Regulations Clarify Maryland FAMLI

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On March 30, 2026, the Maryland Department of Labor (DOL) published Family and Medical Leave Insurance (FAMLI) regulations to help clarify several important items for covered employers and government entities that employ at least one individual who performs qualified employment in Maryland.

The regulations clarify:

- Contributions to the program;
- Equivalent private insurance plans (EPIPs);
- Claims and benefits;
- Coordination of benefits; and
- Notice requirements.

In addition, the DOL provided a timeframe for covered employers to provide FAMLI with a Declaration of Intent (DOI) to utilize a private plan and confirmed the initial contribution rate.

Background

Maryland passed the Time to Care Act of 2022 (the law) on April 11, 2022, which requires covered employers to provide up to 12 weeks within an application year of paid family and medical leave benefits for certain permitted reasons. Contributions to the state plan of 0.9% of an employee's wages are set to begin on January 1, 2027, with benefits set to begin no earlier than January 1, 2027, and no later than January 3, 2028.

Regulations Published

Contributions to FAMLI

FAMLI is funded by a combination of employer and employee contributions to the state fund. The required contribution is based on a percentage of the employee's wages paid by the employer up to the social security wage base each calendar year.

Employees can be required to contribute to the program provided:

- No more than 50% of the total rate of contribution is required from employees; and
- The employer provides written notice to all covered employees of the contribution withholding at least 1 pay period prior to the commencement of the withholding.

If an employer fails to deduct an employee's share of the required contribution, they are considered to have elected to pay the employee's share for that period and cannot recoup the missed deduction.

Employers with less than 15 employees are only required to remit 50% of the total contribution rate. Employer size is determined annually by averaging the number of employees to which the employer paid wages in each quarter of the previous calendar year. Employees both in Maryland and in other states are counted for this purpose.

Contributions to FAMLI are remitted each quarter and employers are required to file quarterly wage and hour reports with the DOL's FAMLI Division (Division). Contributions are required to be paid on or before the last day of the month immediately following each calendar quarter.

Equivalent Private Plans

A covered employer can meet their obligations under the law by either participating in the state plan or by maintaining an approved EPIP. An EPIP can either be fully insured through an approved commercial insurer or self-funded.

An EPIP may not charge employees more than what is required under the state plan and must provide the same or better benefits as the state plan. An EPIP must be submitted (with an appropriate filing fee based on employer size) and approved by the Division and becomes effective on the first day of the calendar quarter following the date of approval. Approved EPIP applications expire one year from the effective date of the EPIP and employers must re-apply at least 90 days prior to the EPIP's expiration.

If an employer chooses to self-fund their EPIP, the following requirements will apply:

- The employer must have at least 50 employees;
- Proof of solvency must be provided by obtaining a sufficient surety bond; and
- Employee contribution withholdings must be deposited and held in a separate, dedicated account from which benefits are paid and subject to audits by the Division.

Employers with an EPIP are subject to additional reporting requirements which include quarterly claims-level and employer-level data which must be submitted on or before the last day of the month immediately following the close of the quarter. Employers are permitted to authorize EPIP administrators (e.g., a commercial insurance carrier) to file the reports on their behalf.

An employer intending to apply for an EPIP may submit a DOI to the Division. A timely submitted DOI will exempt the employer from contributions to the state plan during the initial contribution period.

Claims and Benefits

A covered employee is permitted to take FAMLI leave for the following reasons:

- To care for or bond with a child during the first 12 months following the child's birth or placement for adoption, foster care, or kinship care;
- To care for a family member with a serious health condition;
- To care for the employee's own serious health condition;
- To care for a service member's serious health condition arising from uniformed service where the employee is their next of kin; and
- Qualifying military exigencies.

An eligible employee can generally apply for leave within 60 days of the anticipated beginning date of leave and no later than 60 days after leave has begun. An application for FAMLI leave must be accompanied by certain required documentation and/or certification of the need for leave depending on the type of leave requested.

A covered employee can receive up to 12 weeks of FAMLI leave and an additional 12 weeks where the employee previously received medical leave and later becomes eligible for bonding leave (or vice-versa) per application year.

An employee's benefit is calculated based on their average weekly wage, which is the employee's earned wages from the employer over the highest of the previous 4 completed calendar quarters divided by 13. The FAMLI benefit will be the sum of:

- 90% of the claimant's average weekly wage up to 65% of the state average weekly wage; and
- 50% of the claimant's average weekly wage that is greater than 65% of the state average weekly wage up to the maximum weekly benefit amount.

Employees on FAMLI leave are entitled to job protection and must return to the same or equivalent position upon their return from leave. An employee's health benefits must also be maintained while on FAMLI leave.

Coordination of Benefits

FMLA can run concurrently with FAMLI and may be used to reduce the maximum duration of FAMLI leave where:

- The employee's FMLA leave was also eligible for FAMLI;
- The employer notified the employee of their potential eligibility for FAMLI when the employee took FMLA; and
- The employee did not apply for FAMLI leave.

Alternative FAMLI Purpose Leave (AFPL) can be required to be used concurrently with FAMLI where the requirement is communicated in writing in advance and the AFPL is:

- Specifically designed to fulfill a purpose of FAMLI;
- Paid;
- Not accrued;
- Not subject to repayment if the employee leaves their position;
- Not available for general purposes; and
- Available without a requirement to exhaust another form of leave.

Where an employer provides general purpose leave (e.g., PTO) it cannot be required to be substituted for FAMLI leave; however, the employer and employee can agree in writing to use general purpose leave to supplement FAMLI benefits up to 100% of the employee's average weekly wage.

An individual receiving unemployment benefits from the state or worker's compensation benefits (except in the case of benefits for permanent partial disability) is not eligible for FAMLI benefits.

Notice Requirements

Employers must provide notice of FAMLI benefits to covered employees:

- Six months prior to the beginning of benefits (i.e., July 2027);
- At hire;
- Annually;
- 30 days prior to the effective date of any changes to the employer's FAMLI procedures or plan; and
- When the employer knows that an employee's leave request may be eligible for FAMLI.

The Division will publish model notices and forms that can be used by employers.

Employees must provide notice to the employer of the need for leave at least 30 days in advance where the need is foreseeable. Where unforeseeable, notice must be provided as soon as practicable. Employees are permitted to take intermittent leave and when intending to do so, the employee must provide the employer with reasonable prior notice and make a reasonable effort to schedule the leave so that it does not cause the employer significant difficulty or expense.

Declaration of Intent Window

Employers intending to utilize an EPIP and wishing to be exempted from the initial contribution period must file a DOI with the DOL between **September 1, 2026**, and **November 15, 2026**. This is not required if an employer intends to participate in the state plan.

Employer Action

Employers should begin to prepare for FAMLI implementation and consider the following:

- Review the regulations and determine whether their leave policies comply with the regulations.

- Determine whether they will participate in the state plan or utilize an EPIP. If using an EPIP, submit their DOI between September 1 and November 15, 2026.

- Register with the Division if covered by the law. Registration will open in Fall 2026 and is necessary to submit required reporting, remit contributions, submit DOI, and EPIP applications.

- Coordinate with employment counsel, leave administrators, payroll providers, and/or commercial insurance carriers to ensure they are ready to begin administering contributions by January 1, 2027, and paying benefits by no later than January 3, 2028.