

A BROKER'S GUIDE TO

PFML & Disability Insurance



December 2020



Why Employees Still Need Disability Insurance with the Rise of Paid Family and Medical Leave

Paid Family and Medical Leave (PFML) laws combine two distinct types of paid leave into one employee paid leave benefit. Paid Family Leave (PFL) is paid leave to take care of an employee's family member. For example, an employee may need to care for a spouse during illness or a newborn child. Paid Medical Leave (PML) is for the employee's own serious health condition.

PFML is State-Mandated Coverage

In most states, PFML is state-mandated coverage for employers with employees working in a state that has adopted a PFML law. PFML coverage may be in the form of private insurance through an insurance carrier, a state-sponsored program, or a self-funded plan established by an employer. A state may allow one or more of these options.

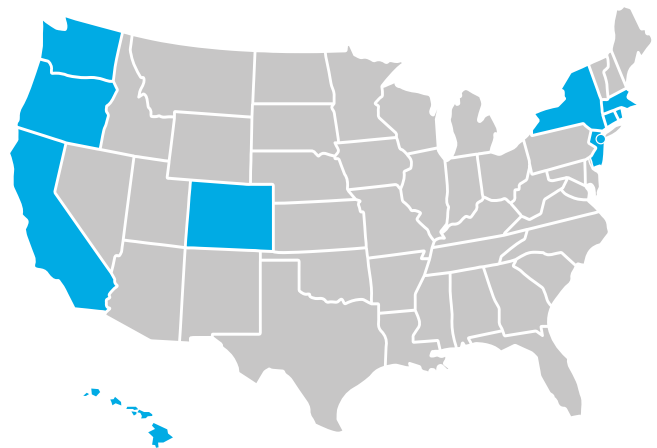
The benefits provided in a state PFML program vary by state and income of the employee. However, most states allow between 8-30 weeks of paid leave for a qualifying medical or family leave, and the employee is paid between 50-100% of his or her salary while on leave.

A PFML program may be funded by employer contributions, employee contributions, or both. A state may require contributions to come from an employee's paycheck or restrict the employer's ability to withhold premium from an employee's paycheck. In many states the size of the employer is irrelevant to whether a PFML policy must be in place; however, a few states grant special premium breaks to employers below a certain size.

Eleven States Have Adopted PFML Laws

Unpaid family and medical leave under FMLA has been in existence in the United States since 1993. But it was not until more recently that paid leave for similar qualifying events became more prevalent as states began adopting the Paid Family and Medical Leave laws that we are seeing today.

Presently, there are 11 states (including Washington D.C.) with PFML laws¹. Although some of those laws have future benefit effective dates, eight states are currently paying benefits or are anticipated to do so in 2021.



With over 50 bills proposed during 2019, it is anticipated more states will pass PFML laws over the coming years.

¹CA, CO, CT, D.C, HI, MA, NJ, NY, OR, RI, WA





Qualifying Events for STD and PFML Differ

One of the most common questions of employers with a workforce affected by a state PFML law is, “Why should I continue to offer short-term disability (STD) to my workforce now that a paid family and medical leave law has passed in our state?” Since the PFML plans are compulsory for employers to offer to eligible employees, employers may question the benefit of having existing or new STD policies. Since STD is structured to pay an employee a percentage of salary while out on a medical leave, it is easy to assume an employer no longer needs to offer STD to employees. Although there is crossover between STD and PFML, there are distinct differences that can leave an employee out of work and without sufficient income to cover her expenses unless the employer offers an STD policy to its workforce.

PFML Can Result in Insufficient Benefit Payments for High Wage Earners

All PFML policies have a cap on benefit payments that can range from \$170² a week to \$1,300³. Many state PFML policies are calculated using a bend point or indexed benefit structure, replacing lower income earners’ salaries at a higher percentage than those who are earning above the state average weekly wages.

