

**Commission to Develop A Paid Family and Medical Leave Benefits Program**  
**Updated/For Review December 2, 2022**

**Program Design Recommendations for Commission’s Proposal for a Paid Family and Medical Leave Benefits Program**

*(Italics – discussions but decision not yet made by the Commission)*

<b>Program Design Question</b>	<b>Commission Recommendation (By consensus or straw vote)</b>	<b>Recommendation in Ballot Initiative from Maine Paid Leave Coalition (from proposed legislation)</b>
What purposes can leave be used for?	<ul style="list-style-type: none"> <li>• Adopt same purposes for leave that are permissible for federal FMLA:</li> <li>• <b>And</b> also include safe leave and affinity relationships</li> </ul>	<ul style="list-style-type: none"> <li>• Bonding leave during first year</li> <li>• Caring for own serious health condition</li> <li>• Caring for a family member with serious health condition</li> <li>• Qualifying exigency leave for family member on active duty</li> <li>• Safe leave</li> </ul>
Who is covered?	<ul style="list-style-type: none"> <li>• Include all workers—full-time, part-time, temporary and seasonal workers</li> </ul>	<ul style="list-style-type: none"> <li>• Includes all workers</li> </ul>
Are public sector workers automatically covered?	<ul style="list-style-type: none"> <li>• Public employers may choose a substantially equivalent private plan (same as private employers).</li> </ul>	<ul style="list-style-type: none"> <li>• Public sector employers included</li> <li>• Current collective bargaining agreements continue to apply until expiration of contract</li> </ul>
Can self-employed workers opt in to coverage?	<ul style="list-style-type: none"> <li>• Yes, allow self-employed workers to opt in</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>
What are the requirements to qualify for benefits? e.g. minimum level of earned wages or period of time as an employee?	<ul style="list-style-type: none"> <li>• Lookback for prior 4 Quarters</li> <li>• All employers for portability</li> <li>• Formula should be based on earned wages tied to a factor of the SAWW during base period –Committee of jurisdiction should recommend minimum requirement</li> </ul>	<ul style="list-style-type: none"> <li>• Lookback to 4 of the last 5 quarters</li> <li>• All employers included—multiple jobs</li> <li>• Earnings of at least 6 times the SAWW during base period</li> </ul>
What family members are covered?	<ul style="list-style-type: none"> <li>• Adopt same definition of family member as in state FMLA law</li> <li>• <b>And</b> also include affinity relationships</li> </ul>	<ul style="list-style-type: none"> <li>• Mirrors state FMLA law</li> <li>• Includes affinity relationships</li> </ul>

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Are employees who have children born, adopted, or fostered prior to effective date of PFML benefits eligible to take bonding leave? Are there any limits to that eligibility?	<ul style="list-style-type: none"> <li>• Bonding leave may be taken during the first year after birth, adoption or placement in foster care</li> <li>• Estimated cost increase of claims in first year of 2% if included</li> </ul>	<ul style="list-style-type: none"> <li>• Bonding leave may be taken during the first year after birth, adoption or placement in foster care</li> </ul>
How is the program funded? What level of contributions are required from employers and employees?	<ul style="list-style-type: none"> <li>• Require employers with <math>\geq 15</math> employees and employees to contribute to program costs based on percentage of wages</li> <li>• <i>25/75 and 50/50 (employer/employee) for modelling purposes</i></li> <li>• <i>(1% is desired maximum amount of total contribution)</i></li> </ul>	<ul style="list-style-type: none"> <li>• Require employers with <math>\geq 15</math> employees and employees to contribute to program costs based on percentage of wages</li> <li>• Total contribution rate of 0.86% from 7/1/25 until 12/31/27</li> <li>• Beginning 1/1/28, contribution rate determined annually, but must be at least 135% of total claims in prior year plus 100% of administrative costs</li> </ul>
What is the wage base to be used for determining contributions? Use Social Security maximum wage limit or unlimited wages?	<ul style="list-style-type: none"> <li>• Unlimited wage base recommended as it provides savings in overall contribution rate by spreading costs over larger wage base</li> <li>• Recognize that SS limit is commonly used in other state programs</li> </ul>	<ul style="list-style-type: none"> <li>• Social Security wage limit applied</li> </ul>
Are small employers with fewer than 15 employees exempt from making contributions?	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>
What percentage of wages do workers receive? Flat or tiered benefit structure?	<ul style="list-style-type: none"> <li>• 90% of wages recommended by majority</li> <li>• 80% wage replacement supported by all members voting on 11/29</li> <li>• Present both options as part of report for consideration by Legislature</li> </ul>	<ul style="list-style-type: none"> <li>• 90% of employee's average weekly wage equal to or less than 50% of the SAWW <u>plus</u> 65% of employee's average weekly wage that is more than 50% of the SAWW</li> </ul>

