



Resources for Employers & Employees Impacted by COVID-19: Paid Family and Medical Leave

This resource was prepared by non-partisan legislative staff to provide a list of resources for employees who are impacted by COVID-19 and are seeking information relating to paid family and medical leave. This information may not be comprehensive and should not be taken as an authoritative interpretation or legal advice. Note: Due to the recent enactment of federal legislation there will likely be new administrative rules and interpretations issued soon. Also see: Senate Committee Services paper on Resources for Employees Impacted by COVID-19: Paid Sick Leave.

State Law - Paid Family and Medical Leave. [RCW Title 50A.](#)

In 2017, the Legislature passed a comprehensive program to provide Paid Family and Medical Leave (PFML) to all qualifying employees working in the state.

Eligibility. An employee must work at least 820 hours in the qualifying period to be eligible for the benefits. Tribes and self-employed individuals, including independent contractors, may opt-in to the program.

Paid Family Leave Benefits. Paid family leave benefits are provided: (1) when an employee is bonding after the birth or placement of a child, under the age of eighteen; (2) because of a family member's serious health condition; or (3) for a military exigency.

- Family member means the employee's child, grandchild, grandparent, parent, parent-in-law, sibling, spouse, and a child's spouse.
- Child means a biological, adopted, foster, stepchild, or child to whom the employee stands in loco parentis and other specified relationships.
- A military exigency relates to leave for short-notice deployments, military events, certain childcare and school activities for a military member's child, post-deployment activities, and other specified activities.

Paid Medical Leave Benefits. Paid medical leave benefits are provided for an employee's own serious health condition. The definition of "serious health condition" can be found here: [RCW 50A.05.010\(20\)](#). Note: The definition does not include the specific "public health emergency leave" found in the new federal law (described below).

Amount of Benefit. The benefit amount is a percentage of the individual's average weekly wage (AWW) during the two highest quarters in the qualifying period, calculated as follows:

- If the individual's AWW is 50% or less than the state AWW (\$1,255 for 2018; this is typically adjusted in June of each year), the benefit is 90% of the individual's AWW; or
- If the individual's AWW is more than 50% of the state AWW, the benefit is 90% of 50% of the state AWW, plus 50% of the individual's AWW that is greater than the state AWW.

- The maximum weekly benefit amount is \$1,000. The maximum benefit is adjusted annually, to 90% of the state AWW, beginning on January 1, 2021.
- The minimum weekly benefit is not less than \$100 per week, except that if the employee's AWW at the time of the leave is less than \$100 per week, the weekly benefit is the employee's full wage.

Duration of Leave. The maximum duration of benefits is 12 times the typical workweek hours during a 52-week period for each of family leave and medical leave. A qualifying employee is entitled to 12 weeks of family leave and 12 weeks of medical leave.

With one exception, the combined total of family and medical leave allowed during a 12-month period is capped at 16 weeks. An additional two weeks of leave may be used if the employee has a serious health condition with a pregnancy that results in incapacity, for a combined total of 18 weeks.

Waiting Period. Leave benefits are paid without a waiting period for the birth or placement of a child. All other paid leave has a 7-day waiting period.

Resources. Washington State Employment Security Department:

- For workers affected by COVID-19: <https://esd.wa.gov/newsroom/covid-19>
- Paid Family and Medical Leave: <https://paidleave.wa.gov/>
- COVID-19 Scenarios & Benefits Available: <https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/newsroom/COVID-19/covid-19-scenarios-and-benefits.pdf>

Federal Law - Emergency Family and Medical Leave Expansion Act under the Families First Coronavirus Response Act (Section 3101, et. Seq.)

Effective April 2, 2020 until 12/31/2020.

<https://www.congress.gov/bill/116th-congress/house-bill/6201/text>

Applicability. Applies to employers with fewer than 500 employees, with the following employer exceptions:

- An employer of an employee who is a health care provider or an emergency responder may elect to exclude such an employee.
- U.S. Department of Labor can exclude:
 - Certain health care providers and emergency responders from the definition of eligible employee; and
 - Small businesses with fewer than 50 employees when the imposition of these provisions would jeopardize the ongoing viability of the business.

Coverage. Expands the federal PFML act to cover a “qualifying need related to” a public health emergency (such as COVID-19). Example: An employee is unable to work (or telework) because the employee needs leave to care for a son or daughter under the age of 18 whose school or place of care has closed, or whose childcare provider is unavailable, because of COVID-19.

Eligibility and Leave. Employees are eligible after 30 days of employment, with no minimum hours worked requirement. Employees are eligible for 12 weeks of leave, with the following conditions:

- First 10 days of the employee's leave may be unpaid, but an employee may choose to substitute any accrued paid leave for such unpaid leave.
- Following that 10-day period, employer must provide paid leave for each additional day of leave.

Rate of Pay. The employee's paid leave is calculated based on a rate of not less than 2/3rds of the employee's regular rate of pay and the number of hours the employee is normally scheduled to work. The paid leave is capped per employee at \$200/day or \$10,000/aggregate.

Additional Resources

National Resources

- President's COVID-19 Emergency Declaration - <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>
- FEMA COVID-19 Emergency Declaration Fact Sheet - <https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration>
- Selected Federal Legal Authorities Pertinent to Public Health Emergencies - <https://www.cdc.gov/php/docs/ph-emergencies.pdf>

Other State Resources

- Business & Workers | Washington State Coronavirus Response - <https://coronavirus.wa.gov/business-workers>
- Governor Inslee Proclamations - <https://www.governor.wa.gov/office-governor/official-actions/proclamations>
- Washington State Coronavirus Response Page - <https://coronavirus.wa.gov/>
- Department of Health - <https://www.doh.wa.gov/Emergencies/Coronavirus>

Local Government Resources

- Municipal Research and Services Center (MRSC) - FAQs for Local Governments, including Personnel Issues - <http://mrsc.org/Home/Explore-Topics/Public-Safety/Emergency-Services/Public-Health-Emergencies/Coronavirus-COVID-19-FAQs.aspx#can-local-government-require-employees-to-tell-covid>.