



Assessing the Ins & Outs of PFML: When is a Private Plan the Right Move?

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Paid Family & Medical Leave Models

Mandated State Programs

13 states plus Washington D.C. and Puerto Rico require employers to provide Disability, Paid Family Leave or Paid Family and Medical Leave Insurance to covered employees

- **State Run Only** – Rhode Island and Washington D.C.
- **Self-Insured Options Only** – California and Washington State
- **Fully Insured and Self-Insured Options** – Colorado, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, and Puerto Rico

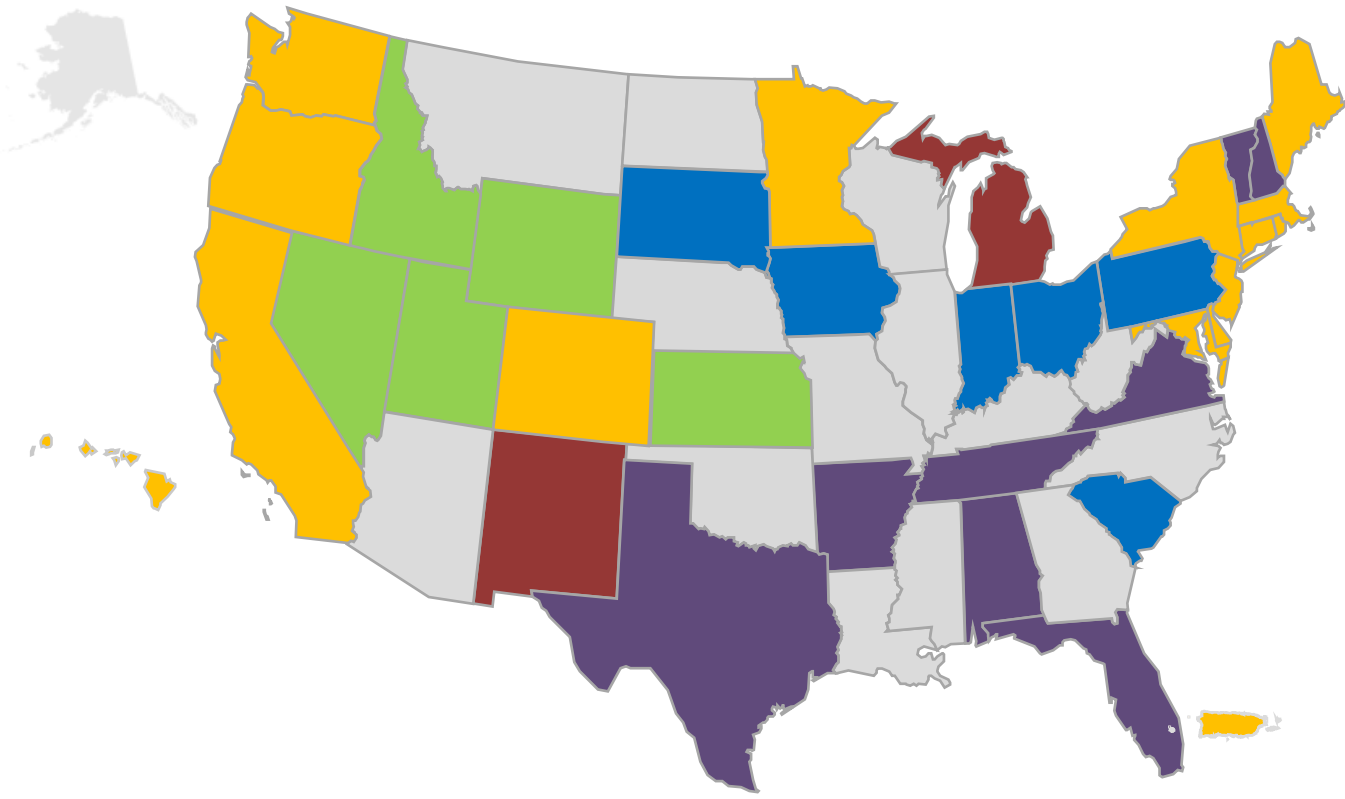
Opt-In Family Leave Insurance Programs (not mandates)







- States looking for alternatives to mandates are passing and introducing Family Leave Insurance into insurance code
- Allows insurance carriers to file the products in the states and begin offering these benefits as part of an Employer Benefit Package
- Opt-In Family Leave Insurance – Alabama, Arkansas, Florida, New Hampshire, Tennessee, Texas, Vermont, and Virginia



2024 COMPLIANCE
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State Paid Leave Landscape



-  PFML Mandates exist
-  Likely to pass PFML mandates
-  Opt-In Family Leave Insurance exists
-  Interested in Opt-In Family Leave Insurance programs (non mandate)
-  PFML legislation has been recently introduced
-  Has not introduced PFML legislation



Universal Paid Leave Plan - Is It Possible?



The Universal Option – Is It possible?

- Employers with a private plan can provide benefits greater than the state plan. It must also provide benefits at least as favorable as the state plan.
 - For example: if a state plan provides 26 weeks of disability benefits, then the employer's private plan must do so as well.
- Can a multi-state employer provide one private plan that covers all states?



