ◆ May include job protection

Contributions: How Much Do Employees Pay?



FMLA

- ◆ Not applicable



PFML

- ◆ Shared employer/employee contributions
- ◆ 100% employee-paid

Coverage Termination: When Does Coverage Eligibility Terminate?



FMLA

- ◆ Eligibility restarts when employee switches employers



PFML

- ◆ Depending on the state, coverage may be available post-termination for a period of time (14 days, 4 weeks, 12 weeks, 26 weeks, etc).

Short Term Disability (STD) vs Statutory Disability/Paid Medical Leave (PML)

Short Term Disability (STD) Income Replacement

TRUE OR FALSE?

An employer who provides STD insurance is exempt from statutory disability / paid medical leave requirements.

Answer: FALSE.



Eligibility: Who Is Eligible?



STD

- ◆ The **employer** decides who may be covered
- ◆ Examples: Salaried, full-time, union employees, employees with 5+ years of experience, etc.



STATUTORY DISABILITY/PML

- ◆ The **state** mandates who must be covered
 - Work state
 - Length of in-state employment
 - Minimum earnings criteria
 - Full-time, part-time, temporary, and seasonal employees may be covered



Contributions: How Much Can An Employee Be Asked to Pay?



STD

- ◆ The **employer** decides if coverage will be non-contributory or contributory and how much each employee pays.



STATUTORY DISABILITY/PML

- ◆ The **state** sets a maximum employee contribution rate
 - 100% employee-paid
 - Shared contributions
 - Non-contributory



Employer Provided Paid Family Leave Compared to Statutory Paid Family Leave (PFL)

Employer Provided Paid Family Leave Compared to Statutory Paid Family Leave (PFL)



Employee Eligibility



Employer Plan

- ◆ Determined by employer
 - ◆ Example: All full-time employees with at least 1 year of service



PFL

- Determined by state regulation
 - Work state
 - Length of in-state employment
 - Minimum earnings criteria
 - Full-time, part-time, temporary, and seasonal employees may be covered



Covered leaves



Employer Plan

- ◆ Determined by employer
- ◆ Most common is paid parental leave; other types of paid leave may be available



PFL

- Determined by state regulation
- Typically:
 - Bonding
 - Care of Family Member
 - Military Caregiver/Exigency
 - Other



Offsets



Employer Plan

- ◆ Employers should consult with their attorneys regarding how to integrate state mandated benefits with employer programs
- ◆ Some states permit for employer reimbursement (NY PFL)

PFL



- “Primary” benefit
- Some states’ programs may include offsets from other plans



Coverage Termination



Employer Plan

- ◆ Generally, ends upon employment termination



PFL

- ◆ Generally, coverage not tied to employment with a specific employer
- ◆ Specific post-termination coverage requirements may apply

Definition of Disability: When Does Someone Qualify for Benefits?



STD

- ◆ The **employer** selects a disability definition
 - Total disability and/or partial disability
 - Inability to perform occupation
 - 20% earnings loss requirement



Statutory Disability/PML

- ◆ The **state** mandates the qualifying criteria:
 - Total disability – typically seen in longstanding statutory disability programs
 - Own serious health condition – found in newer paid medical leave programs
 - Inability to perform your “own job”
 - Intermittent leave
 - Includes who can certify the condition (i.e. doctor, midwife, etc.)

Claims: How Will Claims be Handled?



STD

- ◆ Duration management
- ◆ Return-to-work focus
- ◆ Clinical and vocational resources available



Statutory Disability/PML

- ◆ Focus on claim payment



Offsets: What Income Will be Deducted from Benefits



STD

- ◆ Offsets apply
- ◆ “Secondary” Benefit



Statutory Disability/ PML

- ◆ Generally, no offsets apply
- ◆ “Primary” benefit

Appeals



STD

- ◆ Claimant appeals to the insurer or claim administrator
- ◆ Governed by **ERISA**, if applicable



Statutory Disability/PML

- ◆ Claimant appeals to the state
- ◆ State sets appeal timeframes
- ◆ Not subject to **ERISA**



Coverage Termination: When Does Coverage Eligibility Terminate?



