



Paid Family and Medical Leave (PFML) Frequently Asked Questions (FAQ's)

Note: This FAQ is based on the best information available prior to the adoption of rules for the PFML program. This information is subject to change. Visit <https://www.maine.gov/paidleave/> for the most up-to-date information.

Overview of the Paid Family and Medical Leave law:

1. What is the Paid Family and Medical Leave Program (PFML Program)?

Maine's PFML law will provide up to 12 weeks of paid leave for family leave, medical leave, to deal with the transition of a family member's pending military deployment or stay safe after abuse or violence. This law went into effect in October 2023, with the major components of the law having 2025 and 2026 implementation dates. The Maine Department of Labor (MDOL) is responsible for the implementation of this new program.

Contributions:

2. Where do the contributions come from beginning January 1, 2025? Are the contributions paid by the employee, the employer, or combined?

Both the employer and the employee contribute to the PFML Fund. All funds are pooled to pay for future claims and other administrative costs. Payroll withholdings from employee's pay for the Paid Family Medical Leave program will begin with pay dates on or after January 1, 2025, and be transferred to the Maine Paid Family and Medical Leave Fund. ("PFML Fund").

3. If benefits do not go live until 2026, why are contributions being made in 2025?

Although benefits are scheduled to begin on May 1, 2026, payroll contributions will begin in 2025 to allow time to accumulate sufficient funds to pay for benefits and the operations of the program.

4. What is the contribution rate for Paid Family and Medical Leave?

For calendar years 2025-2027, the joint contribution rate for employers and employees is set at either 0.5 or 1 percent of wages based on the size of the employer. No more than 0.5 percent can come from the employee. Employers with 15 or more employees will contribute 1 percent of wages and may deduct up to half of the contribution from the employees' wages. Employers with less than 15 employees will contribute 0.5 percent of wages and may deduct the entire amount from the employees' wages.

5. Are wages for the PFML program calculated pre-tax or post-tax?

Premiums are *calculated* on total subject wages, before federal income tax, state income tax, and Social Security and Medicare taxes are deducted.

6. Are PFML Premiums taxable? That is - does the premium amount get deducted from other federal and state programs?

The question of whether PFML premiums are taxable is reliant on the guidance and processes of the Federal Internal Revenue Service. Employers should work closely with their tax professionals on this question.

7. Who is responsible for remitting contributions to the PFML Fund?

The employer is responsible for remitting contributions to the PFML Fund. The mechanism to remit the funds will be set forth in future guidance by MDOL.

8. What are the penalties for an employer if the employer fails to pay contributions or submit wage reports on time?

The penalty for an employer failing to pay contributions and/or submit wage reports is 1 percent of the employer's annual payroll. This penalty shall be assessed if the employer fails to pay all or a part of the contributions owed to the Department on a quarterly basis.

9. I am a self-employed individual, am I eligible?

Self-employed individuals are eligible for Paid Family and Medical Leave but must choose to opt in for coverage. For calendar years 2025-2027, the premium rate has been set at 0.5 percent of the individual's income from self-employment. Guidance will be provided by MDOL in the future on the process to opt in.

Private Plans:

10. I am an employer with a current policy that provides paid time off (PTO), sick leave and/or a short-term disability policy. Can my leave policy be considered a substantially equivalent plan under the Maine PFML Law?

Section 850-H(2) states that to be approved as a substantially equivalent private plans, among other requirements which will be outlined in rule, the plan must be either a self-funded plan that requires a surety bond paid to the State or a fully-funded plan purchased from an insurance company. An internal leave policy, on its own, does not meet these requirements. Additional details regarding the process and requirements for private plans will be outlined in rule.

Collective Bargaining Agreements:

11. How does the PFML law apply to public sector collective bargaining agreements?

Public employers and employees that are subject to a collective bargaining agreement that was in effect on October 25, 2023, are not required to participate until the collective bargaining agreement expires. Neither party will make contributions pertaining to the Paid Family and Medical Leave program until that collective bargaining agreement expires, and individuals will not be eligible for benefits until either the expiration of the collective bargaining agreement or May 2026, whichever comes later. MDOL will use the end date listed on the applicable collective bargaining agreement, regardless of when the subsequent collective bargaining agreement is ratified.

12. What if both parties in a public sector collective bargaining agreement agree to contributions prior to the agreement expiring?

Public employers and employees who agree, through relevant public bargaining law and process, to contribute to the Paid Family Medical Leave program prior to the expiration of a collective bargaining agreement that was in effect on October 25, 2023 may do so. Withholdings would begin on the first pay date after an agreement was ratified or the first pay date in January 2025, whichever is later.