The Universal Option – maximum benefit amount and length

- California requirements

- Maximum Weekly Benefit Amount (WBA) \$1,620
- Maximum Benefit Amount (WBA X 52 weeks) \$84,240
- Wage replacement rate: 60% or 70%
 - Sixty percent 60%: For individuals who earn one-third or more of the State's Average Quarterly Wage
 - Seventy percent 70%: For individuals who earn less than one-third of the State's Average Quarterly Wage
- Waiting Period: Benefits begin on the eighth (8th) consecutive day of disability. The waiting period is not included in the maximum duration.

- A disability plan will need to provide at least 52 weeks of paid benefits with an additional waiting week.



The Universal Option – benefit calculations

- Oregon
 - If the employee's average weekly wage (AWW) is equal to or less than 65% of the state's AWW, the employee's weekly benefit amount will be 100% of their AWW.
 - If the employee's AWW is greater than 65% of the state's AWW, their weekly benefit amount is the sum of 65% of the state's AWW and 50% of the employee's AWW that is greater than 65% of the state's AWW.
- Connecticut
 - 95% of average weekly wage (AWW) up to \$560 (\$600 beginning June 1), plus 60% of AWW exceeding \$560 (\$600 beginning June 1)
- Colorado
 - Average weekly wage less than or equal to \$710.58 (50% of SAWW) shall be replaced at a rate of 90%.
 - Average weekly wage above \$710.58 (50% of SAWW) shall be replaced at a rate of 50%, up to the maximum benefit.
- Washington
 - 90% of employee's AWW up to 50% of the state AWW (\$1,618), plus 50% of employee's AWW over that amount



The Universal Option – benefit calculations

- Minnesota
 - 90% of wages that do not exceed 50% of the state's average weekly wage; plus
 - 66% of wages that exceed 50% but are less than 100% of the state's average weekly wage; plus
 - 55% of wages that exceed 100% of the state's average weekly wage.
- Maine
 - 90% of wages that do not exceed 50% of the state's average weekly wage; plus
 - 66% of wages that exceed 50% of the state's average weekly wage.
- Maryland
 - Employee's AWW is < 65% of state AWW: 90% of employee's AWW
 - Employee's AWW is > 65% of state AWW: 90% of employee's AWW up to 65% of state AWW, plus 50% of employee's AWW exceeding 65% of state AWW



The Universal Option – eligibility

California requirements

- \$300 subject to SDI withholding.
- No job protection.

Oregon requirements

- \$1000 financial eligibility.
- Employees must have worked 90 days prior to their leave to receive job protection.

New York DBL

- Full time employee must work four weeks for a covered employer.
- Once they are eligible, their eligibility remains even if they switch employers.
- No job protection.

Puerto Rico SINOT

- Earned at least \$150 through covered employment during base period.
- No job protection.



The Universal Option – stacking benefits



COLORADO



OREGON



WASHINGTON



The Universal Option – pregnancy

- Pregnancy extenders
 - Colorado – four additional weeks that occur with pregnancy complications or childbirth complications
 - Oregon – two weeks for any reason related to pregnancy
- This plan will need to provide two additional weeks for any reason related to pregnancy and childbirth, then two more weeks for pregnancy complications and childbirth complications



The Universal Option – qualifying reasons

- Safe Leave
 - Colorado, Connecticut, New Jersey, Oregon, Minnesota, Maine
- Military exigency
 - California, Colorado, Connecticut, Massachusetts, New York
 - Washington, Maryland, Delaware, Minnesota, Maine
- Military caregiver
 - Connecticut, Massachusetts, Maryland, Maine
- Public health emergency
 - New Jersey
 - New York - quarantine/isolation only



The Universal Option – family members

Employee	Employee's child	Spouse's child	Domestic partner's child	Child-in-law	Parent
Parent-in-law	Domestic partner's parent	Stepparent	In loco parentis	Grandparent	Grandchild
	Sibling	Spouse	Domestic partner	individual with a significant personal bond that is or is like a family relationship (blood or affinity relationship)	



The Universal Option – Is it possible?

State	Statutory Disability	Family Leave Duration	Combined Duration	Wage Replacement %	Maximum Benefit \$
CA	52 weeks	8 weeks	52 weeks	70% for LWE	\$1,620/week
HI	26 weeks	N/A	N/A	58%	\$765
NJ	26 weeks	12 weeks	38 weeks	85%	\$1,055/week
NY	26 weeks	12 weeks	26 weeks	67%	\$170/week (DBL) \$1,151.16/week (PFL)
RI	30 weeks	6 weeks	30 weeks	4.62% of total high quarter wages in base period	\$1,043/week
	Medical Leave	Family Leave Duration	Combined Duration	Wage Replacement %	Maximum Benefit \$
CO	12 weeks	12 weeks	12 weeks	90% for LWE	\$1,100/week
CT	12 weeks	12 weeks	12 weeks	95% for LWE	\$941.40/week
DC	12 weeks	12 weeks	12 weeks	90% for LWE	\$1,049/week
DE	6 weeks	6 weeks	12 weeks	80%	\$900/week
ME	12 weeks	12 weeks	12 weeks	90% for LWE	\$1,103.71/week
MD	12 weeks	12 weeks	24 weeks	90% for LWE	\$1,000/week
MA	20 weeks	12 weeks	26 weeks	90% for LWE	\$1,149.90/week
MN	12 weeks	12 weeks	20 weeks	90% for LWE	\$1,337/week
OR	12 weeks	12 weeks	12 weeks	100% for LWE	\$1,523.63/week
WA	12 weeks	12 weeks	16 weeks	90% for LWE	\$1,456/week

States require private plans to be equal or greater than the state plans. So to have one plan that could satisfy all requirements you would need to take the richest benefits from each state.