STD

- ◆ Generally, ends upon employment termination



Statutory Disability/PML

- ◆ Generally, coverage not tied to employment with a specific employer
- ◆ Specific post-termination coverage requirements may apply



Current SPLs

Jurisdiction Comparison

| SPL JURISDICTION | STATE PLAN | INSURED PRIVATE PLAN | SELF-INSURED PRIVATE PLAN |
|----------------------|------------------|----------------------|---------------------------|
| California | ✓ | * | ✓ |
| Hawaii | ⊘ | ✓ | ✓ |
| New Jersey | ✓ | ✓ | ✓ |
| New York | Opt-in for NYSIF | ✓ | ✓ |
| Puerto Rico | ✓ | ✓ | ✓ |
| Rhode Island | ✓ | ⊘ | ⊘ |
| Washington | ✓ | ⊘ | ✓ |
| District of Columbia | ✓ | ⊘ | ⊘ |
| Massachusetts | ✓ | ✓ | ✓ |
| Connecticut | ✓ | ✓ | ✓ |
| Oregon | ✓ | ✓ | ✓ |
| Colorado | ✓ | ✓ | ✓ |

* Insured private plans are permitted in CA but are rare due to statutory requirements.



On the Horizon

Upcoming 2023/2024: Oregon and Colorado

[Paid Leave Oregon Website](#)

- State Plan Contributions began January 1, 2023
- Benefits are payable starting September 3, 2023
- Mandatory program with option to use a private plan as an alternative to the state-run program
- Up to 12 weeks for qualified leaves
 - ✓ Additional 2 weeks allowed for limitations to pregnancy, childbirth, or related medical condition, including lactation
- Qualifying leaves include:
 - ✓ Employee's own serious health condition
 - ✓ Bonding with a new child
 - ✓ Care for a family member's serious health condition
 - ✓ Safe Leave

OREGON



[FAMLI Colorado Website](#)

- State Plan Contributions began January 1, 2023
- Benefits are payable starting January 1, 2024
- Mandatory program with option to use a private plan as an alternative to the state-run program
- Up to 12 weeks for qualified leaves
 - ✓ Additional 4 weeks allowed for complications from pregnancy or childbirth
- Qualifying leaves include:
 - ✓ Employee's own serious health condition
 - ✓ Bonding with a new child
 - ✓ Care for a family member's serious health condition
 - ✓ Military exigency
 - ✓ Safe Leave

COLORADO

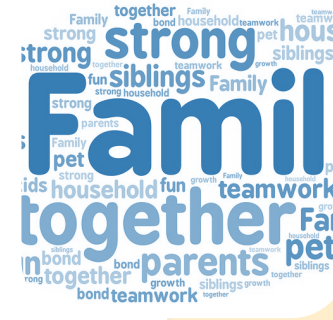


Upcoming 2025/2026: Maryland and Delaware



Maryland

- Contributions to state plan begin October 1, 2023
- Benefits are payable starting January 1, 2025
- Mandatory program with option to use a private plan as an alternative to the state-run program
- Up to 12 weeks for qualified leaves
- Additional 12 weeks available if the employee has a serious health condition and needs to bond with a new child
- Qualifying leaves include:
 - ✓ Employee's own serious health condition
 - ✓ Child bonding
 - ✓ Family caregiver/military caregiver
 - ✓ Military Qualifying Exigency



Delaware

- Employers to notify the state of their intention to have a private plan by January 1, 2024
- Contributions to state plan begin January 1, 2025
- Benefits are payable starting January 1, 2026
- Mandatory program for employers with option to use a private plan as an alternative to the state-run program
- Employers have option to provide coverage for workers outside of DE
- 80% wage replacement up to weekly max (\$900 in 2026 & 2027)
- Available leave types and benefit durations vary depending on the # of eligible employees working for an employer

