Untangle the Tangled Mess – PFML Private Plan Applications & Renewals

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Wednesday, August 6, 4:30-5:30 p.m.

Speakers

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Types of Statutory Paid Leave

Paid Family and Medical Leave

Mandatory

Covered employers are required by law to provide coverage for eligible employees for qualifying family or medical leave events

Paid Family Leave

Mandatory

State-mandated coverage that provides eligible employees with paid leave for qualifying events such as bonding, caring for a family member with a serious health condition, and military exigency.

Statutory Disability

Mandatory

State-mandated form of disability insurance that provides partial wage replacement for non-occupational injuries/illnesses

Amendment to Insurance Code

New private market. Amends state insurance code to allow paid family leave as a filed insurance product.

Voluntary

Mandatory state employee coverage
Voluntary opt-in for private employers and individual level

Overview of Statutory Paid Leave

- Employers in mandatory statutory paid leave states are **required** to provide coverage:
  - State Plan – default plan if the employer does not opt for a private plan
  - Private Plan – can opt out of state plan for private coverage
    - Self-insured
    - Fully-insured

- Private plan options require state approval before effective date of plan.

Poll

- Add polling:
  - Do you currently have a private plan in a mandatory PFML state?
    - Yes
    - No
  - If not, are you currently looking to file for a private plan in a mandatory PFML state?
    - Yes
    - No

Who Handles the Exemption Process?

- Each state has different requirements for employers to apply for and receive private plan approval.
- Generally, employers must apply for a private plan exemption for every FEIN subject to the mandatory law.
- It depends upon the state as to whether the carrier or employer is responsible for the private plan exemption application filing.

Who Handles the Exemption Process?

Carrier/Administrator

- CA VDI/PFL - combined
- NY DBL/PFL
- NJ TDB
- NJ FLI
- HI TDI
- WA PFML

Employer

- CT PFML
- CO PFML
- DE PFML
- MA PFML
- ME PFML
- MN PFML
- OR PFML
- WA PFML

What Should You Have Ready?

- FEIN for each parent/subsidiary
- HR Contact
- Carrier/Administrator Info
- Policy/Plan Document
  - Some states allow sample documents or a SERFF filing number
- Application fee
- Surety bond (self-insured only)

Two-Prong Requirement for Private Plans

State Plan Exemption

- Application to the state to receive approval to provide coverage to employees under a private plan rather than the state plan.
- Approval required to have a private plan with a carrier/administrator.

Carrier/Administrator Application

- Client applies with the carrier/administrator for private coverage to be provided via an underwritten policy or administrator administers a self-insured plan.
- Need approval from the state for this option.

Requirements by State

CT PFML

- Register on CT.gov
- **Fully-insured:** Provide employees with sample CT PFML policy and plain language guide.
- **Self-funded:** Provide employees with CT PFML plan template and plain language guide.
- Employees review for 2 weeks
- Employees vote. 50%+1 passes.
- **Fully-insured**: Employer applies with sample policy, plain language guide, vote results.
- **Self-funded**: Employer applies with plan document, plain language guide, vote results and surety bond.

CO PFML

- Register with My FAMLI+ Employer portal
- $500 application fee per FEIN
- Complete Private Plan Application on My FAMLI + Employer portal
- **Fully-insured** – Provide CO PFML policy (or sample policy with cover letter) and Notice of Coverage
- **Self-funded** – Provide CO PFML Plan documents, surety bond
- Private plan notice
- Certification forms or attestation

Requirements by State

DE PFML

- Register on Delaware in DE LaborFirst.
- **Fully-insured**: Complete private plan application, choose carrier and add policy number and contract.
- **Self-insured**: requires at least 100 employees & prefunded bank account; provide completed template and surety bond

MA PFML

- Register on MassTaxConnect.
- Complete MA DFML application
- May have a private plan for medical benefits, family benefits, or both.
- **Fully-insured:** provide Confirmation of Insurance form.
- **Self-insured:** provide self-insured declaration, surety bond and plan document.

