

HR Insights

PFML Update – Revised Poster, Certification Form, Application Process, and FAQs

With MA Paid Family and Medical Leave (PFML) benefits becoming available in less than a month, The Massachusetts Department of Family and Medical Leave (DFML) has issued several updates, including a revised poster, new serious health condition certification form, information on the application for benefits process, and new FAQs. This issue of *HR Insights* provides a summary of these updates.

Revised PFML Poster

Employers subject to PFML must display the mandatory PFML poster in a conspicuous place on their premises. The DFML revised the mandatory poster on November 17, 2020, a copy of which can be found on DFML's website at: <https://www.mass.gov/doc/paid-family-and-medical-leave-mandatory-workplace-poster>. Employers should immediately replace the original poster with the new revised one.

The revised poster:

- Clarifies who is a **covered individual** by adding that a covered individual is a person who is eligible for MA unemployment as well as paid wages by a MA employer. No changes were made to the provisions regarding contractors and self-employed individuals who are covered individuals.
- Clarifies that the **job protection** provisions of PFML do not apply to contractors performing contract services or to self-employed individuals.
- Adds a **new phone number** to DFML's contact information.

New Serious Health Condition Certification Form

The DFML published a new 9-page form titled Certification of a Serious Health Condition on its website at: [Download a Certification of a Serious Health Condition form | Mass.gov](#). Employees must complete Parts 1 and 2 of the form, and the health care provider, Parts 3 through 6. The form must be completed if the employee is applying for medical leave or family leave to care for a family member with a serious health condition related to military service (both types of leave which are first available on January 1, 2021). The form must also be completed if an employee is requesting family leave to care for a family member with a serious health condition (which is first available as of July 1, 2021). The form is not required to be completed for parental leave or for active duty leave.

The form includes a statement that the DFML will use the form to administer PFML benefits and that the form will be shared with an employee's current and/or past employer.

Application for Benefits Process

Covered individuals apply for PFML online on the DFML website. The website provides guidance on how to apply for PFML at: [What to Expect when you Apply for Paid Family and Medical Leave Benefits | Mass.gov](#).

When applying for PFML, an individual must upload proof of the following:

- Their identity (e.g., a MA driver's license or ID, or a U.S. Passport or Passcard)
- They are legally able to live and work in the U.S. (e.g., a birth certificate)
- Their 9-digit SSN or ITIN (e.g., a Social Security Card or W-2 Form)

Any documentation provided as proof must be in color.

An individual must also provide information about the reason for requesting leave, when the leave would start, the documentation required to support the

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request for leave, and information about the employer, who is part of the application approval process.

FAQs

The DFML emailed the following new FAQs on November 25 to those who signed up for DFML's email updates and news:

Contributions:

What are the retroactive contribution requirements for an employer that has terminated a private plan exemption?

An employer that terminates a private plan will be responsible to remit retroactive contributions back to the effective date of the initial exemption approval if it fails to renew its plan for a second term. After the filing and approval of the renewal, an employer may terminate its private plan at the end of the second term without owing retroactive contributions. Employers with an exemption which was initially approved prior to January 1, 2021, will need to go through one (1) renewal cycle to not owe retroactive contributions.

What are the retroactive contribution requirements for an employer that failed to maintain a private plan or had its approval withdrawn by the Department?

The Department may assess a penalty of up to an amount equal to the employer's total annual payroll for employees and covered contract workers each year or fraction thereof that it failed to maintain said plan, multiplied by the then-current annual contribution rate required under M.G.L. c. 175M, § 6(a). This amount may be subject to penalties under M.G.L. c. 62C and interest from the due date of the PFML return to the date the PFML contributions are paid at a rate prescribed by M.G.L. c. 62C, § 32.

The employer or covered business entity may also be required to repay to the Trust Fund the total amount of benefits paid to covered individuals who received

benefits from the Trust Fund during the period of time that the employer failed to maintain its plan.

Benefits:

Is there a 7-day waiting period for job-protected leave that is taken with an employer prior to going to DFML for eligible benefit payments?

No.

Employer Provided Benefits and PFML

Do private disability policies that are purchased separately by the employee, including through voluntary worksite benefits, cause the employee to have a reduction in DFML benefits?

No.

Can an employee "top-off" PFML benefits by using accrued paid time off from their employer?

No.

Can an employer with a private plan exemption allow their employees to supplement their private plan exemption benefit amount with accrued paid leave?

Yes.

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