

## Washington Paid Family and Medical Leave: Preparing for Benefits

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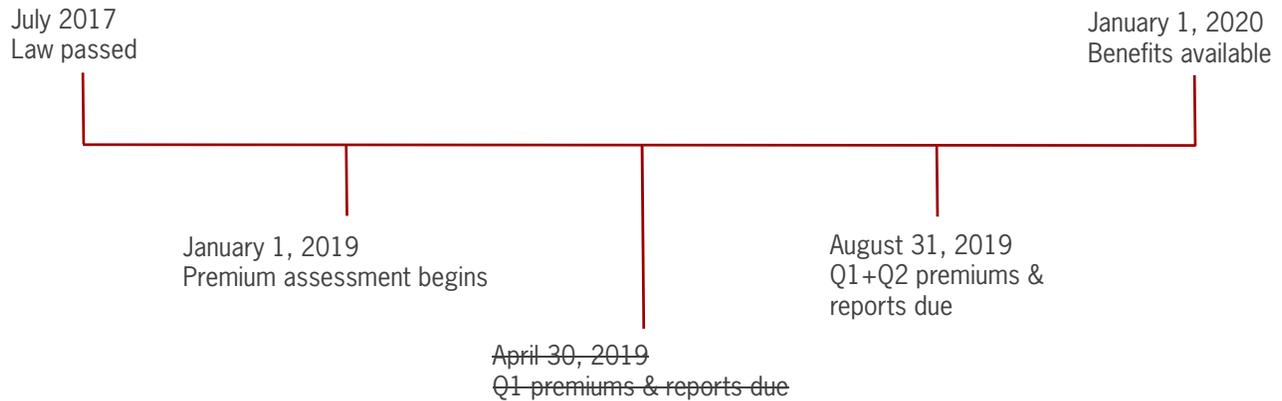


### Overview

- Statewide paid insurance benefits during family or medical leave
- Administered by Employment Security Department (ESD)
- Partial wage replacement of up to \$1,000/week for 12-18 weeks
- Funded by premiums paid by employee and employer
- Employers can participate in state plan or self-insure through a state-approved “voluntary plan”



# Timeline



# Premiums

- .4% of employee's gross wages up to social security cap
  - Wages = all remuneration except tips
- Total premium split between employer and employee
  - Employee pays approximately 63% of total premium (.253% of wages), employer pays approximately 37% (.147% of wages)
- Employers with fewer than 50 employees are not required to pay employer's portion
- "Self-employed individuals" and independent contractors are exempt from premiums (but may opt in)

## Premiums (cont.)



Source: Employment Security Department

## Employer Size

- Based on headcount of PFMLA-eligible employees (WA only)
- For 2019 only, the number of employees reported to ESD for Q1 will determine employer size
- For subsequent years, calculated as of September 30 of the prior year based on average over last four quarters

## Employer Reporting

- Employers must pay premiums and report hours quarterly
- 2019 Q1 and Q2 reporting deadline extended to August 31, 2019 (still open)
- ESD says no penalties for premium reporting errors – for now

## Types of Leave

- Family Leave
  - Bonding after adoption, birth, or foster placement of a child
  - Caring for a family member during serious health condition
  - Certain military leave
- Medical Leave
  - Employee's own serious health condition

## Covered family members

- An employee's child, grandchild, grandparent, parent, sibling, or spouse
  - Parent = biological, adoptive, de facto, foster, stepparent, spouse's parent, or one who stood *in loco parentis* to employee during childhood
  - Child = biological, adopted, foster, stepchild, or child to whom employee stands *in loco parentis*, as legal guardian, or as de facto parent, regardless of child's age or dependency status
- Broader than Family Medical Leave Act (FMLA): includes grandchildren, grandparents, siblings, and children over 18 regardless of capacity, parents-in-law



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## Employee Eligibility

- Worked a total of 820 hours during “qualifying period”
  - Qualifying period=last four full calendar quarters or first four of the last five full calendar quarters
- For **any** employer—benefits are portable
- (1) Performed all or most of work in Washington, or (2) Performed all or most of the work in no particular state, and employee's base of operations, home, or boss is in Washington



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## Duration of Leave

- 12 weeks for family **or** medical leave
- 16 weeks for a combination of family **and** medical leave
- 18 weeks for pregnant employees with serious health conditions that result in incapacity
- Minimum duration=8 consecutive hours in each claim week
- Waiting period of up to 7 days before benefits start, except after birth or placement of child

## Benefits

- Up to 90% of employee's salary with a maximum of \$1,000/week, minimum of \$100/week
  - Amount tied to state average weekly wage and employee's average weekly wage over the past year
- Employees must file weekly application to receive benefits

## Supplementation

- Employers may allow employees to supplement PFMLA benefits with other paid leave (e.g. sick leave, salary continuation)
- Employers may not require employees to use legally-required paid sick leave to supplement PFMLA
- Employers should not report the hours and wages for supplemental benefits to ESD

## Job Restoration

- Employers with 50+ employees must restore employees returning from PFMLA leave to the same or equivalent position if employee:
  - Was employed by current employer for at least 12 months
  - Worked at least 1,250 hours for current employer during last 12 months\*
- Runs concurrently with FMLA *if* eligibility aligns

\*Under voluntary plan, employee must be employed by current employer for 9 months and worked 965 hours during last 12 months

## Job Restoration: Example

- 9/24/19: Employee gives birth and starts FMLA leave
- 12/17/19: Employee's FMLA leave expires
- 1/1/20: Employee applies for and begins receiving PFMLA family leave benefits
- 3/25/20: Employee stops receiving PFMLA benefits and is entitled to job restoration
- **Result: Employee is entitled to 24 weeks of job-protected leave related to this pregnancy.**

## Job Restoration: Example

- 1/1/20: Employee gives birth and applies for PFMLA benefits. Job protection starts running under FMLA and PFMLA.
- 3/25/20: FMLA leave expires; employee still receiving PFMLA benefits.
- 4/22/20: Employee stops receiving PFMLA benefits and is entitled to job restoration.
- **Result: Employee is entitled to 16 weeks of job-protected leave related to this pregnancy.**

## Additional Employer Obligations

- No retaliation, discrimination, or interference with exercise of rights under PFMLA
- Provide notice to employees within 5 business days of 7th consecutive day of absence due to family or medical reasons or notice of reason for absence
- Keep records for six years

## Voluntary Plan

- Employers can self-insure for family leave, medical leave, or both
- Voluntary Plan must be approved by ESD and re-certified annually for first 3 years
- Amount of benefits and duration of leave must be at least equivalent to what is offered under state plan
- Lower threshold for employer coverage and job protection
- Fewer than 300 approved voluntary plan applications so far

## Employer To-Dos

- 2019
  - Deduct premiums from each payroll
  - Pay premiums/file report by August 31, quarterly thereafter
  - Update employee handbook and leave policies
  - Manager training
  - Put up the poster (not yet available)
- 2020
  - Provide notice of benefits to employees taking time off for family/medical leave
  - Comply with job restoration if applicable



## Additional Resources

- Register for ESD's email updates:  
<https://public.govdelivery.com/accounts/WAESD/subscriber/new>
- Contact ESD at [paidleave@esd.wa.gov](mailto:paidleave@esd.wa.gov) or 833-717-2273
- ESD's website: [paidleave.wa.gov](http://paidleave.wa.gov)
- ESD's public comment portal:  
[https://www.peakdemocracy.com/portals/289/forum\\_home?phase=open](https://www.peakdemocracy.com/portals/289/forum_home?phase=open)



# Thank you.

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