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| MDOL logoText  Description automatically generated  Filing Review Requirements Checklist for Self-insured Plan Document  Revised – 10/3/2025   * Employers must include language and provisions in the self-insured plan document that comply with the requirements of the law and rule. The location (Page number, Section, Paragraph, etc.) of the standard in the plan document must be cited in the last column of this checklist. The checklist will be uploaded as a cover sheet for the self-insured private plan document in the Maine Paid Leave Contributions Portal at: https://pfml.maine.gov/contributions. * Any response of N/A requires that an employer explain why the requirement is not applicable. * This checklist is intended to provide a summary of items necessary for a self-insured private plan to qualify for substitution for Maine PFML. The plan must confer rights, protections, and benefits substantially equivalent to or greater than provided to employees through Maine PFML. * If an Employer uses a third party to administer its self-insured private plan, the Employer remains fully responsible for ensuring compliance. Reference to Employer in this checklist may mean Third-Party Administrator to the extent the Employer assigns responsibility to a third party. * By citing to the provisions in the self-insured plan document, the employer is attesting to the fact that the self-insured plan document meets the minimum requirements and satisfies the requirements to be certified as a substantially equivalent self-insured private plan substitution.   **Please see the laws/rules referenced in the checklist below for the full requirement.** |

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| **Overall Compliance** | | | |
| **Subject Area** | **Citation** | **Compliance Item** | **Attestation and Location** |
| Statement of Compliance | [Title 26 § 850-H](https://www.mainelegislature.org/legis/statutes/26/title26sec850-H.html) | Statement on the front page attesting that the plan meets the private plan requirements of the Maine Paid Family Medical Leave Program. |  |
| **General Requirements** | | | |
| **Subject Area** | **Citation** | **Compliance Item** | **Attestation and Location** |
| Electronic Filing |  | All applications including plan documents and surety bonds must be filed electronically, using the Maine Paid Leave Contributions Portal | N/A |
| Filing Fees | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  § XIII(A)(2) | $250.00 application fee. If the application and substitution are approved, additional $250 administrative reimbursement fee. | N/A |
| Variable Language |  | Plan documents with variable bracketed information must include all the possible language that might be placed within the brackets. Variable language should be limited as it may raise questions about compliance with Maine laws and rules and can create confusion for employees. | N/A |
| **Requirements for Substantial Equivalency** | | | |
| **Subject Area** | **Citation** | **Compliance Item** | **Attestation and Location** |
| Definitions  *(All Definitions should be included under one section in the plan document. Indicate the pages that contain the Definitions Section.)* | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) § I  [Title 26 § 850-A](https://www.mainelegislature.org/legis/statutes/26/title26sec850-A.html) (1-32)  [Title 1 §72 (2-C)](https://legislature.maine.gov/legis/statutes/1/title1sec72.html)  [Title 26 § 850-B](https://www.mainelegislature.org/legis/statutes/26/title26sec850-B.html) (2) | **Average weekly wage** has the same meaning as 26 M.R.S. § 850-A(30). The Average Weekly Wage is calculated by dividing the reported wages for the applicant in their base period by 52.  **Base period** means the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an individual's benefit year. This can be adjusted if the benefit is greater to or equal to the state plan.  **Benefit year** means the 12-month period beginning on the first day of the calendar week immediately preceding the first date of approved family or medical leave. This can be adjusted if the benefit is greater to or equal to the state plan.  **Business day** means any day that is not a Saturday, Sunday or a state holiday.  **Calendar week** means a period of seven consecutive calendar days, beginning on a Sunday.  **Continuous leave** means leave occurring in blocks for consecutive days or weeks.  **Covered individual** means a person who:   1. Earned at least 6 times the state average weekly wage in wages during the individual's base period; and 2. Meets administrative requirements and files a claim for family leave benefits or medical leave benefits.   **Covered service member** means:  A. A member of the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces, who is:  (1) Undergoing medical treatment, recuperation or therapy or otherwise receiving outpatient treatment; or  (2) Otherwise on the United States Armed Forces' temporary disability retired list for a serious injury or illness that was incurred by the member in the line of duty in the United States Armed Forces or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the United States Armed Forces; or  B. A former member of the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces, who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred by the member in the line of duty in the United States Armed Forces or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the United States Armed Forces and manifested before or after the member was discharged or released from service.  **Days** means calendar days.  **Department** means the Maine Department of Labor.  **Domestic partner** means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.    **Employee** means a person who may be permitted, required or directed by an employer in consideration of direct or indirect gain or profit to engage in any employment in the State but does not include an independent contractor.  **Employer** has the same meaning as 26 M.R.S. § 850-A(14). Additionally, “Employer”, in the case of an employee leasing contractual arrangement described in 32 M.R.S. Ch. 125, means the client company as described in 32 M.R.S. Ch. 125 §14051(1), and any reference to Federal Employer Identification Number (FEIN) means the FEIN of the client company.  **Employment** means a service performed for wages.    **Employment benefits** means all benefits provided or made available to employees by an employer, including, but not limited to, group life insurance, health insurance, disability insurance, sick leave, annual or vacation leave, educational benefits and pensions.  **Family leave** means leave requested by an employee for the following reasons:  To bond with the covered individual’s child during the first 12 months after the child’s birth or the first 12 months after the placement of the child for adoption or foster care with the covered individual;  To take care of a family member with a serious health condition;  To attend to a qualifying exigency;  To care for a family member of the covered individual who is a covered service member;  To take safe leave;  The placement of a child 16 years of age or less with the employee or with the employee's domestic partner in connection with the adoption of the child by the employee or the employee's domestic partner;  To take care of a child, domestic partner's child, grandchild, domestic partner's grandchild, parent, domestic partner, sibling or spouse with a serious health condition;  The donation of an organ of that employee for a human organ transplant; or    The death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child if the spouse, domestic partner, parent, sibling or child as a member of the state military forces, as defined in [Title 37‑B, section 102](https://www.mainelegislature.org/legis/statutes/37-B/title37-Bsec102.html), or the United States Armed Forces, including the National Guard and Reserves, dies or incurs a serious health condition while on active duty.  **Family leave benefits** means wage replacement paid to a covered individual while the covered individual is on family leave.  **Family member** means, with respect to a covered individual or spouse or domestic partner of a covered individual:   1. Regardless of age, a child, including a child whose parentage has been determined under the Maine Parentage Act or any other biological child, adopted child, foster child or stepchild, or a child to whom the covered individual or spouse or domestic partner of the covered individual stands in loco parentis or a child the covered individual or spouse or domestic partner of the covered individual has under legal guardianship or any individual to whom the covered individual or spouse or domestic partner of the covered individual stood in any of these relationships when the individual was a minor child;     B. A parent, including a legal parent, biological parent, adoptive parent, foster parent, stepparent, de facto parent or legal guardian or a person who stood in loco parentis when the covered individual or spouse or domestic partner of the covered individual was a minor child;  C. A grandparent, including a legal grandparent, biological grandparent, adoptive grandparent, foster grandparent, step grandparent or de facto grandparent;  D. A grandchild, including a legal grandchild, biological grandchild, adoptive grandchild, foster grandchild, step grandchild or de facto grandchild;  E. A sibling, including a legal sibling, biological sibling, adoptive sibling, foster sibling, stepsibling or de facto sibling;    F. A spouse or domestic partner of a covered individual; or  G. As designated by the covered individual in accordance with rule, an individual with whom the covered individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.  **Good Cause** means, but is not limited to:  A. A serious health condition that results in an unanticipated and prolonged period of incapacity and that prevents an individual from timely filing a claim for benefits or request for reconsideration;  B. A demonstrated inability to reasonably access a means to file a claim or to request a reconsideration in a timely manner, such as an inability to file a claim or request a reconsideration due to a natural disaster;  C. A serious health condition of a family member that requires the unanticipated and prolonged presence of the individual filing a claim or request for reconsideration and that prevents the individual from timely filing a claim for benefits or a request for reconsideration;  D. Physical, intellectual, linguistic or other limitations including limited understanding of English that prevents the timely filing of a claim or request for reconsideration; or  E. Circumstances beyond the control of the individual filing the claim or requesting reconsideration that made it impossible to timely file the application or request for reconsideration despite making a reasonable effort to do so.  **Health care provider** means an individual licensed to practice medicine, surgery, dentistry, chiropractic, podiatry, midwifery or osteopathy or any other individual determined by the administrator to be capable of providing health care services and includes but is not limited to all providers identified in 29 C.F.R § 825.125.  **Intermittent leave** means an employee taking varying periods of leave and returning to work throughout a period of approved covered leave time. Intermittent leave may be planned (i.e., for routine appointments) or unplanned (i.e., for a flare-up of a serious health condition).  **Independent contractor** has the same meaning as 26 M.R.S. § 1043 (11) (E).  **Medical leave** means leave due to a serious health condition that makes the covered employee unable to work.  **Medical leave benefits** means wage replacement paid to a covered individual while the covered individual is on medical leave.  **Qualifying exigency** means an exigency determined pursuant to the federal Family and Medical Leave Act of 1993, 29 United States Code, Section 2612(a)(1)(E).  **Safe leave** means any leave taken because the covered individual or the covered individual's family member is a victim of violence, assault, sexual assault under [Title 17‑A, chapter 11](https://legislature.maine.gov/statutes/17-A/title17-Ach11sec0.html), stalking or any act that would support an order for protection under [Title 19‑A, chapter 103](https://legislature.maine.gov/statutes/19-A/title19-Ach103sec0.html). Safe leave under this subchapter applies if the covered individual is using the leave to protect the covered individual or the covered individual's family member by:  A. Seeking an order for protection under [Title 19‑A, chapter 103](https://legislature.maine.gov/statutes/19-A/title19-Ach103sec0.html);  B. Obtaining medical care or mental health counseling for the covered individual or for the covered individual's family member to address physical or psychological injuries resulting from the act of violence, assault, sexual assault or stalking or act that would support an order for protection under [Title 19‑A, chapter 103](https://legislature.maine.gov/statutes/19-A/title19-Ach103sec0.html);  C. Making the covered individual's or the covered individual's family member's home secure from the perpetrator of the act of violence, assault, sexual assault or stalking or act that would support an order for protection under [Title 19‑A, chapter 103](https://legislature.maine.gov/statutes/19-A/title19-Ach103sec0.html) or seeking new housing to escape the perpetrator; or  D. Seeking legal assistance to address issues arising from the act of violence, assault, sexual assault or stalking or act that would support an order for protection under [Title 19‑A, chapter 103](https://legislature.maine.gov/statutes/19-A/title19-Ach103sec0.html) or attending and preparing for court-related proceedings arising from the act or crime.  **Reduced schedule leave** means a leave schedule that reduces the typical number of days per workweek, or hours per workday, of an employee on a planned and consistent basis.  **Scheduled workweek** means the number of hours an employee is scheduled to work in a particular week.  **Serious health condition** means an illness, injury, impairment, pregnancy, recovery from childbirth or physical, mental or psychological condition that involves inpatient care in a hospital, hospice or residential medical care center or continuing treatment by a health care provider.  **Spouse** meansan individual who is lawfully married and includes registered domestic partners and individuals who are in a legal union that was validly formed in any state or jurisdiction and that provides substantially the same rights, benefits and responsibilities as a marriage.  **State average weekly wage** means the average weekly wage as published by the Department of Labor updated annually on July 1st.  **Tier 1 wages** mean the amount of the covered employee’s reported gross weekly wage that is equal to or less than fifty percent (50%) of the state average weekly wage. (An employer could tier differently, not tier at all, and/or remove maximum benefit amount, as long as the total benefit paid out is greater than or equal to that received on the state plan for all income levels).  **Tier 1 benefits** mean the percentage of the wage replacement a covered employee is entitled to earn on wages up to fifty percent (50%) of the state average weekly wage.  **Tier 2 wages** mean the amount of the covered employee’s reported gross weekly wage that is more than 50 percent (50%) of the state average weekly wage.  **Tier 2 benefits** mean the percentage of the wage replacement a covered employee is entitled to earn on wages that are more than 50 percent (50%) of the state average weekly wage.  **Wages** mean all remuneration for personal services, including tips and gratuities, severance and terminal pay, commissions, and bonuses, but does not include remuneration for services performed by an independent contractor as defined by 26 M.R.S. § 1043 (11) (E). Wages are calculated in the same manner as Maine unemployment wages in 26 M.R.S. § 1043 (19)(B-E) except that employees subject to wages include all employees with the exception of Section II (B) of these rules, and excludes wages above the base limit established annually by the federal Social Security Administration for purposes of the federal Old-Age, Survivors, and Disability Insurance program limits pursuant to 42 U.S.C. § 430. Wages include remuneration for services performed in the State or wages which are otherwise subject to Maine unemployment tax pursuant to 26 M.R.S. § 1043 (11) (A) and (D).    **Waiting period** means the period in which medical leave benefits are not payable for approved leave for the first 7 calendar days at the start of leave.  **Weekly Benefit Amount** means the amount of wage replacement as calculated in 26 M.R.S. § 850-C(2) payable to a covered employee on a weekly basis while the covered employee is on family leave or medical leave, including prorated amounts for partial weeks of leave. |  |
| Covered Individual | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  § II(A)  [Title 26 § 850-H](https://www.mainelegislature.org/legis/statutes/26/title26sec850-H.html) (2) (B, C) | Covered employees are employees who earn wages paid in the State.  A private plan must provide coverage for all employees of the employer throughout the employee's period of employment with that employer. This includes all employees associated with the Employer’s EIN. Coverage commences on the effective date of the plan. |  |
| Type Of Leave | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §III(A) | A covered employee may take the following types of leave:  1. Continuous leave  2. Intermittent leave  3. Reduced Schedule leave |  |
| Intermittent Leave | [Title 26 § 850-B](https://www.mainelegislature.org/legis/statutes/26/title26sec850-B.html) (5)  [PFML Rule ch.1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §III(B) and §XIII(D) | The plan must describe the Intermittent and Reduced Schedule leave parameters.  Leave may be taken by an employee intermittently in increments of not less than one workday unless a lesser increment is agreed to by the employee and the employer, except that the employee and employer may not agree to leave to be taken in increments of less than one hour.  A plan that requires that such leave may only be taken in minimum increments of four (4) hours may be found to be substantially equivalent. |  |
| Minimum Leave | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §XIII(D)(2)(c) | To be substantially equivalent, a plan must allow for at least 10 weeks of leave but at a greater monetary benefit. For example: the amount of benefits paid must be equal to or more than the amount that would be paid under the State Plan for 12 weeks. |  |
| Maximum Leave | [Title 26 § 850-B](https://www.mainelegislature.org/legis/statutes/26/title26sec850-B.html) (4)(A-C) | A covered individual is not eligible for more than 12 weeks of family leave in a benefit year.  B. A covered individual is not eligible for medical leave for more than 12 weeks in a benefit year  C. A covered individual may not take more than 12 weeks, in the aggregate, of family leave and medical leave in the same benefit year. |  |
| Eligibility | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)§IV | To receive benefits, a covered individual must:  1. Be a covered employee;  2. Have earned wages paid in the State at least 6 times the state average weekly wage during the first 4 of the last 5 completed calendar quarters immediately preceding the first day of an employee’s benefit year. For the purposes of these calculations, the state average weekly wage is that which was published effective on July 1 immediately preceding the date of application for benefits or the start of leave, whichever is earlier.  3. Submit a claim for benefits no more than 60 days before the anticipated start date of family leave and medical leave and no more than 90 days after the start date of family leave and medical leave;  4. Be employed as of the date of the claim if applying in advance of leave, or be employed as of the date of leave beginning if applying retroactively for leave;  5. Have not been declared ineligible; and  6. Satisfy one of the qualifying reasons for leave.  