

# Are you Ready? Paid Family Leave in Massachusetts

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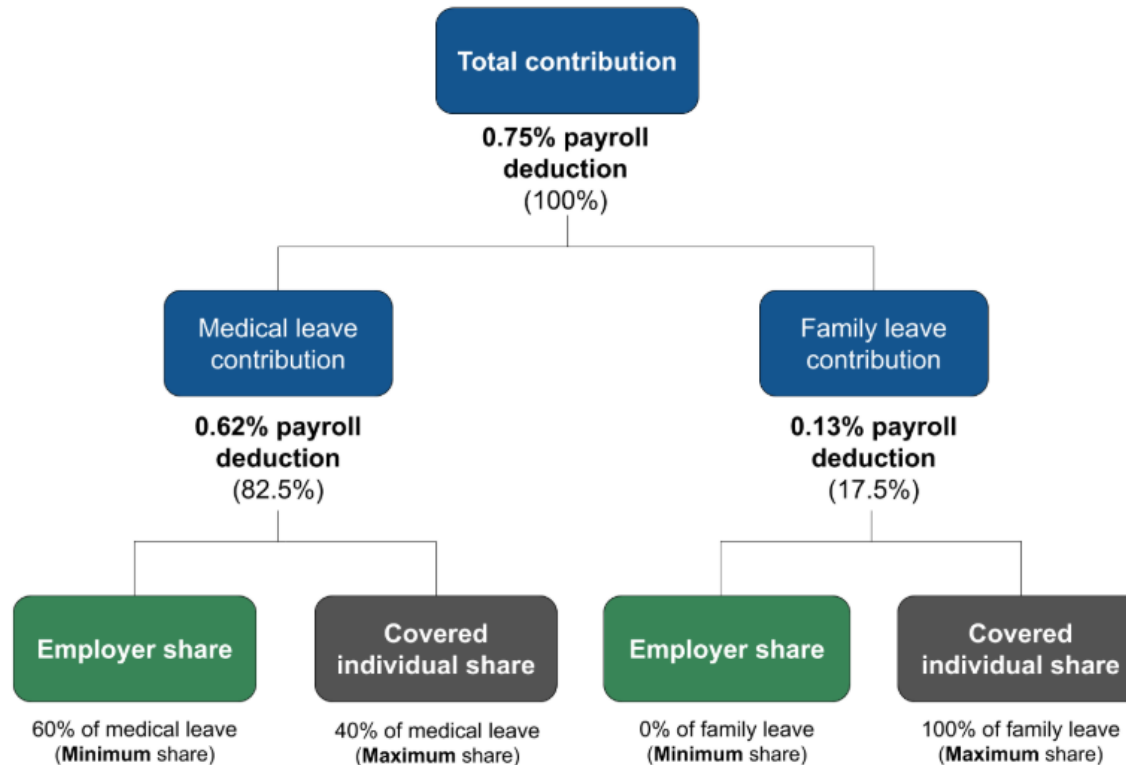
# How much do they get?

## Maximum benefit:

- Currently is \$850 per week
- Future benefit indexed to 64% of state average weekly wage (currently \$1,383.41/week)
- Adjusted each October

