

# PAID FAMILY & MEDICAL LEAVE

WEBINAR

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# MEMBER RESOURCES

## Today:

General overview of the new Paid Family & Medical Leave Program  
Will be recorded, available on our website [www.wahospitality.org](http://www.wahospitality.org)

## October:

[Regional Meetings](#) across the state

In-person meetings, Q&A with Employment Security Department

## November 11 – 13:

Washington Hospitality Convention: [www.wahospitalityconvention.com](http://www.wahospitalityconvention.com)

HR Attorney Catharine Morisset

## December:

Final webinar, available on website

Additional materials

## Employment Security Department:

[PaidLeave.WA.Gov](http://PaidLeave.WA.Gov)

# **THE LAW TAKES EFFECT JAN. 1, 2019**

**Premiums begin Jan. 1, 2019**

**Benefit program begins Jan. 1, 2020**

**Every employer will have new requirements, regardless of size**

# New Requirements for ALL employers:

1. Beginning Jan. 1, 2019, all employers must collect premiums from all employee's **wages** \*differences for CBA, voluntary plan waiver, non-localized work
  - Up to the Social Security wage base
  - Wages do not include tips
2. Beginning Jan. 1, 2019, all employers must report wages and hours to ESD, similar to Unemployment Insurance reporting.
  - Wages do not include tips
3. Beginning Jan. 1, 2020, all employers must notify employees of the program and their rights
  - Labor poster
  - Any qualified employee who has been absent for reasons covered under the PFML program for seven consecutive days

# SUMMARY OF THE LAW:

Total cost of the program is .4% of payroll the first 2 years, adjusted annually after.

Two separate funds are established:

**Paid Family Leave fund – approximately 1/3 of the cost of the program**

- 100% funded by the employee

Funds:

- Child bonding, ill family member, military exigency

**Disability/Medical fund – approximately 2/3 of the cost of the program**

- 55% paid by the employer, 45% paid by employee
- Total employer contribution is 37% (.148% of payroll)

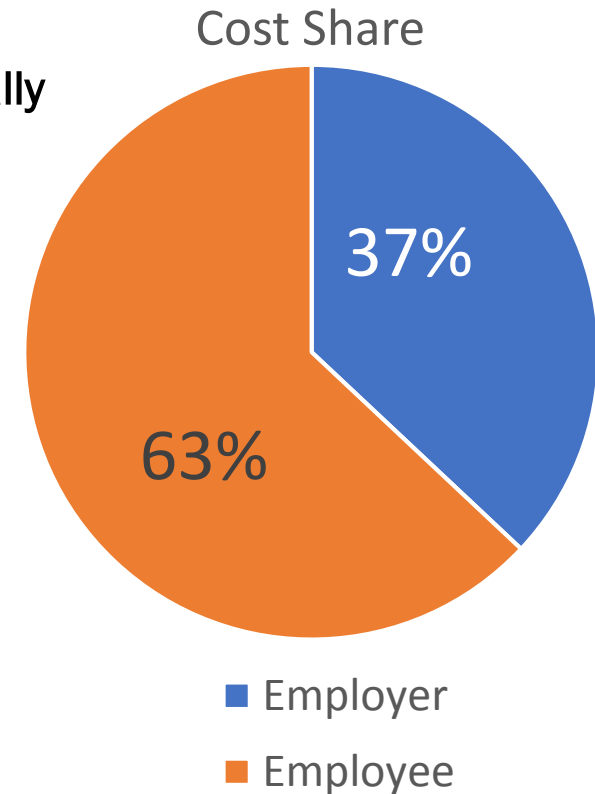
Funds:

- Employee's disability, including pregnancy

Example: Minimum wage employee - \$0.017/hr, 30 hours/week - \$0.51/week, \$26.52/year

Example: Average wage employee - \$0.03/hr, 40 hours/week - \$1.20/week, \$62.45/year

Example: \$1 million annual payroll - \$1,480/year



# SUMMARY OF THE LAW – SMALL BUSINESSES EXEMPT, BUT MAY OPT IN

Businesses with **fewer than 50** employees are exempt from paying the employer premium, but may choose to opt in to the program

- ESD will determine how many employees you have based on your first quarter reporting (due April 30, 2019)
- Franchisee businesses are counted independently
- Beginning Sept. 30, 2019, ESD will determine employee count based on the average employee count of the previous four quarters – this will adjust for the seasonal nature of the hospitality industry.