The following provisions apply regarding the eligibility to take leave:  1. A covered employee may take family leave immediately following medical leave if the medical leave is taken during pregnancy or recovery from childbirth and supported by documentation by a health care provider. If the covered employee is eligible as of the start of the medical leave for pregnancy and recovery from childbirth, that eligibility status shall be retained for the purposes of family leave for bonding with a child immediately following the medical leave, regardless of the covered employee’s eligibility data as of the first day of the family leave. The combined medical leave and family leave may not exceed the 12-week maximum of family and medical leave within a benefit year.  2. The 12 weeks of aggregate leave taken under this plan will be reduced by any leave taken under 29 U.S.C. § 2611 or leave under 26 M.R.S. § 844 that was not taken concurrently with leave under this plan in the 12-month period preceding the start of leave.  3. When determining an employee’s eligibility to obtain benefits, the number of days an employee has worked for an employer shall not be considered. |  |
| Notice And Undue Hardship | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)§V | If the plan includes an undue hardship provision, it can’t be more restrictive than the state plan. The employee has the right to appeal any delay or denial of a claim for benefits due to a finding of reasonable undue hardship. |  |
| Process For Claim and Approval Of Benefits | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)§VI | A. To request paid family and medical leave benefits, an employee shall submit a claim for benefits. The employee must submit all information and documentation requested by the Employer reasonably necessary to determine eligibility for leave. Requested information and documentation may include, as applicable to the type of leave requested:   1. Proof of personal identity; 2. Proof of identity of family member if the employee is applying for paid family leave; 3. Information regarding the existence of a significant personal bond, if the employee is applying for family leave to care for an employee with a serious health condition with whom the employee has a relationship as described in this plan. A significant personal bond is one that, when examined under the totality of the circumstances, is like a family relationship, regardless of biological or legal relationship. This bond may be demonstrated by, but is not limited to the following factors, with no single factor being determinative:    1. Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills or beneficiary designations;    2. Emergency contact designation of the employee by the other employee in the relationship or the emergency contact designation of the other employee in the relationship by the employee;    3. The expectation to provide care because of the relationship or the prior provision of care;    4. Cohabitation and its duration and purpose;    5. Geographic proximity; and    6. Any other factor that demonstrates the existence of a family-like relationship. 4. Reason for leave; 5. Proposed scheduling of leave, including the first day of missed work and the expected duration of leave; 6. If an undue hardship provision is in the plan and the plan is administered by a third party on behalf of the employer, a waiver signed by the employer that the proposed schedule of leave is not an undue hardship, if applicable; 7. Documentation, to include the anticipated duration of leave, from a health care provider of the employee’s own serious health condition if seeking medical leave; 8. Documentation, to include the anticipated duration of leave, from a health care provider of the family member’s serious health condition if seeking family leave; and 9. Other information and documentation reasonably requested by the Employer.   B. The claim will contain an Authorization Statement, which, if signed by the employee or, in the case of claims for leave to care for a family member with a serious health condition, the employee’s family member, authorizes the Employer to obtain medical information from the relevant health care provider as part of the verification process to obtain paid family or medical leave benefits. Employees and their family members are not obligated to sign the Authorization Statement; however, if they decline to do so, the employee is responsible for providing all required medical information from the relevant health care provider, and processing of the claim may be delayed by any delay or failure to provide such information.  C. A claim for safe leave must include a signed statement that the employee meets the requirements for safe leave set forth in this plan.  D. A completed claim must include a signed statement attesting that the information provided in support of the claim for paid family or medical leave benefits is true and correct to the best of the employee’s knowledge.  E. A failure to provide reasonably necessary information or documentation may result in a delay in processing or denial of the claim. Before denying a claim for incomplete information, the Employer must provide the employee an opportunity to provide the outstanding information. If such information is not provided within 10 business days of the Employer’s request, the claim may be denied. The Employer may deny a claim for incomplete information only if such information is reasonably necessary to determine whether the employee is eligible for benefits under this plan, and the extent and timing of such benefits.  