

# Paid Family and Medical Leave

## Terms and Definitions



### Concept Definitions

#### Paid Family and Medical Leave (PFML)

Compensated time off for major personal or family life events requiring extended absences from employment. PFML differs from sick, vacation, or other types of paid time off (PTO). Several core policy components of PFML include: reason for leave (qualifying events), insurance premiums, definition of family, length of leave, wage replacement level, benefit eligibility, and job protection. To date, eight states and the District of Columbia have passed PFML legislation.

#### Family and Medical Leave Act (FMLA)

A national law passed in 1993 which provides up to 12 weeks of unpaid, but job-protected, family and medical leave for certain employees. Applies only to those working for an employer with 50+ employees.

#### Federal Paid Parental Leave

In mid-December 2019, the United States Congress passed a bill giving federal workers 12 weeks of paid parental leave.



### Administrative Structures

**PFML plans can be administered in a variety of ways, though all states but New York primarily use a state-run social insurance model. Possible administrative structures include:**

#### State-Run Social Insurance Plan

A state-backed program which uses a pooled fund, primarily funded by insurance premiums (which can be paid for by the worker, the employer, or split between the two) and monies procured by the state, including through bonding, to pay for PFML benefits. Seven states and the District of Columbia rely primarily upon a state-run social insurance model to offer PFML benefits. These states have found this model to be the most a sustainable, solvent, and equitably affordable way to ensure workers have PFML.

#### Private Mandate

Requires all employers in the state to provide a minimum set of paid leave benefits. Coverage is provided through a private insurance company or by self-insuring. Premiums can be paid for by the worker, the employer, or split between the two.

#### Third-Party Administered Social Insurance

Outsources administration of a social insurance program to a third party. Third-party administration can be for total plan administration (e.g. collecting premiums and administering benefits) or outsourcing a limited portion of the program (e.g. IT, payroll). While some states use third-party administrators, it's been limited to non-programmatic functions.

#### New York Model

New York is the only state in the country to rely primarily on the private market to provide leave benefits. Notably, the state requires all insurers to use community rating (a state mandated and universal premium) for family leave products, requires all temporary disability insurance carriers operating in the state to offer a family leave benefit, has a robust state-backed insurance option, and has stringent consumer protections.



## Policy Components

**Regardless of structure, every PFML program has several key policy components, including:**

### Benefit Eligibility

References the point at which an employee can receive financial PFML benefits. Benefit eligibility is often based upon either hours worked or earnings over a discrete time period.

### Definition of Family

Identifies which family members a worker can use PFML to care for. Several common definitions of family include:

- Extended family: All blood relatives
- Chosen family: Any individual, regardless of blood relation, whose close association the employee considers to be the equivalent of family
- Immediate family: Mirrors FMLA definitions and includes an employee's child, spouse, or parent

### Job Protection

Requires businesses hold a worker's job while he/she is on leave. Legislation specifies at what point an employee is eligible for job protection (often after a set number of weeks at a company).

### Length of Leave

The maximum amount of time an employee can receive PFML benefits. Paid leave lengths can be separated for medical and family purposes or can be combined for a total PFML length.

### Premiums

Money used to pay insurance costs, usually assessed as a percentage of an employee's paycheck. Premiums can be paid for: completely by the employee; completely by the employer; or split between the employer and employee (commonly referred to as shared responsibility).

### Reasons for Leave

Refers to the reasons an employee can use PFML. This often includes bonding with a new child after birth or adoption, caring for a seriously ill family member, or caring for one's own serious illness. Additional reasons can include exigency leave (needs that arise from a loved one's active military service) or needs relating to domestic violence or stalking.

## Wage Replacement

The amount of money an employee will receive when on leave. Wage replacement is often calculated as a percentage of the employee's either weekly or quarterly earnings. Wages can be replaced at a flat rate (ex: all workers receive 60% of their average weekly wage) or at a progressive rate, where replacement rates vary based upon wages, with low income-workers receiving a greater percentage of their wages than high-income earners. A cap is often placed on the total amount of wages able to be replaced.

## Common Policy Topics and Terms

**Over the past several months, the following topics and terms have been discussed in relation to PFML**

### Insurer of Last Resort

An insurance carrier required to offer coverage to all individuals/businesses, regardless of risk. These insurers are often connected, at least partially, to the state.

### Phase-in

References the implementation timeline of PFML policy components. Various components can be phased-in, including business size, benefit size, and length of leave.

### Private Plan Opt-Out

Allows certain employers who offer similar or more generous benefits to opt-out of using a state-based social insurance PFML plan.

### Seasonal Workers

A classification defined by Colorado statute to encompass those working in an industry that employs individuals for less than 26 weeks per year because of either climatic or seasonal reasons. No state currently exempts seasonal workers from program participation.

### Small Business Exemptions

Exempts small businesses from certain aspects of PFML, including paying employer premiums, job protection, or participating in the program all together. There is no standard definition of small business.

*To learn more about the issues, visit [cofamil.org](http://cofamil.org).*

