

# HRW CLIENT ALERT

January 26  
2021

## PFMLL Update: Noteworthy Department of Family and Medical Leave Website Pages

As of January 1, employees in Massachusetts have been able to apply to the Department of Family and Medical Leave (DFML) for job-protected time off and wage replacement benefits under the Paid Family and Medical Leave Law (PFMLL). The DFML has been hard at work implementing procedures to process claims and educating the public. The DFML website has had many updates in recent weeks. Here is a handy summary of some new or otherwise noteworthy DFML website postings. **Please note that the following summary is based on information posted on the Department's website as of January 24, 2021 and is subject to change.**

### Reimbursements (click [here](#))

If an employer provides wage replacement benefits to an employee on PFMLL that are equal to or greater than what the DFML would otherwise have had to pay, the employer may in certain circumstances be eligible for reimbursement. This webpage describes when and how an employer can obtain that reimbursement. Key takeaways include the following:

- An employer can only get reimbursement for monies paid pursuant to a paid temporary disability, family or medical leave policy or extended illness bank. Employers cannot get reimbursement for sick time, vacation time, PTO, or other accrued paid time off benefits.
- Employers with a private PFMLL plan cannot get reimbursement.
- The DFML will only reimburse up to the amount the employee would have been eligible to receive from the DFML.
- Payments made from a fully-insured plan, such as an STD plan with a private carrier, are not reimbursed, even if the employer is the one paying the premiums.
- Reimbursement is not automatic. The employer's designated Leave Administrator needs to log on to [PaidLeave.mass.gov](https://PaidLeave.mass.gov) where they will find a link to submit a reimbursement request.
- To qualify for reimbursement, the plan must permit employees to supplement its benefits with other accrued paid time, may only provide benefits for PFMLL-qualifying reasons, must provide that such leave runs concurrently with PFMLL leave, and afford the employees with job protection.

### Intermittent Leave (click [here](#))

This webpage contains important information about intermittent leave that an employer might not glean

from the regulations, including the following:

- The DFML will not administer increments of intermittent leave that are less than 15 minutes.
- Intermittent leave benefits will only be paid when the employee has accumulated eight hours of leave time or more than 30 calendar days have elapsed since the taking of such leave.
- Just like with FMLA, the minimum increment may not exceed one hour.

### **Logistics of Application Process for Employees** (click [here](#))

Employers should send their employees to this page for detailed information, instructions, forms, and links to apply for PFMLL benefits.

### **Logistics of Application Process for Employers**

This [webpage](#) explains that, in order to review and manage PFMLL applications submitted by its employees, the employer must create an Employer Account. Employers do so by contacting the DFML at (833)344-7364.

This [webpage](#) explains that employers with an Employer Account will receive an email letting them know if an employee has submitted an application for PFMLL benefits. The employer then has 10 days to review and respond with information relevant to the application, including:

- Other instances of leave (paid or unpaid) that the employee has taken during the same benefit year;
- The employee's work patterns and hours;
- Whether any of the information provided by the employee appears to be fraudulent (with any application flagged for potential fraud being automatically denied by the system, such that the employee would have to appeal to get the benefits); and
- "Would you approve" – whether the employer would approve the employee's application based on the law and the company's policies.

If the employer does not respond, the DFML will proceed based on the information provided by the employee.

Employers are encouraged to check out the above links and other sections of the DFML website, and to subscribe to the DFML's email newsletter [here](#).

### **For Questions / Compliance Assistance**

Please contact any member of the HRW PFMLL Team if you have questions about any aspect of PFMLL compliance:

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