F. A complete claim for paid family or medical leave benefits may be submitted to the Employer no more than 60 days prior to the start of family and medical leave and no more than 90 days after the start date of family leave and medical leave.  G. The 90-day claim deadline may be waived if the Employer finds good cause exists. Good cause for the late submission of a claim is at the discretion of the Employer.  H. If the Employer uses a Third-Party Administrator, the TPA shall notify the employer in writing of the employee’s claim to obtain paid family or medical leave within 5 business days after a claim was filed.  If an undue hardship provision is in the plan and there is an agreement as to the scheduling of leave, the claim will be processed immediately. If there is no agreement as to the scheduling of leave and the Employer determines that the proposed scheduling of the leave constitutes an undue hardship, the Employer must notify the employee in writing of its determination within 10 business days and must also provide documentation supporting its determination along with a new proposed schedule. The employee may appeal the Employer’s determination within 15 business days from the date the notice is issued. Failure to claim an undue hardship during this period shall be deemed a determination that the proposed schedule does not constitute an undue hardship. |  |
| Review Of Claims | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §VII | A. The Employer shall review a complete claim and issue a determination to the covered employee. The review of the claim shall begin no later than 10 business days after the filing of the claim.  B. If an employee is not approved to obtain benefits, the Employer shall notify the employee and state the reason or reasons for the denial in the notification. The Employer’s notice shall also inform the employee that they are entitled to request a reconsideration of the Employer's decision by notifying the Employer in writing within 15 business days from the date the notification is issued. If the Employer uses a TPA, the TPA shall provide the required notification to the employee and the employer including their internal reconsideration process.  C. If the employee is approved to obtain benefits, the Employer shall notify the employee as to the benefit amount, the amount of time for which the employee has been approved to take paid family or medical leave, and the qualifying reason, along with information on when benefits will be paid, and contact information of the Employer. The Employer shall also inform the employee that they are entitled to request a reconsideration of the decision if they do so in writing within 15 business days from the date the notification is issued.  If an employee’s claim is approved and a TPA is used by the Employer, the employer will receive notification of the claim approval along with the approved timeframe of leave within 5 business days of the approval date. |  |
| Reconsideration/Appeals | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §§VII, XIII and XV | If the employee requests reconsideration, the Employer shall review the request and the employee’s original claim, using a separate reviewer from the initial consideration. The employee is required to pursue internal reconsideration through the Employer before appealing to the Department. If the Employer uses a TPA, the TPA shall notify the employer of the employee’s request for reconsideration. The Employer shall notify the employee, and, if the Employer uses a TPA, the TPA will notify the Employer, in writing of the outcome of the reconsideration request within 15 business days of receipt of the request. If reconsideration results in denial of benefits, the Employer or TPA shall state the reason for the denial. If the employee is aggrieved by the result of the reconsideration, the employee may appeal the reconsideration decision to the Department within 15 business days from the date the reconsideration decision is issued. An employee is not aggrieved if all requested benefits were approved.    An employee may appeal the following issues to the Department within 15 business days from the date the decision is issued:   * Denials of claims for benefits; * Issues as to the amount of benefits; * Findings of fraud; and * Denial of a waiver of overpayment.   Hearings on appeals are adjudicatory proceedings, governed by the Maine Administrative Procedures Act, 5 M.R.S. § 9051-9064.  Hearings may be conducted by telephone or by video conference.  The Hearing Officer will make a decision and is not required to defer to any decision by the Employer or TPA.  Decisions of the Hearing Officer shall be in writing and shall state the Hearing Officer’s findings of fact and basis for the decision. Decisions by the Hearing Officer shall constitute final agency action within the meaning of 5 M.R.S. § 8002 (4) and shall be reviewable in Superior Court pursuant to 5 M.R.S. § 11001 et. seq. |  |