Resources

Our Resources – Tools to stay on top of the latest updates

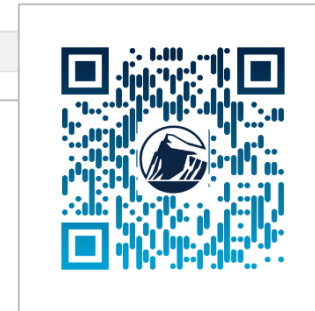
Statutory Paid Leaves Webpages

The screenshot shows the Prudential website's page for Massachusetts Paid Family & Medical Leave (MA PFML). The page includes a navigation bar with links for 'For INDIVIDUALS', 'For ADVISORS', 'For EMPLOYERS', and 'For INSTITUTIONS'. The main content area features a large image of a woman holding a baby. Below the image, the text reads: 'Massachusetts Paid Family & Medical Leave (MA PFML) MA PFML provides job-protected paid time away from work that employees may take for: Medical Leave for the employee's own serious health condition Family Leave for: New child bonding within 12 months of birth or placement Military exigency and caregiver Care of a seriously ill family member'. A section titled 'Massachusetts Paid Family & Medical Leave' states: 'Massachusetts passed a Paid Family and Medical Leave (MA PFML) law with benefits taking effect January 1, 2021 for all leave types other than care of a family member which will go into effect July 1, 2021.' Below this, there is a section for 'Effective Date' and a 'Paid Family and Medical Leave Act enacted in June 2018' section with a list of effective dates: 'Effective 10/1/2019: Premium collection begins', 'Effective 1/1/2021: Benefit eligibility begins for all leave types other than care of a family member', and 'Effective 7/1/2021: Benefit eligibility begins for care of a family member leaves'. A 'Plan Features' section is partially visible, showing 'Covered Employer' as 'All private employers with one or more...'. A QR code is overlaid on the bottom right of the screenshot.



Legislative Monitor | Prudential

The screenshot shows the Prudential Legislative Monitor webpage. The page features a large image of a gavel. The main heading is 'Legislative Monitor' with a sub-heading: 'As your Trusted Partner, Prudential wants to keep you informed of the recent regulatory issues and industry trends that may impact the group insurance and benefits market. View our collection of articles to see recent changes and updates that may be of interest to you.' Below this, there is a section for 'Westchester County, NY Earned Sick Leave Law' with a sub-image of two hikers. The text reads: 'Employees working for an employer with five or more employees working in Westchester County can earn paid sick and safe leave time to provide for the health and safety of themselves and family members. Independent contractors, work-study students, government employees (excepting Westchester County, NY employees), and other workers covered by a Collective Bargaining Agreement (CBA) if the provisions are expressly waived in the CBA and the CBA provides a comparable benefit, are not eligible.' A 'Filter Content' button and 'Showing All Content:' text are visible at the bottom. A QR code is overlaid on the bottom right of the screenshot.



Scan each QR Code with your mobile device's camera feature to view full content.

State Resources

CALIFORNIA

CONNECTICUT

DISTRICT OF COLUMBIA

HAWAII

MASSACHUSETTS

NEW HAMPSHIRE

NEW JERSEY

NEW YORK

PUERTO RICO

RHODE ISLAND

WASHINGTON

[CA SDI Website](#)

[CT PFML Website](#)

[DC UPL Website](#)

[HI TDI Website](#)

[MA PFML Website](#)

[NH PFML Website](#)

[NJ TDB Website](#)

[NY DBL Website](#)

[NY PFL Website](#)

[PR DBA Website](#)

[RI TDI Website](#)

[WA PFML Website](#)

Upcoming States

OREGON

[OR PFML Website](#)

COLORADO

[CO FAML I Website](#)



Thank you!