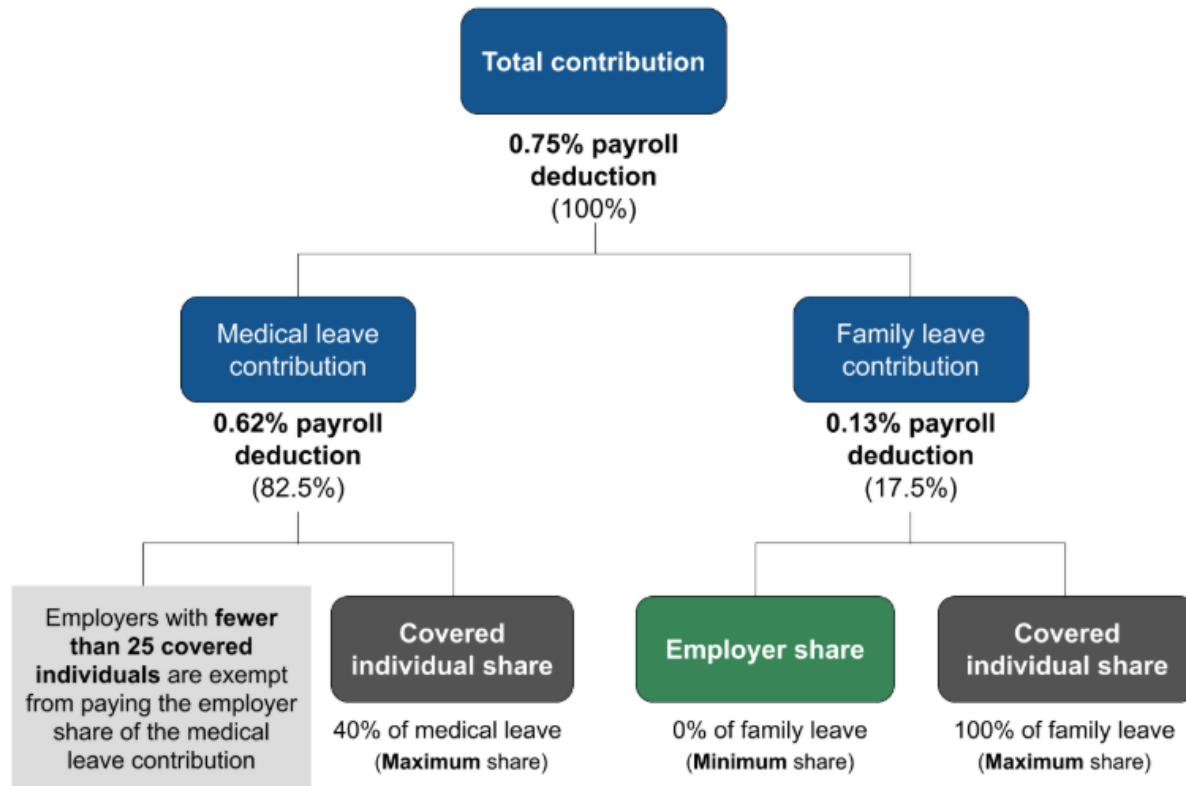
# Who will pay for it?

It depends – For companies with 25+ employees:

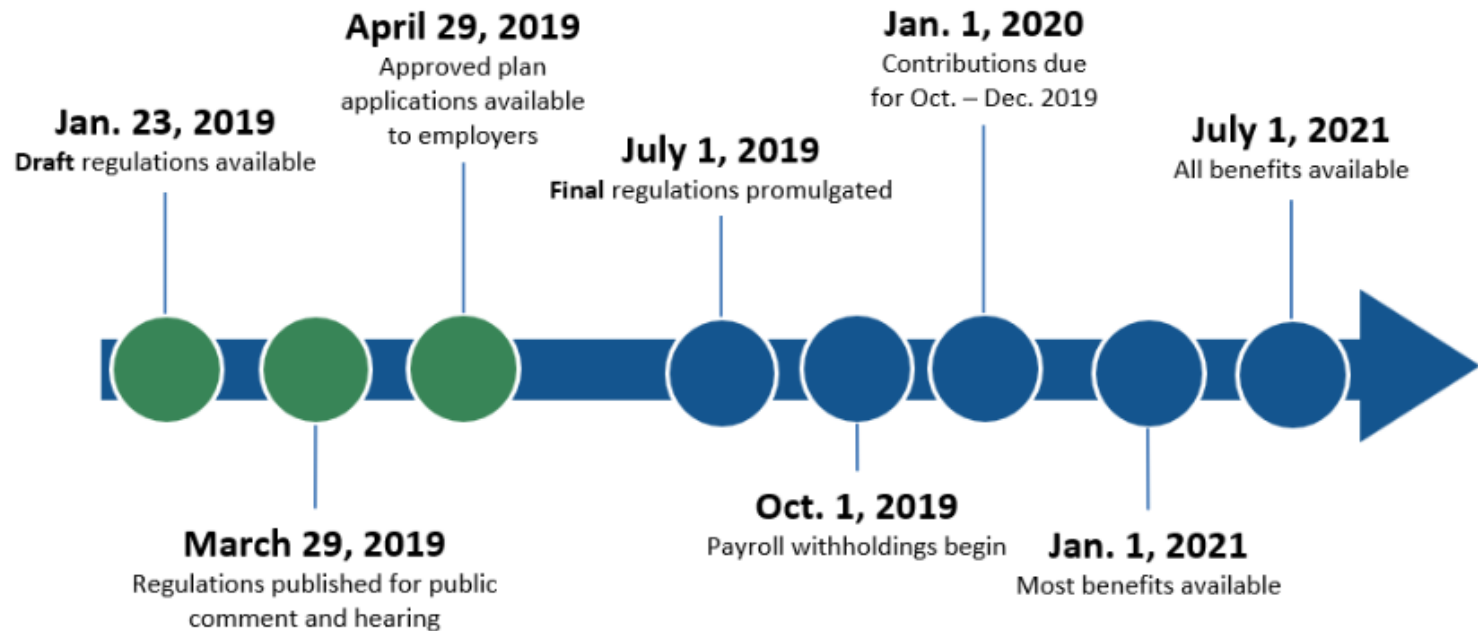


# Who will pay for it?

It depends – For companies with fewer than 25 employees:



# Where do we stand?



# Who is entitled to benefits?

- All employees – paying unemployment tax
- 1099 Misc if:
  - If over 50% of their workforce is comprised of 1099's – self employed individuals:
    - Employer becomes a “Covered Business Entity”
      - Must provide notices to covered self-employed individuals
      - Must pay into Mass TaxConnect and make contributions in accordance with notices issued to covered self-employed individuals

# Excluded Employment

Not covered under PFML:

- Services performed for a son, daughter or spouse
- If under 18, services performed for one's father or mother
- Services performed by inmates of penal institutions
- Employment in the railroad industry
- Real estate brokers/salespeople and insurance agents/solicitors in commission only jobs
- Newspaper sales and delivery by persons under 18
- Employment by churches and certain religious organizations
- Services of work-study students, student nurses and interns, work trainee programs administered by non-profit or public institutions

# How much time do they get?

Beginning on January 1, 2021, employees can take PFML:

- Up to 20 weeks to care for their own serious health condition;
- Up to 12 weeks to bond with the employee's child during the first 12 months after the child's birth or placement for adoption or foster care;
- Up to 26 weeks of job-protected paid family leave to care for a covered service member.



# What do they get?

Beginning on July 1, 2021, employees can take PFML:

- Up to 12 weeks to care for a family member with a serious health condition;
  - **NEW:** in the case of a child - in loco parentis
  - **Eliminated language from March 29<sup>th</sup> regulations that the child must be either under the age of 18; or 18 or older but incapable of self-care**
    - Seems to provide wider latitude to take time for adult children

Note:

- Max 26 total weeks total in a “benefit year”

# Serious Health Conditions - What Does that Mean?

- Very similar to FMLA
  - Inpatient care in a hospital, hospice or residential medical facility; or
  - Continuing treatment by a Health Care Provider
  - Incapacity due to pregnancy or prenatal care
  - Permanent or long-term conditions
  - Episodic or chronic conditions

# Expanded Family Member Definition – NOT similar to FMLA

Child, spouse, parent

Domestic partner

Parent of spouse, parent of domestic partner,  
grandchild, grandparent or sibling

Also - In loco parenti, foster child, legal ward,  
step-child

# Claims Process

- Handled by Department of Family and Medical Leave (DFML) – NOT the employer.
- Employee must given 30 day notice - except in the case of emergency
- Employer information requirements w/in 5 days - requested by the Dept including wages, previous leaves & amount paid, job description, hours worked, prior requests, your paid leave policies, other leaves applied for, other relevant information

# Claims Process

When does an employee have to file a claim?

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- Not clearly defined, but the law provides flexibility
  - No further clarity in the final regulations
  - It does not have to be at the beginning of the leave
  - “If a claim is filed more than 90 calendar days after the start of a leave, then the covered individual may receive reduced benefits.”

# Job Protection – Yes...

- “presumed retaliation”
- At the time of application?
- At the time of intent?
- What if they are not approved?
- If they wait 90 days is it retroactive protection?

# What to do now?

- NOTICES:
  - Required poster:
    - [https://www.mass.gov/files/documents/2019/03/21/20190321\\_DFML%20Notice\\_FINAL.pdf](https://www.mass.gov/files/documents/2019/03/21/20190321_DFML%20Notice_FINAL.pdf)
    - Must be available in English and each language which is the primary language of 5 or more individuals in your workforce if such translations are made available from DFML
  - Employee notice/acknowledgement:
    - Must be executed with employees no later than **September 30th!**
    - <https://www.mass.gov/doc/employer-notice-to-employee/download>

# What to do now?

- Assess who is paying the tax?
  - Employer or Employee? Both?
  - Family portion? Medical portion? Both?
- Review current paid leave policy if any, to see if it meets or exceeds the MA PFML law
  - Applying for an exemption?
  - Deadline for exemption to be relieved of 1<sup>st</sup> quarter contributions is **December 20<sup>th</sup>**



# What to do now?

- CRITICALLY examine your attendance, call out, leave, sick, paid time off, FMLA policies and procedures
  - Are their provisions that needed to be adjusted?
  - What is an occurrence?
  - Notice considerations?
  - Reasons for taking time off?
  - Who is eligible?
  - FMLA 12 month period? Rolling back?
    - Pfml is forward only.....

# ANY FINAL QUESTIONS?

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