| Calculation Of Benefits | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §VIII | A. Calculation of Benefits:  1. The Weekly Benefit Amount paid to the employee is calculated based on a tiered wage system. The calculation of benefits will be determined by the Employer using the employee’s Average Weekly Wage. If the Employer uses a TPA, the calculation of benefits will be determined by the TPA using the employee’s Average Weekly Wage as calculated based on the applicable earnings data reported to the TPA by the employer.  2. The Weekly Benefit Amount shall be calculated as follows:   1. Tier 1 wages and benefit: the State Average Weekly Wage shall be multiplied by 50% and rounded up to the nearest whole dollar. This shall be the Tier 1 Wage Cap. The portion of the employee’s average weekly wage that is less than or equal to the Tier 1 Wage Cap is multiplied by 90% and rounded up to the nearest whole dollar. This shall be the Tier 1 Benefit Amount. If the covered employee’s average weekly wage does not exceed the Tier 1 Wage Cap, no additional calculation under Tier 2 is required. 2. Tier 2 wages and benefit: the portion of the employee’s average weekly wage that exceeds the Tier 1 Wage Cap shall be multiplied by 66% and rounded up to the nearest whole dollar. This shall be the Tier 2 Benefit Amount. 3. Weekly Benefit Amount: The Tier 1 Benefit Amount and the Tier 2 Benefit Amount shall be combined to equal the Calculated Weekly Benefit Amount. If the Calculated Weekly Benefit Amount exceeds the Maximum Weekly Benefit Amount, the Weekly Benefit Amount shall be the Maximum Weekly Benefit Amount; otherwise, the Calculated Weekly Benefit Amount shall be the Weekly Benefit Amount. 4. For the purposes of these calculations, the state average weekly wage is that which was published effective on July 1 immediately preceding the date of application of benefits or of the state of the leave, whichever is earlier.   3. The Average Weekly Wage is calculated by dividing the reported wages for the employee in their base period by 52. Once the Weekly Benefit Amount is established it will remain consistent through the life of the claim subject to any proration or reduction of benefits consistent with the law and rules.  A plan that calculates an employee’s benefit using a different lookback period or based upon the employee’s actual wages at the time that leave begins may be found to be substantially equivalent.  If the total monetary benefit is more than what the employee would have received from the state plan, it is substantially equivalent. |  |
| Payment Of Benefits | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK) §VIII | Approved benefits may be paid to the employee by direct deposit into a checking or savings account in a financial institution in the United States, by paper check or by debit card.  If an employer has a salary continuation program that pays employees their full salary amount while on leave and benefits are paid through a third party claims administrator, the plan may contain a provision permitting the third party claims administrator to reimburse the employer up to the Weekly Benefit Amount due to the employee. Payments by the third party claims administrator to the employee must be consistent with the policy and the Maine PFML laws and rules. The employer may not, under any circumstance, seek to recoup from the employee the difference between the reimbursement amount from the third party claims administrator and wages paid under the salary continuation program. Any reimbursement arrangement cannot diminish or affect any rights of or benefits owed to the employee. |  |
| Waiting Period | [Title 26 § 850-C](https://www.mainelegislature.org/legis/statutes/26/title26sec850-C.html) (1)  [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  §VIII | Medical leave benefits are not payable to an employee for the first seven (7) consecutive calendar days beginning with the first day of leave. |  |
| Proration Of Benefits | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  §VIII | Benefits shall be prorated for employees taking leave for less than a full week as follows: the amount of time taken as leave will be divided by the amount of time the covered employee was scheduled to work for the employer in the week. The employee’s prorated benefit amount shall be calculated separately for each week in which the employee reports use of leave equaling less than a full scheduled workweek. |  |