For example, an employee in Massachusetts taking paid medical leave in 2021 and earning \$576 a week will have her income replaced at 80%, while an employee making \$2,300 a week will have her income replaced at only 37%.⁴

An STD policy can fill the gap, allowing an employee to earn a higher percentage of his or her salary while on leave and affording the employee the ability to meet financial obligations during his medical event.

² New York Disability Benefits Law and the Paid Family Leave Benefits Law

³ California Paid Family Leave

⁴ Massachusetts has a benefit cap of \$850 a week and uses a bend point benefit structure to determine the weekly PFML benefit

Exhausting PFML Can Leave Employees Without Salary Replacement

Most state PFML programs allow for a certain number of weeks of leave in a year. When those weeks are exhausted, the employee is not eligible for additional paid leave even if the employee experiences another qualifying event. An employee could exhaust his or her PFML in the first quarter of the year and be left without salary replacement during a new qualifying event that same year. On the other hand, an STD policy is paid per medical occurrence without a limit as to how many qualifying events arise per year. If the employee has multiple medical events in a year, the STD policy would still provide weekly salary replacement for each of the employee’s medical events.

For example, an employee working in Washington may need to take 12 weeks of leave to care for her ill family member beginning May 1, 2020. Then on September 1, 2020, the employee takes leave for her own medical event causing her to be out of work for an additional 8 weeks. The employee exhausted most of her allotted 16 weeks of state paid leave taking care of her family member. Without an STD policy, the employee would have no salary replacement during the last 4 weeks of leave.

LTD Provides Protections for Long-Term Leave

PFML benefits may provide up to 30 weeks of leave based on current laws⁵. Long-term disability (LTD) benefits have maximum benefit durations that often last for multiple years. Longer term medical conditions could cause an employee to be unable to work for multiple months. Even with a PML benefit, an employee would still need salary continuance that is provided by an LTD policy. An STD policy also fills the gaps for PML benefits with shorter durations, allowing the employee to receive salary replacement throughout an extended work absence.

Not All PFML Laws Are the Same, Leaving Gaps to be Filled by STD

Not all state programs provide adequate PFML coverage. Some states provide minimal or no PML benefit.⁶ Other states provide PML benefits only and no PFL coverage. Although there could be some crossover in benefits for a maternity claim, where an employee has her own medical event due to the birth of a child and is eligible for state PFL benefits to bond with her newborn, all other medical events would not qualify the employee for leave for her own medical condition under PFL. An STD policy will continue to cover the employee for her own disabling health conditions.

⁵ Rhode Island Temporary Disability

⁶ New York Disability Benefits (DBL) is a maximum of \$170/week

Employees in Non-PFML States Will Not Receive PFML

Larger employers often have employees working in multiple states throughout the country. An STD policy will continue to cover employees that are not otherwise eligible for PFML benefits based on the employee's work state. Current PFML laws base employee eligibility on the state in which the employee works, not where the employee resides or where the employer's home office is located. This would apply to employees who work remotely or travel across state lines to work.

Many PFML Laws Have Future Benefit Effective Dates

Although multiple states have adopted PFML laws prior to 2021, many programs are not effective until future dates⁷. An STD policy is still needed for employees covered by future PFML laws that are not yet paying benefits, even if the state is collecting premium prior to employees being eligible for benefits.

⁷ Colorado benefits begin 1/1/24, Connecticut benefits begin 1/1/22, Oregon benefits begin 1/1/23

The Most Robust Benefits Packages Include STD Alongside State PFML

Employers that offer disability insurance as a part of their current benefits package, even in those states where PFML benefits exist, prevent gaps in coverage as a result of the employee's own health condition. A comprehensive benefits package that includes both PFML and disability helps employees financially protect themselves and their families.



Visit our [PFML overview webpage](https://www.mutualofomaha.com/employer-based-plans/paid-family-medical-leave) for more information.

<https://www.mutualofomaha.com/employer-based-plans/paid-family-medical-leave>

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