

Commission to Develop A Paid Family and Medical Leave Benefits Program
Updated Following Final Commission Meeting on Dec. 2, 2022

Program Design Recommendations for Commission’s Proposal for a Paid Family and Medical Leave Benefits Program

Program Design Question	Commission Recommendation (By consensus or straw vote)	Recommendation in Ballot Initiative from Maine Paid Leave Coalition (from proposed legislation)
What purposes can leave be used for?	<ul style="list-style-type: none"> • Adopt same purposes for leave that are permissible for federal FMLA: • <u>And</u> also include safe leave and affinity relationships 	<ul style="list-style-type: none"> • Bonding leave during first year • Caring for own serious health condition • Caring for a family member with serious health condition • Qualifying exigency leave for family member on active duty • Safe leave
Who is covered?	<ul style="list-style-type: none"> • Include all workers—full-time, part-time, temporary and seasonal workers 	<ul style="list-style-type: none"> • Includes all workers
Are public sector workers automatically covered?	<ul style="list-style-type: none"> • Public employers may choose a substantially equivalent private plan (same as private employers). 	<ul style="list-style-type: none"> • Public sector employers included • Current collective bargaining agreements continue to apply until expiration of contract
Can self-employed workers opt in to coverage?	<ul style="list-style-type: none"> • Yes, allow self-employed workers to opt in 	<ul style="list-style-type: none"> • Yes
What are the requirements to qualify for benefits? e.g. minimum level of earned wages or period of time as an employee?	<ul style="list-style-type: none"> • Lookback for prior 4 Quarters • All employers for portability • Formula should be based on earned wages tied to a factor of the SAWW during base period –Committee of jurisdiction should recommend minimum requirement 	<ul style="list-style-type: none"> • Lookback to 4 of the last 5 quarters • All employers included—multiple jobs • Earnings of at least 6 times the SAWW during base period
What family members are covered?	<ul style="list-style-type: none"> • Adopt same definition of family member as in state FMLA law • <u>And</u> also include affinity relationships 	<ul style="list-style-type: none"> • Mirrors state FMLA law • Includes affinity relationships

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Are employees who have children born, adopted, or fostered prior to effective date of PFML benefits eligible to take bonding leave? Are there any limits to that eligibility?	<ul style="list-style-type: none"> • Bonding leave may be taken during the first year after birth, adoption or placement in foster care • Estimated cost increase of claims in first year of 2% if included 	<ul style="list-style-type: none"> • Bonding leave may be taken during the first year after birth, adoption or placement in foster care
How is the program funded? What level of contributions are required from employers and employees?	<ul style="list-style-type: none"> • Require employers with ≥ 15 employees and employees to contribute to program costs based on percentage of wages • 1% is desired maximum amount of total contribution • Employers and employees should be required to contribute to costs of program: • Commission members recommend that the contribution rate range between a 25% employer/75% employee split and a 50% employer/50% employee split 	<ul style="list-style-type: none"> • Require employers with ≥ 15 employees and employees to contribute to program costs based on percentage of wages • Total contribution rate of 0.86% from 7/1/25 until 12/31/27 • Beginning 1/1/28, contribution rate determined annually, but must be at least 135% of total claims in prior year plus 100% of administrative costs
What is the wage base to be used for determining contributions? Use Social Security maximum wage limit or unlimited wages?	<ul style="list-style-type: none"> • Unlimited wage base recommended as it provides savings in overall contribution rate by spreading costs over larger wage base • Recognize that SS limit is commonly used in other state programs 	<ul style="list-style-type: none"> • Social Security wage limit applied
Are small employers with fewer than 15 employees exempt from making contributions?	<ul style="list-style-type: none"> • Yes 	<ul style="list-style-type: none"> • Yes
What percentage of wages do workers receive? Flat or tiered benefit structure?	<ul style="list-style-type: none"> • 90% of wages recommended by majority • 80% wage replacement supported by all members voting on 11/29 	<ul style="list-style-type: none"> • 90% of employee's average weekly wage equal to or less than 50% of the SAWW <u>plus</u> 65% of employee's average weekly wage that is more than 50% of the SAWW

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	<ul style="list-style-type: none"> • Commission members recommend that both options be presented for consideration by Legislature 	
<p>What is the maximum weekly benefit? Is the state average weekly wage? Or lower or higher?</p>	<ul style="list-style-type: none"> • 120% of the SAWW 	<ul style="list-style-type: none"> • Until 1/1/27, maximum weekly benefit is \$1000 • After 1/1/27, maximum weekly benefit is SAWW
<p>For how long can a worker receive benefits? Are there specified maximum benefit periods for different types of leave? Is there a combined maximum benefit period?</p>	<ul style="list-style-type: none"> • 16-week maximum total combined limit • 12-week maximum limit for particular qualifying need • Recommend that program evaluate data on claims costs and funding to determine if combined maximum limit can be extended in future 	<ul style="list-style-type: none"> • 16-week maximum total combined limit • 12-week maximum limit for particular qualifying need
<p>Is there an unpaid 7-day waiting period? Or no waiting period?</p>	<ul style="list-style-type: none"> • 7-day medical waiting period (straw vote 7-1) 	<ul style="list-style-type: none"> • No specific waiting period in proposed legislation
<p>Are workers entitled to have their jobs back when they return?</p>	<ul style="list-style-type: none"> • Address this issue through provisions in current federal and state FMLA laws • Do not include explicit language in any PFML legislation 	<ul style="list-style-type: none"> • Provides that employees employed at least 120 days by an employer must be restored to prior position
<p>Is an employer allowed to use an equivalent or more generous private insurance plan to provide the benefit?</p>	<ul style="list-style-type: none"> • Yes, allow a private plan option that is substantially equivalent 	<ul style="list-style-type: none"> • Yes
<p>How is the benefit provided? What is the organization and structure for administering the benefit?</p>	<ul style="list-style-type: none"> • Simple • Robust financial review and audit process 	<ul style="list-style-type: none"> • Program overseen and administered by the Department of Labor, Bureau of Labor Standards

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	<ul style="list-style-type: none"> • Data collection and evaluation of trends to determine if PFML benefits can be extended 	
<p>Will employees be allowed to take intermittent leaves of absence? If so, are there minimum increments (e.g., 4 hours, 8 hours, etc.)</p>	<ul style="list-style-type: none"> • Yes, minimum increment of 1 work day for ease of administration • Members believe that employee may use other paid leave or sick leave to meet needs for intermittent leave in shorter increments 	<ul style="list-style-type: none"> • Covered individual may take leave intermittently in increments of one hour or shorter periods if consistent with increments the employer typically uses to measure leave • Benefits are not payable to employee until the covered individual has accumulated at least 8 hours of benefits
<p>How will benefit interact with workers' compensation? And with unemployment compensation?</p>	<ul style="list-style-type: none"> • Any WC benefits and unemployment benefits should be primary and employee should not receive concurrent benefits • Do not want to impact stability of WC system or UI system • Any legislative proposal must address interaction with WC and UI explicitly in statute • Committee of jurisdiction should consider issue carefully with input from agencies responsible for administering WC and UI benefits 	<ul style="list-style-type: none"> • Covered individual may not receive WC benefits for total incapacity concurrent with PFML benefits • Covered individual may receive concurrent benefits for partial incapacity and PFML benefits may not be reduced by WC benefits • Covered individual may not receive benefits concurrently with unemployment benefits