| Reduction Of Benefit | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  §VIII  [Title 26 § 850-C](https://www.mainelegislature.org/legis/statutes/26/title26sec850-C.html) (5A-B) | For any week in which an employee is on family leave or medical leave, the employee’s Weekly Benefit Amount will be reduced by the amount of wage replacement that the employee receives from a government program or law, including but not limited to unemployment insurance, workers compensation, other than for compensation received under 39‑A M.R.S. § 213 for an injury that occurred prior to the family leave or medical leave claim, and other state or federal temporary or permanent disability benefits laws, or from an employer’s permanent disability program or policy for the same week.  The employee’s Weekly Benefit Amount is not subject to reduction by any of the following:  a. Any benefit received from SNAP, TANF, HEAP or similar programs;  b. Wages received from any other employer from whom the employee is not on leave;  c. Wages received from the employer from whom the employee is on leave for hours actually worked or authorized leave time used during the same week;  d. Wages received from the employer if the employer voluntarily pays the difference between the employee’s Weekly Benefit Amount and their typical weekly wage. If the employer voluntarily pays such wages, the employer may charge that time against the employee’s leave balances; and  e. Supplemental payments received from an employer’s short term disability program or policy to the extent that the payments combined with the PFML benefits do not exceed the individual’s typical weekly wage. |  |
| Fraud, Ineligibility, And Erroneous Payment | [PFML Rule ch. 1](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.maine.gov%2Fpaidleave%2Fdocs%2F2024%2F12702Chapter1%2520PFML%2520FinalRule2024.docx&wdOrigin=BROWSELINK)  §IX  [Title 26 § 850-L](https://www.mainelegislature.org/legis/statutes/26/title26sec850-L.html) | False statement; misrepresentation.A covered individual is disqualified from family leave benefits and medical leave benefits for one year if the individual is determined to have willfully made a false statement or misrepresentation regarding a material fact, or willfully failed to report a material fact, to obtain benefits.  Erroneous payment.If family leave benefits or medical leave benefits are paid erroneously or as the result of willful misrepresentation or a claim for family leave benefits or medical leave benefits is rejected after benefits are paid, the Employer may seek repayment of benefits from the recipient. The Employer shall exercise discretion to waive, in whole or in part, the amount of any such payments if the recovery would be against equity and good conscience.  “PFML fraud” exists where a covered employee has obtained paid family or medical leave benefits based upon a willful false statement, willful misrepresentation of a material fact, or the willful withholding of a material fact or facts.  “Material fact” means a fact the truth or falsity of which would have a determinative effect on the approval or denial of a claim.  The Employer shall investigate complaints or reports of suspected PFML fraud. The Employer may also conduct random audits and reviews of submitted claims. A finding of PFML fraud shall be made based on a preponderance of the evidence. The following procedures may be followed in investigations of suspected PFML fraud:   1. Obtaining documentary evidence. Prior to interviewing an employee, the Employer shall obtain all available documentation. An employee shall provide any requested documents within 21 days of receiving the request. 2. The Employer may interview a covered employee after providing notice no less than ten (10) business days in advance. The notice of interview will be provided in writing. The interview may be conducted in person or by phone. 3. The Employer shall make a finding of PFML fraud or, if fraud is not determined, dismiss the complaint, and shall notify the covered employee as to the outcome of the investigation. If the Employer finds that the covered employee has committed PFML fraud, the covered employee’s benefits, if currently active, shall immediately be suspended, and the covered employee shall be designated as ineligible pursuant to 26 M.R.S. § 850-D(5).   If the Employer determines that PFML fraud has occurred that affected a covered employee but for which the covered employee was not responsible, such as identity theft by a third party, any weeks fraudulently used will not be charged against the covered employee’s maximum leave benefits.  A covered employee found to have committed PFML fraud shall be designated as ineligible pursuant to 26 M.R.S. § 850-D (5) and disqualified from benefits for a period of one year from the date of the final determination. The Employer may demand repayment of any benefits paid as a result of PFML fraud.  The Employer shall notify the covered employee if it demands repayment of the amount due.  An employee may appeal to the Employer for reconsideration of a finding of PFML fraud or a demand for repayment within 15 business days from the date the notice of the decision is issued. Any repayment shall be tolled during the pendency of a reconsideration. However, absent good cause, the employee’s designation of ineligibility and immediate termination of current benefits shall not be tolled during the pendency of the reconsideration.  Any adverse Employer reconsideration determination for fraud or repayment of benefits may be appealed to the Department within 15 business days from the date the determination is issued. |  |
| Premiums | [Title 26 § 850-F](https://www.mainelegislature.org/legis/statutes/26/title26sec850-F.html) (3A, 5A-B) | Employees may not be charged premium in excess of the amount authorized under the PFML statute and regulations. |  |