Requirements by State

ME PFML

- Register with Maine Paid Leave Contributions Portal
- **Fully-insured**: Provide policy or Evidence of Coverage
- **Self-insured**: Provide plan document, plan checklist, surety bond
- Application fee $250 per FEIN

MN PFML

- Register and apply on Minnesota Paid Leave website
- May have a private plan for medical benefits, family benefits, or both.
- Provide policy or self-insured plan document
- Surety bond (self-insured only)
- Fee based on employer size :
  - $250 (>50 employees working in MN)
  - $500 (50-499)
  - $1,000 (500+)

Requirements by State

OR PFML

- Register on Frances Online portal
- $250 application fee per FEIN
- Complete Equivalent Plan Application on Frances Online portal
- **Fully-insured** - Provide OR PFML policy (or sample policy with cover letter)
- **Self-funded** – Provide plan documents and surety bond

WA PFML

- Administrators may file on behalf of employers
- Register with WA ESD Portal and complete application
- Submit self-insured plan document through the portal (fully insured polices not permitted)
- $250 application fee

Variability

- Generally private plans must provide rights and benefits equal to or better than the state plan.
- Often self-funded plans allow more variability than fully-insured plans.

- **Variability Options – Examples:**
  - Claim Application dates – how many days before and after leave will an application be accepted
  - Waiving waiting/elimination periods
  - Waiving/reducing eligibility requirements (financial eligibility and time/hours worked)
  - Reducing or eliminating employee contributions
  - Adding leave reasons, increasing leave lengths, reducing leave increments, increasing leave maximums
  - Granting greater benefit amounts and top offs
  - Coordinating/offsetting PFML benefits with other benefits including STD and employer provided paid leave

Variability Examples

- CO
  - [In order for Plan Benefits to be payable, the employee's absence must be greater than 8 cumulative hours.] [No minimum accumulation of hours is necessary for Plan Benefits to be payable.]
- CT
  - A Covered Employee may use vacation, sick or other accrued paid leave or paid time off [prior to initiating a claim under the plan] [and] [or] [while on approved leave].
  - A Covered Employee is required to use vacation, sick or other accrued paid leave or paid time off [prior to initiating a claim under the Plan] [and] [or] [while on approved leave].
- DE
  - Parents or Covered Individuals that both work for the Company may take the full amount of Parental Leave or Family Caregiving Leave that they would otherwise be allowed, [but they may not take leave concurrently] [and may take leave concurrently].

Variability Examples

- **ME**
  - Intermittent Leave may be taken in increments of [Company must insert the Company's usual increment of leave but cannot be lower than one hour].
- **MA**
  - Waiving the financial eligibility test and covering employees from the first day of employment
- **MN**
  - Intermittent Leave may be taken in increments of [one day] [Company's usual increment of leave if it is less than one day].

- **Oregon** is the only state that doesn't permit fully insured variability.

Effective Dates and What Do They Mean?

State	Effective Date
Colorado PFML	Effective any day – we suggest 1st or 15th of month.
Connecticut PFML	First of quarter after approval.
Delaware PFML	January 1. DE is moving to first of quarter after approval.
Maine PFML	First of quarter after approval.
Massachusetts PFML	First of quarter after approval.
Minnesota PFML	First of quarter after approval.
Oregon PFML	First of quarter after approval.
WA PFML	First of quarter after approval.

Employer Private Plan Exemption (and initial State Plan) Issues

- Employer does not have an internal SME/point of contact to communicate with the state program (state plan or private).
- Exemption was not filed in the correct state timeline to receive the desired effective date (private).
- Employer did not update portal information/pay state premiums (state plan).
- State plan fees were not paid to complete the exemption filing (private).
- Employer filed for the parent company and not all impacted FEINs within the state (private).

Employer Exemption Best Practices

- ***Employer does not have an internal SME/point of contact for to communicate with the state program.***
  - **BEST PRACTICE:** Even when outsourcing, best practice is to have an internal SME who operates as a point of contact. It is important to transfer this responsibility if this person leaves the company.
- ***Exemption was not filed in the correct state timeline to receive the desired effective date.***
  - **BEST PRACTICE:** This is crucial since the timelines set the baseline for effective dates. Most states will allow a date further out, but not retroactive.
- ***Employer did not update portal information/pay state premiums.***
  - **BEST PRACTICE*:*** Some states require the employer to actively "enroll" or confirm their information into the state portal even if they are defaulting to the state plan. The employer still has to take active steps to withhold state premium contributions and pay state premiums.

