COMPLIANCE INSIGHTS

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Delaware to Implement Paid Family and Medical Leave

June 21, 2024

Delaware Paid Leave goes into full effect January 1, 2026. Applications for private plans begin September 1, 2024.

What's Happening?
Delaware is implementing Paid Family and Medical leave (PMFL), which is a state-mandated benefit for workers that allows time off for certain qualifying life events. This benefit includes **Parental Leave, Medical Leave, Family Caregiving Leave**, and **Military Exigency Leave**, depending upon the employer size and type.

Which employers does this affect?

- **0-9 Employees working in DE:** Excluded from coverage under State Program
- **10-24 employees working in DE:** Must offer Parental Leave only; it can offer all lines of coverage
- **25+ Employees working in DE:** Must offer all lines of coverage

Covered individuals will have worked at least 12 months with their employer and have worked 1,250 hours in the last year.

Are any industries excluded?
Federal government entities and any business that is closed in its entirety for 30 consecutive days or more per year are excluded.

Is there a private plan option?
Delaware is allowing employers to satisfy their obligation with an approved self-funded or fully-insured private plan.

Private plan - what does that mean?
Insurance carriers will offer Delaware PFML plans to replace the state program. This allows employers to work with insurance carriers for premium payment and claims administration and stay as competitive as possible by offering options that satisfy the state requirements.

When is this happening?
For employers opting into the state plan, premium contributions will begin on January 1, 2025. Employee benefits will be effective on January 1, 2026. Employers electing private plans will begin premium payments on January 1, 2026.

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How much does this cost?
Delaware Rates:

Quick Reference	
Total State Rate:	0.8%
Contribution Split:	50% Employer / 50% Employee
Cap:	$168,600 (social security wage base)
State rates are separated by Medical (.4%), Family (.08%), and Parental (.32%)	

- An employer may elect to pay all contributions or deduct up to 50% of the required contributions from the employee's wages.
- Private plan costs will vary by insurance carrier. However, employees cannot pay more under a private plan than they would under the state.

Example: A covered individual makes $80,000 per year or $6,666.67 per month. The rate for an employer offering all PFML coverages is .8% of total wages. To calculate the monthly premium obligation under the state plan, employers would use (RATE)/100 x Volume = Monthly Premium. In this example, .8%/100 = .008 x $6,666.67 = $53.33 per month.

What do employers need to do?
If an employer wishes to opt out for a private plan, they must declare this between September 1, 2024, and December 1, 2024. Employers will have an opt-out window during this time each year for the following calendar year's plan.

What do my employees receive under these plans?
Benefit Durations:

- Parental Leave: 12 weeks in a 12-month Period
- Paid Medical Leave/Family Caregiving/Qualified Military Exigency Leave: 6 Weeks in a 24 Month Period combined

Benefit percentage and maximum benefit:

- Up to 80% of average weekly wage on a sliding scale
- Maximum weekly benefit for 2026 and 2027 = $900

Waiting Period:

- None

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Do employers still need Short Term Disability Coverage?

- While Delaware PFML will provide income during approved leaves, Short Term Disability (STD) can supplement benefit durations and benefit maximums. PFML covers only six weeks of leave for one's own serious medical condition, while STD plans range from 11 up to 26 weeks of benefit payments. Once an employee's six weeks of PFML have been exhausted – they aren't eligible again for 24 months.
- PFML caps an employee's weekly benefit during leave to $900.00 per week. Employees making over $80,000 annually would be under-insured as it pertains to a suitable income replacement ratio should they happen to go out on disability. STD plans typically cover 60% to 70% of an employee's income up to a specified weekly maximum determined during plan design.
- With the DE PFML plan being a state-mandated line of coverage, that plan will pay first when coordinating with STD. As a result, the STD rates will decrease in 2026 because the first $900 will be paid from the DE PFML plan for the first six weeks of the claim, thus reducing the liability on the STD.
- Unlike statutory paid leave, STD plans often include return-to-work rehabilitation support, return-to-work accommodation support, dependent care reimbursement, and work incentive benefits. These product features help support your employee's return to work after a medical leave.

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