

Your Employee Rights Under the Healthy Delaware Families Act

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What Is Paid Leave Under the Healthy Delaware Families Act?

The Healthy Delaware Families Act is a state law that provides covered individuals with wage replacement and job-protection during leave for qualifying family and medical reasons. The act works in conjunction with the federal Family Medical Leave Act (FMLA), which allows employees to take unpaid, job-protected leave with continued medical benefits. Beginning Jan. 1, 2026, Delaware workers can take paid job-protected leave. The Delaware Department of Labor, Division of Paid Leave enforces the provision of the act.

Under the act, covered individuals may take:

- Up to 12 workweeks of paid leave in a 12-month period for the birth, adoption or foster placement of a child with the covered individual.
- Up to 6 workweeks of paid leave in a 24-month period:
 - for the covered individual's own serious mental or physical health condition that prevents them from working;
 - to care for the covered individual's spouse, child, or parent with a serious mental or physical health condition; and
 - for qualifying reasons relating to the overseas deployment of the covered individual's spouse, child or parent who is a military service member.

A covered individual can't take more than 12 weeks of leave in a 12-month period. Covered individuals have the right to use this leave in one block of time. When medically necessary or otherwise permitted, a covered individual may take leave intermittently in separate blocks of time or on a reduced schedule by working less hours each day or week.

Leave under the act is paid. Covered individuals are entitled to receive 80% of their average weekly wage while on approved leave, up to \$900 per week. Average weekly wage consists of all income received from an employer including base salary, commissions, tips and bonuses.

Am I Eligible to Take Paid Leave?

You are a covered individual eligible for paid leave if all of the following apply:

- You work for a covered employer;
- You have worked for your employer for at least 12 months;
- You have at least 1,250 hours of service with your employer during the 12 months before your leave ("hours of service" are hours actually worked and does not include time off for vacation, illness, or any other leave);
- You worked in Delaware for at least 60% of those 1,250 hours; and
- Your employer has at least 10 Delaware-based employees (for parental leave) or 25 Delaware-based employees (for family caregiving, medical or qualified exigency leave).

You work for a covered employer if:

- You work in Delaware for an employer (except the federal government) that has at least 10 employees; and
- Your employer's business does not close for more than 30 consecutive days in a 12-month period.

A small number of workers are not considered employees for purposes of the act. Those individuals not covered by the act are casual/seasonal employees working for the State of Delaware, the Department of Education or for an entity covered by state employee benefits.

What Type(s) of Leave Is My Employer Required to Provide?

The type(s) of leave your employer is required to provide depends upon the number of Delaware employees your employer has.

- Employers with 1-9 covered employees are not required to provide paid family and medical leave benefits.
- Employers with 10-24 covered employees are required to provide their employees with parental leave.
- Employer with 25 or more covered employees are required to provide parental, medical and family caregiver/qualified exigency leave.

Employers may choose to opt-in to the Delaware Paid Leave (DPL) insurance program to provide more benefits than required. Please visit de.gov/paidleave for more information.

How Do I Request Paid Leave?

Generally, to request leave you must:

- Follow your employer's normal policies for requesting leave;
- Give notice to your employer at least 30 days before your need for leave; or
- If providing advanced notice is not possible, notify your employer as soon as possible.

How Do I Know What Type of Paid Leave Insurance Coverage My Employer Provides?

Your employer will notify you whether your paid leave insurance coverage is through the DPL insurance program or an approved private insurance plan. Private insurance plans include an employer's self-insured plan and an insurance carrier's approved plan. Depending on the type of coverage provided by your employer, benefit payments will be made through the DPL insurance program or your employer's approved private insurance plan. Your employer provides a private plan through Mutual of Omaha.

Filing Claims

Employers, their employees or their designated representatives apply for paid leave benefits by submitting an application, along with required documentation, directly to Mutual of Omaha. A claim can be filed by:

Calling 833-928-2179 to begin the process, or by completing claim forms.

Claim forms are available at www.mutualofomaha.com/support/forms

Forms can be submitted online or completed and emailed to submitgroupPFML@mutualofomaha.com or mailed to:

Mutual of Omaha Insurance Company
Group Insurance Claims
3300 Mutual of Omaha Plaza
Omaha, NE 68175-0001

Applications may be submitted in advance of the absence from work, and in some circumstances they may be submitted after the absence has begun.

The DPL insurance program is funded by less than 1% of an employee's weekly wages. Employers can require employees to contribute up to half of the cost, through payroll deductions beginning **Jan. 1, 2025**. If an employer provides coverage through a private plan, it can't cost an employee any more than what they would have paid under the DPL insurance program.

The act does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

What Does My Employer Need To Do?

If you are eligible for paid leave, your employer must:

- Maintain confidentiality of your or your family members' private medical information;
- Allow you to take job-protected time off work for a qualifying reason;
- Continue your group health insurance plan coverage while you are on leave on the same basis as if you had not taken leave. If you pay a portion of the cost of your group health insurance, you are still required to pay your portion while on paid leave; and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits, and other working conditions, including shift and location, at the time of your leave.

Your employer can't interfere with your rights under the act or threaten or punish you for exercising your rights under this law. For example, your employer cannot retaliate against you for requesting paid leave or cooperating with a Division of Paid Leave investigation.

Where Can I Find More Information?

Call 302-761-8375 or visit de.gov/paidleave. If you believe your rights under the Health Delaware Families Act have been violated, you may file a complaint with the Delaware Department of Labor, Division of Paid Leave or file a private lawsuit against your employer in court.