Employer Exemption Best Practices

- *State plan fees were not paid to complete the exemption filing.*
  - **BEST PRACTICE:** The state plan exemption is incomplete until all fees are paid. Some states separate the process. That means the internal SME would have to access the state portal again to process the fee to complete the exemption process.
- *Employer filed for the parent company and not all impacted FEINs within the state.*
  - **BEST PRACTICE:** The state views each FEIN as its own entity. It is important to file an exemption for all impacted FEINs.

Employer Requirements

- Employers may have different obligations when under a private plan vs. being under the state program.
- Requirements include:
  - Notice to employees and to the state
  - Reporting
    - Claims
    - Financial
  - Renewal

Employer to Employee Notice Requirements

- Generally, employers must provide a notice of the plan and how to file a claim to their employees in English, Spanish, and the language in which they communicate with an employee.
- The private plan notice is sometimes in the form of a poster or tangible notice, but most states allow digital notice via email.
- Notice must usually be provided when the private plan starts and upon hiring. Some states also require annual notice and/or notice at time of claim or when the employee requests leave.

Employer Notice Issues

- Employer does not train people leaders on notice requirements or plan information.

- The notice is not in a language that the employer uses to communicate with their employees (this requirement varies).

- The notice is not made readily available to employees and employees file with the state rather than the carrier/administrator.

Employer Notice Best Practices

- ***Employer does not train people leaders on notice requirements or plan information.***
  - **BEST PRACTICE:** It is important that people leaders understand the leave and notice requirements and that the state-specific requirements are included in the employer's internal policies and in HR training.
- ***The notice is not in a language that the employer uses to communicate with their employees (this requirement varies).***
  - **BEST PRACTICE:** Review the requirements for each state and consult with your carrier/administrator regarding requirements and what they provide. Most states have sample notices in other languages that employers may use as well; however, your carrier/administrator can supply where the employee must file their claim. This is required for state plan or private plan administration.

Employer Notice Best Practices

- ***The notice is not made readily available to employees and employees file with the state rather than the carrier/administrator.***
  - **BEST PRACTICE:** Ensure your employee leave materials are up-to-date and include all required notices. The notice should have where the employee can file their claim. When the employer has a private plan, that is with whoever is administering the claims for the program.

Reporting

- Most states require at least annual claims data reporting
- For fully-insured products, some states allow the carrier to report for the employer and that report is on the entire block of the carrier's business within that state
- Other states require reporting for fully-insured products to be done by every FEIN that the employer has within the state.
- Employers are responsible for claims reporting for self-insured plans.
- Employers are responsible for financial reporting such as wages.

Reporting

State	Frequency	Procedure	Due Date
CO	Quarterly	Fully Insured—Reported in aggregate to the state by carrier. Self-Funded—Per FEIN reporting.	30 days after quarter close. Q1: April 30; Q2: July 31; Q3: October 31; Q4: January 31
CT	Annual	Per FEIN for ALL funding mechanisms. Aggregate reporting is not permitted.	May 1st for data for the previous calendar year. Ex. Due Date May 1, 2025 would require data from January 1, 2024-December 31, 2024
DE	Quarterly (financial) Annual (claims data)	Unknown at this time. Industry groups are working with the Division to develop a claims reporting process.	Financial – Quarterly beginning 4/30/26 Claims data – Annual beginning 1/30/27

Reporting

State	Frequency	Procedure	Due Date
MA	Annual	Fully Insured—Reported in aggregate to the state by carrier. Self-Funded—Per FEIN reporting.	August 31 for the fiscal year ending June 30. Ex. July 1, 2023 to June 30, 2024.
ME	Quarterly (financial) Annual (claims data)	Industry groups are working with the state for fully insured aggregate reporting by carrier Self-Funded – likely per FEIN reporting	Financial – Quarterly beginning 4/30/25 Claims data – Annual beginning 7/01/27
MN	Quarterly (financial) Annual (claims data)	Unknown at this time. Industry groups are working with the Division to develop a claims reporting process.	Financial – Quarterly beginning 10/31/24 Claims data – Annual beginning 11/01/26
OR	Annual	Per FEIN for ALL funding mechanisms. Aggregate reporting is not permitted.	January 31st each year. Ex. The 2025 report covered data for all of 2023 and 2024.