13. How does this apply to public employees not subject to a collective bargaining agreement?

The Paid Family and Medical Leave law will apply to any public employees who were not subject to a collective bargaining agreement on October 25, 2023. Also, any public employees who are not subject to a collective bargaining agreement in general are covered by the program in the same manner as private sector employees.

14. How does PFML law apply to private sector collective bargaining agreements?

The exemption in section 850-B (10)(D) does not apply to private sector collective bargaining agreements.

Definition of Wages:

15. What is the definition of wages for the program?

Wages include all forms of compensation for personal services, such as regular salary, tips, commissions, bonuses, and severance pay. It does not cover payments made to independent contractors.

For payroll and premium purposes, wages are calculated similarly to how Maine Unemployment wages are determined but applied to a larger base of employees that are not traditionally subject to the Maine Unemployment contributions tax. Wages exclude amounts above the annual base limit set by the U.S. Social Security Administration.

Determination of Wages Earned in Maine:

16. How is the locality of Wages earned in Maine determined?

The PFML program will use the same test of locality under the Maine unemployment law. A worker earning Maine wages can be determined through a four criteria sequential test, applied to the employee:

Four factors, taken in sequence, determine whether or not employment is reportable in Maine:

- **Place Where Work Is Performed:** If the employee performs all work in Maine, or if the work outside Maine is incidental (temporary or minor), then Maine law applies. If this does not apply, continue to next factor.
- **Base of Operations:** If the employee performs work in Maine and other states, if the base of operations is in Maine, Maine law applies. The base of operations is the primary location from which the employee starts work and returns regularly. If this does not apply continue to next factor.

- **Place from Which Service Is Directed or Controlled:** If the employee performs some work in Maine and the service is directed or controlled from Maine, Maine law applies. This refers to the place of general authority rather than direct supervision. If this does not apply, continue to next factor.
- **Place of Residence:** If none of the above criteria apply, and the employee performs work in Maine and other states, and resides in Maine, then Maine law applies. If none of the above apply, the employment is not reportable in Maine.

Maine Paid Leave Portal:

17. Where will employers be able to submit premiums and wage reports?

Employers can submit premiums and wage reports through the **Maine Paid Leave Portal that will be available in early 2025**. All employers will be required to register with the Department via this portal to determine their liability for PFML contributions and to designate a third-party payroll or employee leasing company if they wish. All liable and active employers must create an account in the portal to electronically file quarterly wage reports and make contribution payments.

18. How frequently are employers to submit premiums and wage reports for the PFML Program?

Employers must submit their premium amounts and contribution reports **quarterly** and are due on or before the last day of the month following the end of each quarter. Payments and reports are considered timely if received electronically by the due date. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is extended to the next business day. Employers may have their payments and reports submitted by an employee leasing company or an authorized third-party administrator.

19. Will there be an ability to submit bulk uploads to the portal?

Third party administrators will be able to submit bulk wage reports in specified file formats. Employers will be able to upload an excel sheet of their employee and wage information in their quarterly wage report. They will have to follow a template that the Department provides.

Definition of Covered Employee and Premium Liability:

20. Who is the covered employee?

A “covered employee” is an employee who earns wages in Maine. However, wages do not include wages earned from federal employment, federal work study financial aid, during incarceration, by certain volunteers as specified in the proposed rule, or by an employee subject to the Railroad Unemployment Insurance Act. Independent contractors may elect coverage, and if so would report wages earned and submit contributions in order to be a covered individual.

21. To determine premium liability for employers, how do you count the number of employees?

*Please note the response below is pending final adoption of the rule.

For the purposes of determining premium liability, any employer that employed 15 or more covered employees per the employer's Federal Employer Identification Number (FEIN) on their established payroll in 20 or more calendar workweeks in the 12-month period preceding September 30th of each year. This count includes the total number of persons on establishment payrolls employed full or part time who received pay for any part of the pay period.

Temporary and intermittent employees are included, as are any workers who are on paid sick leave, on paid holiday, or who work during only part of the specified pay period. On October 1, 2024, and October 1 of each year thereafter, the employer shall calculate its size for the purpose of determining premium liability for calendar year 2025 and each calendar year thereafter. This employer count will be reported upon first registering with the Maine Paid Leave Portal, and during Quarter 3 wage reporting annually thereafter. We also note this response is pending final adoption of the rule.

Reporting Premiums and Tax Information:

22. What should be listed in Box 14 on the W-2 form for employee contributions?

Employee premium contributions should be listed under Box 14 of the W-2 form with the label “MEPFML”.