# SUMMARY OF THE LAW – BUSINESS INCENTIVES

All employers, small and large, opted-in to the program or not will receive **protection from Unemployment Insurance** charges due to hiring a temporary employee

Businesses with **150 or fewer** employees, and businesses with < 50 employees who have opted in to the program are eligible for:

- **\$3,000 grant to cover the cost of a temporary employee.** Capped at 10 applications per year.
- **Up to \$1,000** in reimbursement to cover the costs of overtime or retraining if an employee needs to take PFML

Employers who **already provide comparable benefits** may seek a waiver if they choose to continue their own plans (Voluntary Plan Waiver)

# SUMMARY OF THE LAW– ELIGIBLE EMPLOYEES

**All Employees** who have worked for any employer(s) for 820 hours in 4/5 previous quarters

- 820 hours = 5 months at full time, 15 hours/week for the full year

Employees who work for an employer with fewer than 50 employees are covered and pay in to the fund, **employer is not required to**

Independent contractors and self employed may opt-in

ONLY eligible if a qualifying event has occurred, medical certification, ESD has approved their claim



# SUMMARY OF THE LAW – QUALIFYING EVENTS

Eligible employees may take leave if they have a qualifying event that is medically certified.

## Family Leave:

- Birth, adoption, placement of a child (either parent)
- Serious illness of a family member, requires treatment or care
  - Parent, Parent-in-law
  - Grandparent
  - Spouse
  - Sibling
  - Child
  - Grandchild
- Military Exigency

## Medical/Disability Leave:

- Employee's personal and serious medical issue or disability
- Includes recovering from child birth or pregnancy related complications

# SUMMARY OF THE LAW – LENGTH OF BENEFIT

Employees who are eligible (worked at least 820 hours in the workforce in 4/5 last quarters) may access paid leave for qualifying events:

- 12 weeks for family care
- 12 weeks for personal medical/disability + 2 weeks if there's a complication related to pregnancy
- Capped at a total 16 weeks per 12 month period
- A person who experiences disability related to pregnancy is eligible to take 14 weeks of medical leave, for a total of 18 weeks per 12 month period

We will walk through how this works later.

# SUMMARY OF THE LAW– EMPLOYER REQUIREMENTS

## Job Retention benefit:

- While all qualified employees are eligible to take leave, **the employer does not have any new requirements regarding the employee.**

## FMLA alignment, employers with > 50 employees

- If the employee and employer meet the requirements under FMLA, (employee has worked with that employer for 1250 hours in the last 12 months, employer has 50 or more employees), they continue to have the same requirements.
  - Must reserve the position and continue health care benefits while FMLA covered employee is out

# SUMMARY OF THE LAW – WAGE REPLACEMENT

Qualified Employees who take PFML are entitled to a portion of their wages, calculated:

90% of wages up to 50% of the state's average weekly wage (AWW) (\$1,190, or \$61,887/yr)

- Employees making \$595/week or less (not including tips) will receive 90% of wages

Then, 50% of wages beyond the first calculation

No one will receive more than 90% of the AWW, (\$1,000)

Example: Employee makes \$60,000/year or \$1,153.84/week

- 50% of the AWW is = \$595, they receive 90% = \$535.50
- Plus, 50% of the rest of her wages,  $\$1,153.84 - 595 = \$558.84$ ,  $\$558.84 \times 50\% = \$279.42$
- $\$535 + \$279.42 = \$814.42$ , 70% of her wages

Employees who make more than \$79,248/year will be capped at \$1,000.

# PAID FAMILY & MEDICAL LEAVE VS. PAID SICK & SAFE LEAVE

	Paid Family & Medical Leave	Paid Sick & Safe Leave
Agency	Employment Security Department	Dept. of Labor & Industries
Who pays for leave	Insurance program, paid for by employees (63%) and employers (37%)	100% employer
Who determines eligibility	Medical certification, ESD	Employee Employer may request verification after 3 days
Length of leave	12 weeks, capped at 14, limited circumstances 18 weeks	1 hour for every 40 hours worked, may roll over up to 40 hours to next year
Amount	Up to 90% of wage, capped at \$1,000/week.	100% of wage
Use	Birth/placement of child, employee medical issue, family member medical issue, military leave	Health need of employee or family, preventative health need, when work or child's school has been closed, domestic violence

# HOW DOES THE PROGRAM WORK?

# EXAMPLE: SMALL BUSINESS, HAS NOT OPTED IN TO THE PROGRAM



Jane is a qualified employee, paid her portion of PFML via a payroll tax collected by her employer and remitted to ESD. Her employer has not opted in to the program.



