DMEC 2025 ANNUAL CONFERENCE

MetLife

Coffee With Chris Counihan, Director Of Delaware Paid Leave

Exploring Delaware's Paid Family and Medical Leave

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Speakers

AVP, Disability & Absence Products
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Director
Delaware Paid Leave

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Agenda: Unique to Delaware's PFML Law

- Policy design
- Employer and employee's eligibility
- Claim administration
- Coverage options

DE PFML Plan Design

Common for FMLA states

12 weeks every year maximum combined leave: Employee's own serious health condition, bonding, family caregiver and qualifying military exigency

Job protections align to federal FMLA

Leaves can be taken in 3 ways

- Continuous
- Intermittent
- Reduced schedule

Common for PFML states

Funded by Employer and DE Worker contributions

Wage replacement 80% of FICA wages

FICA include base wages, overtime, bonuses, commissions and tips

80% wage replacement benefit

up to Maximum $900/week

Unique to Delaware

Provides 4 types of leave under 3 lines of business

6 weeks every 2 years

Medical Leave

Family Caregiver*

Qualified Exigency*

12 weeks every year

Parental Leave including newborn births, adoption, and foster care

* Family caregiver and Qualified exigency leaves are priced together under the PFL coverage bucket

Poll Slide

How many workers do you have in Delaware?

- None
- 1-9
- 10-24
- 25 or more
- We have Delaware workers, but I do not know how many

Worker Eligibility

Program Eligible

01 Work primarily (60% of their time) in the state of Delaware.

02 Employers with 10 or more employees.

03 Federal agencies, "seasonal" employers are excluded from the law.

Nonprofits and religious organizations are not excluded from this mandate.

Benefit Eligible

01 Have worked for you for at least the past 12 months, and

02 Worked at least 1,250 hours (@ 25 hours per week) over the last 12 months.

If you have an employee who is program eligible but will never be benefit eligible, they should be put on waivers.

Employer requirements under the law are driven by Delaware Worker Counts

Employer type	Coverage Requirements
1-9 DE Workers	Exempt
10-24 DE Workers	Paid Parental Leave Only
25+ DE Workers	Full Coverage
Federal Government workers	Exempt
Seasonal Operations (Shut down 1+months or more annually)	Exempt

How to count employees?

Employees are counted on the first business day of each quarter.

All Delaware workers

Full time + Part time

Temporary + Permanent

Should be on quarterly Wage reports

Employees on Waiver

Who will never work 1250+ hours with employer or be employed longer than one year.

Reclassified DE Workers

Has connection to DE, but may be on temporary assignment not working in DE

Telecommuters and Hybrid workers may be eligible for Reclassification if they:

Work

Work at least 40% or more in Delaware

- An employee who works 5 days per week, but WFH (from their home outside of Delaware) 2 days = 40% in Delaware (Covered)
- Same situation, but WFH 3 days per week = Not Covered

Do not work

Do not work 40% but are

- Assigned to Delaware teams but telecommute from their homes outside of Delaware; or
- Delaware employees who are on temporary assignment out of state.

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FAQs

I did not send my quarterly report in or **taking payroll deductions for my DE workers?**

I sent in my report but not been counting my DE workers in this way. **Do I need to send in corrected quarterly reports?**

I want to offer DE benefits or upgrade to offer all DE PFML benefits even if I'm not subject to the mandate. **Can I?**

What if my DE Employee Count changes?

Coverage is . . .

EASY TO GAIN & HARD TO LOSE

Add Coverage

Once your EE Count hits a Threshold Number (10 or 25), all your EEs get the new coverage(s) the first day of the next Quarter.

Drop Coverage

If your EE Count falls below a Threshold Number (10 or 25) for 4 straight quarters, all your EEs lose their coverage(s) the first day of the next Quarter.

Poll Slide

How do you administer FMLA?

- In house
- Co-source with a partner TPA or Carrier
- Outsource to a TPA or Carrier
- Not applicable because I'm not subject to FMLA
- I don't know

Claims – State's process

Employee

System determines if claim is ineligible (sends out notice if ineligible).

- Employees file a claim by logging into Labor First using SSN.
- Answers questions to define type of claim
- System sends employee QR Code & unique identifier, so HCP can complete the Certification online
- If Approved – must keep leave dates current in Labor First system and keep employer informed.
- If Denied – can ask for Review and/or Appeal

Healthcare Provider

System advises if claim meets the rules to trigger employer to decide

- Medical Leaves and Family Caregiver leave will require a Healthcare Provider (HCP) to submit certification.
- HCP has 30 days to determine if illness or injury is serious enough, how long the leave should be, and what type of leave they should get.