Employer Reporting Issues

- The employer has a private plan and does not report financial wages in states that require financial and claims reporting.
- The employer has a state plan and does not file timely financial wage reporting.
- The employer does not file the claims reporting.

Employer Reporting Best Practices

- ***The employer has a private plan and does not report financial wages in states that require financial and claims reporting.***
  - **BEST PRACTICE:** DE, ME AND MN all require financial reporting from employers with private plan exemptions. This information is included in the tool chart. Ensure you file timely financial reports.
- ***The employer has a state plan and does not file timely financial wage reporting.***
  - **BEST PRACTICE:** Employers with state plans still need to file wage reports with the state based upon the cadence set by the state. Not doing so could result in penalties levied against the employer.
- ***The employer does not file the claims reporting.***
  - **BEST PRACTICE:** Ensure you discuss this with your carrier/administrator to determine how reporting is handled. Some states like CO and MA allow the carrier to report fully-insured claims data in aggregate. All self-funded groups must report claims data by FEIN.

Renewals

- All PFML states require renewals based on a timeframe, set of circumstances or both.

- Single-statute states do not require renewals.

- The state exemption renewal is different than renewal with a carrier or administrator.

Renewal by State

State	Requirements
Colorado PFML	Expire 8 years after effective date. Annual attestation required via portal.
Connecticut PFML	Expire 3 years from date of approval OR material change. Renewal/Change – must redo vote and process.
Delaware PFML	We are still awaiting renewal requirements
Maine PFML	Expire 3 years from effective date. Need department approval to cancel.
Massachusetts PFML	Expire 1 year from effective date.
Minnesota PFML	Evergreen after 1st year until withdrawal or termination.
Oregon PFML	For the first 3 years, plans expire after 1 year. After first 3 years, plan is evergreen unless there is a change, withdrawal or termination.
Washington PFML	For the first 3 years, plans expire after 1 year. After first 3 years, plan is evergreen unless there is a change, withdrawal or termination.

Employer Issues

- Timeline for carrier renewal is different than timeline for state plan exemption renewal.
- Multiple state plan exemptions, different timelines and remembering to renew with one or more states.
- Renewal documentation not sent in timely.

Employer Issues – Failure to Renew

State	Consequence
Colorado	Return to state plan for 3 years. Failure to provide 30 days notice can be a fine of $500/employee
Connecticut	Return to state plan. Subject to a penalty equal to the first full calendar quarter of contributions that employees must pay to the Authority
Delaware	Return to state plan
Maine	Return to state plan. Remit employer and employee contributions to the Fund calculated from the date of the prior exemption expiration; employer may not deduct the employees' portion from payroll
Massachusetts	Return to state plan. Penalty up to the total annual payroll for employees and covered contract workers each year or fraction thereof that it failed to maintain the plan multiplied by the then-current annual contribution rate
Minnesota	Likely return to state plan.
Oregon	Return to state plan.
Washington	Return to state plan.

Employer Best Practices

- ***Timeline for carrier renewal is different than timeline for state plan exemption renewal.***
  - **BEST PRACTICE**: Ensure that your HR SME understands the different requirements. State plan renewal is for the approval to have a private plan. While carrier renewal usually is due to carrier premium.
- ***Multiple state plan exemptions, different timelines and remembering to renew with one or more states.***
  - **BEST PRACTICE**: Ensure your HR SME understands the timelines for each state where you have a private plan. This requires a backup SME and calendar reminders for renewal. Also see how your carrier/administrator can help you with this step since you generally cannot outsource the renewal (except for WA PFML).
- ***Renewal documentation not sent in timely.***
  - **BEST PRACTICE:** Most states have penalties and/or will terminate private plan exemptions if not filed timely. This causes several issues for you, carrier and your employees. Ensure you have calendar reminders, back up HR SME and understand what documentation is required.

Questions?

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THANK YOU!