This is a general overview to highlight some, but not all key differences in the state plans.

Lowest Benefits

Highest Benefits





Private Plan Requirements Things to Think About



Private Plan State Requirements

State	Options SP = State Plan FI – Fully Insured SI = Self Insured	Employee Voting	Application (ER or Carrier/TPA)	Reporting (ER or Carrier/TPA)	Filing / Assessment Fees	Renewals
CA	SP or SI	Yes	ER	ER	Assessment Fee	NA
HI	FI or SI (no SP)	No	Carrier/TPA	Carrier/TPA	NA	NA
NJ	SP, FI and SI	No (removed in 2020)	Carrier/TPA	Carrier/TPA	Assessment Fee	NA
NY	FI or SI (no SP)	No	Carrier/TPA	Carrier/TPA	NA	NA
RI	Private Plans are Not Available					
CO	SP, FI or SI	No	ER	Carrier/TPA	Filing Fee: \$500 per entity	8 years
CT	SP, FI or SI	Yes	ER	ER	NA	3 years
DC	Private Plans are Not Available					
MA	SP, FI or SI	No	ER	Unknown	NA	Annually
OR	SP, FI or SI	No	ER	ER	Filing Fee: \$250 per entity	Annually for first 3 years
WA	SP or SI	No	ER	ER	Filing Fee: \$250 per entity	Annually for first 3 years

When thinking about going private it's important to understand some of the requirements. For example: filing, reporting, fees and the renewal process.



Is a Private Plan the right choice? Things to Think About



- Cost
- Risk Tolerance
- Administrative Burden
- Employee Experience
- Talent Acquisition and Retention
- Benefit Equity



Employer Profile – 20 Employees Massachusetts

- Small Family-Owned coffee shop and bakery in Massachusetts
- Benefits package includes – Voluntary STD, Fully Insured LTD, Life and Voluntary Supp Health products. FMLA doesn't apply.
- Keeping expenses low is important to them, but so is employee experience. They have little risk tolerance and do not have the ability to take on additional admin responsibilities.

What should they be thinking about?



Employer Profile – 2,000 Employees Northeast

- Manufacturing Employer located in the Northeast with employees in ME, NH, MA, RI and CT.
 - Majority of employees are in ME, NH and MA. With only 100 employee in RI and CT.
- Benefit package includes – Fully Insured STD, LTD, and Life. Outsourced FMLA and ADA. Provide voluntary Supp Health products.
- Expenses are important, but employee experience is more important. They have some risk tolerance, and limited ability to take on additional responsibilities.

What should they be thinking about?



Employer Profile – 20,000 Employees Midwest and Tri-State (NY, NJ, CT)

- A software company located in the Midwest with entities in New York, New Jersey and Connecticut.
- Benefit package includes – Self Insured STD, Fully Insured LTD and Life. Outsourced FMLA and ADA. Provide voluntary Supp Health products and Employer Sponsored paid leave for bonding.
- Expenses are important, but employee experience and equity of benefits are more important. They have a robust HR team whose strategy for 2024 is talent acquisition.

What should they be thinking about?



Employer Profile – 300,000 Employee Nationwide

- A National Retail Employer with entities across the country.
- Benefit package includes – Self Insured STD, Fully Insured LTD and Life. Outsourced FMLA, ADA and employer sponsored unpaid leave policies. Provide voluntary Supp Health products and Employer Sponsored paid leaves for bonding.
- Employer understands customization and complexity of benefits come at a cost. It's important for employer to have data analytics on employee absences to create robust return to work programs.

What should they be thinking about?



Closing Remarks and Q&A



Bipartisan Paid Family Leave Working Group

- Group began meetings in Feb. 2023 – led by Rep Stephanie Bice (R-OK) and Rep Chrissy Houlahan (D-PA) with the goal of creating legislative framework.
- Group has met with various stakeholders, small and large employers, insurance carriers, advocacy groups and states with PFML programs
- Released their framework on January 8, 2024 which included Core Pillars:
 - Public-Private Partnership Paid Leave Pilot
 - Coordination and Harmonization of Paid Leave Benefits Across States
 - Small Employer Pooling for Paid Leave Insurance
 - Improvements to 45S- Paid Leave Tax Credits for Small Businesses and Working Families

Group Insurance coverage is issued by The Prudential Insurance Company of America, a Prudential Financial company, Newark, NJ.