A qualifying event occurs. Jane is able to take 12 weeks of PFML to pay her bills while she recovers. She receives a check from ESD every week.



Employer hires a new employee to replace Jane, who is unable to work.

# EXAMPLE: SMALL BUSINESS, OPTED-IN TO THE PROGRAM



June is a qualified employee and has paid her portion of PFML via a payroll tax collected by her employer and remitted to ESD. The employer paid the employer premium.



A qualifying event occurs.



June is able to take 12 weeks of PFML to pay her bills while she recovers. She receives a check from ESD every week.



Employer gets \$3,000 to cover costs of hiring a temporary worker while June is gone. June returns when she is healthy.



# EXAMPLE: BUSINESS WITH 200+ EMPLOYEES



Maria works 40 hours per week for 14 months. She has paid her portion of PFML via a payroll tax collected by her employer and remitted to ESD. The employer has also paid their employer premiums.



Maria notifies her employer 30+ days before planning to give birth.

Qualifying event:  
Pregnancy disability and birth of a child.



Maria files the claim with ESD. She has 6 weeks of her medical leave. The baby is born and she takes 12 more weeks of family leave to bond with child for a total of 18 weeks.



Employer hires a temporary worker and lays off the temporary worker when Maria returns. Employer is not charged for temp worker's UI experience.

## EXAMPLE: BUSINESS WITH 200+ EMPLOYEES



John worked 820+ hours and has paid his share of PFML with other employers.



A qualifying event occurs on John's 2<sup>nd</sup> day of work with his new employer. His employer has also paid on 2 days worth of wages for John. John is not able to work.

John gets 12 weeks of paid family leave to help his spouse recover.



The employer is not obligated to hold position and they hire a new employee.

# VOLUNTARY PLAN WAIVER

**IF YOUR COMPANY ALREADY OFFERS A PAID FAMILY AND MEDICAL LEAVE BENEFIT PACKAGE, OR IF YOU WANT TO ADD YOUR OWN BENEFIT PACKAGE AND RECEIVE A WAIVER FROM SOME STATE REQUIREMENTS, THIS MAY BE AN OPTION TO CONSIDER**

**Voluntary Plans may apply for a waiver from:**

- The Family Leave fund (100% paid by employee)
- The Medical Leave fund (55% paid by employer)
- Or both

**Voluntary Plans may use a third party to administer**

- For example, the employer may already have a temporary disability program that meets the requirements of the medical leave program. The insurance provider may administer the program

**Voluntary plans must meet or exceed the state plan offerings and have a higher standard for employers**

# VOLUNTARY PLAN WAIVER - REQUIREMENTS

	Voluntary Plan	State Plan
Job Retention Requirement	9 months, 965 hours	12 months, 1,250 hours
Hours threshold for eligibility	340 hours	820 hours
Protected leave	12 weeks/12 weeks or 18 weeks	12 weeks/12 weeks or 18 weeks
Paid leave	6 weeks/6weeks or 9 weeks	12 weeks/12 weeks or 18 weeks
Benefit amount	Regardless of amount of time taken, must equal the amount the employee is eligible for on state plan	Up to \$1,000/week

**Voluntary plans may be more desirable for employees because they could provide for a greater amount of salary replacement while gone from work. Voluntary plans may be more desirable to employers because they may allow incentive for employees to return to work faster.**

# EXAMPLE: BUSINESS WITH A VOLUNTARY PROGRAM WAIVER



Sean works 40 hours per week for 10 months. He has paid his share of PFML through his employer. The employer already provides short term disability insurance and has been waived from the state program.



Qualifying event and Sean is not able to work.



Sean receives 100% of his salary while he is gone which is equal to more than what he would have received through state program, but his employer only provides 7 weeks of leave.

Sean still needs one more week, and he has earned 40 hours of PSSL under I-1433, so he uses this to cover the last week of leave.

# QUESTIONS?

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