Employer

System sends decision letter.
If approved, system calculates the benefit

- Employer answers questions about the Employee and claim
- System advises if claim meets the rules; employer makes the decision.
- If Approved – must administer Leaves approved in Labor First to trigger benefit payments

State

- If approved, the Division will issue benefit checks
- If Denied – the Division will respond to any Employee requested Review and/or Appeal

Poll Slide

Did your company receive a DE PFML Private plan exemption for 2025?

- Yes
- No
- I don't know

Coverage Options

State Claim Administration

Default

Labor First registration-Fall 2024

Quarterly reports sent April 2025
(June for TPAs)

PFML Trust fund contributions July 2025

State Claim Administration

Optional

2024 private plans ~16%

~1,360	<100	~250
Insurance	Self-funded	Voluntarily enrolled

Annually Renew

Participate in the program development

- Legislators are considering changes to the law.
- Regulations are being defined
- Business rules are under development

Anyone can

Reach out to local elected state officials

Public comment periods to hear feedback and consider changes before regulations are finalized

Visit the website to see the resources available (calculators, posters, etc.)

Reserve Virtual Office hours Tuesdays and Thursdays
1:00 or 1:30 by Zoom

Employer Duties under the law

- Manage Delaware worker counts to support level of benefits
- Employee Waivers & Reclassifications
- Employee Communications
  - Annual changes
  - Notices of Rights, Notice for changes of coverage
- Participate in the claim process or delegate to a private plan administrator or TPA

How to prepare

October 2025

- Private plan application portal will open
  - Enrollment through December 1, 2025
- Social Security Wage for 2026 will be published
  - Payroll teams will need to know the new payroll caps for 2026

4Q 2025

- Update Employee Benefit Handbooks to include DE PFML
- Train staff

December 2025

- Prepare for claims to be filed (Notice of Rights to be available)
- Communicate new benefits and payroll deductions to DE workers

January 2026

- DE PFML Benefits become payable

Q&A

Thank You

Appendix

Development Timeline

Reflecting the state's preparations for the new law

2022

May 2022

- PFML Law passed

2H 2022

- State Resources defined to build PFML

2023

1Q 2023

- Round 1 Regulations published & reviewed

July 2023

- Round 1 Regulations effective

December 2023

- Deadline-applications for Grandfathering & Small Business reduced benefit requests

2024

May 2024

- Round 2 Regulations effective

September 2024

- LaborFirst Live-Private plan enrollment began

December 2024

- Deadline-Private plan enrollment

2025

January 2025

- PFML Trust Contributions started
- Private plan exemptions started

April 30, 2025

- Quarterly Wage reports started

July 30, 2025

- Q2 Wage reports due
- Q1 & Q2 Contributions Due

Oct - Dec 2025

- Private plan enrollment

2026

January 2026

- Claims applications will be accepted

April 30, 2026

- Quarterly Wage reports required for private plans

Oct - Dec 2026

- Private plan enrollment

Employee Waivers and Reclassification

Public Plan

- DE LaborFirst technology will manage process
- Employer fills out a Form for Waiver or Recertification and electronically signs it
- DE LaborFirst created the waiver/recert and sends it to the employee to sign
- Employee electronically signs and the system sends it back to the ER (or administrator)
- System automatically marks EE as 'on waiver or adds them to the eligible population

Private Plan

- Employer provides the eligible workers to the carrier or TPA

Delaware PFML Claim administration timeline

Roles				
Employee	Employer	Employer	State	Employer
		May delegate to a TPA		

Apply for Benefits

30 days in advance OR as soon as possible (Reg 11.6)

- Employee should notify employer within 30 days of the first day of leave if leave is foreseeable, or as soon as you can if leave is not foreseeable.
- Employee applies for benefits using the LaborFirst web portal.

Confirm Information

3 days for ER information (Cert request on day 4)

- Employer provides additional info about claimant & Claim
  - Active EE?
  - Job Description
  - Work Related illness or injury?
- Certification process in system (Medical & FC claims only).
- If HCP declines or doesn't respond after 30 days, the claim is deemed ineligible.

Review and Decide

Within 5 business days of receiving a completed claim

- System will decline applications and send out notice, if EE or claim is ineligible.
- System will provide advice on whether the claim should be paid. You decide to follow the system's advice (or not). ER must explain why.
- Employer's decision is sent out by DPL along with instructions on how to ask for a review.

Pay Benefits

Within 2 weeks of approval or first absence date

- Benefit payments batched every Tuesday, then "checks" released.
- Once ER approves, the Division reviews for a week. If that review is complete by Tuesday, claim will be released.
- Employer/payroll servicer must "turn off" payroll during Leave.
- Subsequent payments every week. Payment by ETF or debit card.

Administer Absence

- System will track absences for continuous, reduced schedule, and/or intermittent leave.
- Use LaborFirst to take intermittent leave.
- Employees can use system to return to work early.
- Employees can request Appeals through system.