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What is the maximum weekly benefit? Is the state average weekly wage? Or lower or higher?	<ul style="list-style-type: none"> <li>• 120% of the SAWW</li> </ul>	<ul style="list-style-type: none"> <li>• Until 1/1/27, maximum weekly benefit is \$1000</li> <li>• After 1/1/27, maximum weekly benefit is SAWW</li> </ul>
For how long can a worker receive benefits? Are there specified maximum benefit periods for different types of leave? Is there a combined maximum benefit period?	<ul style="list-style-type: none"> <li>• 16-week maximum total combined limit</li> <li>• 12-week maximum limit for particular qualifying need</li> <li>• Recommend that program evaluate data on claims costs and funding to determine if combined maximum limit can be extended in future</li> </ul>	<ul style="list-style-type: none"> <li>• 16-week maximum total combined limit</li> <li>• 12-week maximum limit for particular qualifying need</li> </ul>
Is there an unpaid 7-day waiting period? Or no waiting period?	<ul style="list-style-type: none"> <li>• 7-day medical waiting period (straw vote 7-1)</li> </ul>	<ul style="list-style-type: none"> <li>• No specific waiting period in proposed legislation</li> </ul>
Are workers entitled to have their jobs back when they return?	<ul style="list-style-type: none"> <li>• Address this issue through provisions in current federal and state FMLA laws</li> <li>• Do not include explicit language in any PFML legislation</li> </ul>	<ul style="list-style-type: none"> <li>• Provides that employees employed at least 120 days by an employer must be restored to prior position</li> </ul>
Is an employer allowed to use an equivalent or more generous private insurance plan to provide the benefit?	<ul style="list-style-type: none"> <li>• Yes, allow a private plan option that is substantially equivalent</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>
How is the benefit provided? What is the organization and structure for administering the benefit?	<ul style="list-style-type: none"> <li>• Simple</li> <li>• Robust financial review and audit process</li> <li>• Data collection and evaluation of trends to determine if PFML benefits can be extended</li> </ul>	<ul style="list-style-type: none"> <li>• Program overseen and administered by the Department of Labor, Bureau of Labor Standards</li> </ul>
Will employees be allowed to take intermittent leaves of absence? If	<ul style="list-style-type: none"> <li>• Yes, minimum 8-hour increments</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, minimum 8-hour increments</li> </ul>

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so, are there minimum increments (e.g., 4 hours, 8 hours, etc.)		
How will benefit interact with workers' compensation?	<ul style="list-style-type: none"> <li>• WC benefits should be primary and employee should not receive concurrent benefits</li> <li>• Do not want to impact stability of WC system</li> <li>• Any legislative proposal must address interaction with WC explicitly in statute</li> <li>• Committee of jurisdiction should consider issue carefully with input from WCB</li> </ul>	<ul style="list-style-type: none"> <li>• Covered individual may not receive WC benefits for total incapacity concurrent with PFML benefits</li> <li>• Covered individual may receive concurrent benefits for partial incapacity and PFML benefits may not be reduced by WC benefits</li> </ul>

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