



By Nicole Rodriguez

## **Paid Family & Medical Leave & Related Policies Explained**

When we can remove obstacles to balancing work and family life, we expand opportunity and the economic security of workers, their children, and their aging parents. Several states and most other countries have paid family and medical leave policies that aim to help families, and ultimately the economy, by making it easier for working people to care for an ill family member, cope with a serious illness, or bond with a new child.

Many Massachusetts workers, particularly lower-wage workers, are not able to take needed time away from work to address important family needs. While there are health-related and family leave policies that exist, the rules about who is covered, the allowable length of leaves, and how much they replace lost wages, if at all, create barriers that severely limit access. Sometimes a worker's job does not allow leave, and sometimes a worker cannot afford to take unpaid leave. This brief explains existing leave policies in Massachusetts and how they differ from paid family and medical leave.

### **Federal Family and Medical Leave Act**

The Federal Family and Medical Leave Act (FMLA) requires employers with 50 or more workers within a 75 mile radius to offer up to 12 weeks of unpaid and job-protected leave to eligible workers to deal with serious personal and family health conditions or to care for a new child. To be eligible, a worker must have worked for the same employer for at least one year and 1,250 hours in the year prior to taking leave. Because of these limitations, FMLA does not cover about 40 percent of the workforce.<sup>1</sup>

Moreover, the FMLA does not require employers to pay workers during leave. As a result, many workers cannot afford to take leave or they take shorter leaves than they need. According to the 2012 U.S. Department of Labor's Family and Medical Leave Technical Report, finances are a major reason why workers take shorter leaves under FMLA than they would prefer or need.<sup>2</sup> Less than half of working parents in Massachusetts are both eligible for and could afford to take unpaid leave.<sup>3</sup>

### **Massachusetts Parental Leave**

The Massachusetts Parental Leave law extends parental leave to workers at smaller employers. It requires employers with six or more employees, or one or more domestic workers, to offer up to 8 weeks of job-protected unpaid leave to parents for the purpose of giving birth or adopting a child, after 3 months of employment.<sup>4</sup> This law only requires employers to provide unpaid parental leave. Like the FMLA, it does not require employers to pay for lost wages, but unlike the FMLA, it does not grant leave for other personal or family health conditions.

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## Earned Sick Time

In Massachusetts, the Earned Sick Time (EST) law guarantees that all workers can earn short periods of time off in order to address a health issue for themselves or for family members, or to address the effects of domestic violence experienced by the worker or child of the worker. The size of the employer determines whether earned sick time is paid. People who work for employers with eleven or more employees can earn and use up to 40 hours of paid sick time per calendar year, while employees working for smaller employers may earn and use up to 40 hours of unpaid sick time per calendar year.<sup>5</sup> While, the EST law enables workers to earn short leaves to recover from a short-term illness, such as the flu, or to care for an immediate family member with a short-term health need, it does not address longer-term and more serious medical issues.

## Small Necessities Leave

The Small Necessities Leave Act requires employers to offer workers with up to 24 hours of unpaid time off during any 12-month period for purposes related to children's school activities, accompanying children or elderly relatives to medical appointments, or accompanying elderly relatives to appointments for professional services.<sup>6</sup> To be eligible, a worker must be employed with a company with 50 or more employees.<sup>7</sup> It allows workers to take care of very short-term needs, but does not provide enough time off to address longer-term health issues. Similar to the FMLA and Massachusetts Parental Leave, it is unpaid.

## Paid Family and Medical Leave

Paid family and medical leave (PFML) differs from these other policies because it enables workers to take extended paid time off to address a serious health condition, care for a new child, and support a family member with a serious health condition. Most Massachusetts workers do not have access to paid family and medical leave.

Leave policies like the FMLA and the Massachusetts Parental Leave Act provide important workplace protections that help families make healthy decisions without compromising their employment. However, these laws do not cover all workers. And neither of these laws provides wage replacement. PFML provides more workers with the ability to address health issues and have time to bond with a child without having to sacrifice their jobs or their wages.

Overall, PFML laws provide two types of leaves:

- Family leave, which allows workers to bond with and to care for a new child and care for a family member with a serious health condition. In New England, only 13 percent of civilian workers currently have access to paid family leave.<sup>8</sup>
- Medical leave, which allows workers to address their own serious illness, pregnancy, or post-partum recuperation or complications. This is often implemented through employer-provided short-term disability insurance programs. Short-term disability insurance pays a percentage workers' salaries should they be unable to work for a period of time due to sickness or injury not related to their job. Some workers currently have short-term disability through their employer, union or other professional organizations. According to the U.S. Department of Labor, roughly 60 percent of workers in New England do not have access to personal medical leave through short-term disability programs through their employer in 2015.<sup>9</sup>

## PFML & Related Policies Explained

Currently, California, New Jersey, Rhode Island, and most recently New York have paid family and medical leave insurance laws. These PFML laws allows workers to take paid medical leave (through temporary disability insurance) for serious illnesses or non-work related injuries, and paid family leave (through family leave insurance) for the birth of a child or to care for a seriously ill family member. To learn more about paid family and medical leave basics, see MassBudget's [FAQ: Paid Family & Medical Leave](#).

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<sup>1</sup> U.S. Department of Labor, Wage and Hour Division, [FMLA is Working](#).

<sup>2</sup> Klerman, J. A., Daley, K., & Pozniak, A. (2012). [Family and Medical Leave in 2012: Technical Report](#). Cambridge, MA: Abt Associates Inc. Pages 104-105

<sup>3</sup> Data Diversity Kids, Brandeis University. [Working Parents Who Are Eligible For and Can Afford FMLA Unpaid Leave](#).

<sup>4</sup> Commonwealth of Massachusetts, [Massachusetts Law about Employment Leave](#).

<sup>5</sup> MA Earned Sick Time [regulations](#)

<sup>6</sup> Commonwealth of Massachusetts, [Small Necessities Leave](#)

<sup>7</sup> Commonwealth of Massachusetts, [Small Necessities Leave](#)

<sup>8</sup> Bureau of Labor Statistics, Leave benefits: Access, civilian workers [National Compensation Survey](#), March 2015.

<sup>9</sup> Bureau of Labor Statistics, Insurance benefits: Access, participation, and take-up rates, private industry workers, [National Compensation Survey](#), March 2015. Page 61.