|  |
| --- |
| **#1WeMaine Bureau of Insurance**  Filing Review Requirements Checklist  TOI - To be filed with TOI-H11G  **Maine DOL PFML program – checklist for policies that will be substituted as substantially similar to DOL PFML**  Revised - 12/17/24   * Carriers must confirm compliance and IDENTIFY the LOCATION (Form number, page number, Section, Paragraph, etc.) of the standard in the form last column. * Any response of N/A requires that a carrier explain why the requirement is not applicable. * This checklist is intended to provide a summary of items necessary for private plan to qualify for substitution for Maine PFML. The plan must confer right, protections, and benefits substantially equivalent or greater to those provided to employees through Maine PFML.   **Please see the laws/rules referenced in the checklist below for the full requirement.** |

|  |  |  |  |
| --- | --- | --- | --- |
| **MAINE DOL SUBSTANTIALLY SIMILAR REQUIREMENTS** |  |  |  |
| Statement of Compliance | [Title 26 § 850-H](https://www.mainelegislature.org/legis/statutes/26/title26sec850-H.html) | Statement on front page that the policy meets the private plan requirements of the Maine Paid Family Medical Leave Program. |  |
| **REVIEW REQUIREMENTS** | **REFERENCES** |  | **COMPLIANCE** |
| **GENERAL SUBMISSION REQUIREMENTS** |  |  |  |
| Electronic (SERFF) Filing Requirements: | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)(2) [Bulletin 360](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/360_0.pdf) | All filings must be filed electronically, using the NAIC System for Electronic Rate and Form Filing (SERFF). See http://www.serff.com. |  |
| FILING FEES | [Title 24-A § 601](https://legislature.maine.gov/statutes/24-A/title24-Asec601.html) (17) | $20.00 for Rate filings, rating rules filings, insurance policy, forms, riders, endorsements and certificates. See General Instructions page in SERFF for additional information on filing fee structure. Filing fees must be submitted by EFT in SERFF at the time of submission of the filing. All filings require a filing fee unless specifically excluded per 24-A M.R.S.A. §4222(1), and/or are a required annual report. |  |
| Readability | [Title 24-A § 2441](https://legislature.maine.gov/statutes/24-A/title24-Asec2441.html) | Minimum of 50.  Riders, endorsements, applications all must be scored. They may be scored either individually or in conjunction with the policy/certificate to which they will be attached. Exceptions: Federally mandated forms/language, Groups > 1000, Group Annuities as funding vehicles. Scores must be entered on form schedule tab in SERFF. |  |
| Variability of Language | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)  [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Forms with variable bracketed information must include all the possible language that might be placed within the brackets. The use of too many variables will result in filing disapproval as Bureau staff may not be able to determine whether the filing is compliant with Maine laws and regulations. |  |
| **GENERAL POLICY PROVISIONS** |  |  |  |
| Disclosure of Benefit Offsets | [Title 24-A § 2829](https://legislature.maine.gov/statutes/24-A/title24-Asec2829-A.html)-A | Disclosure to persons eligible for coverage. If the benefits under that policy or contract are subject to reduction due to other sources of income, then the insurer shall include in any written enrollment material and certificate of coverage developed by the insurer that is intended to be distributed to persons eligible for coverage under the policy or contract a clear and conspicuous notice that accurately explains all types of other sources of income that may result in a reduction of the benefits payable under the policy or contract. The notice requirement under this section does not apply to an advertisement intended for the general public. |  |
| Genetic Information Protections | [Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159-C.html)-C(3)  [Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159.html)-C(4) | An insurer may not make or permit any unfair discrimination against an individual in the application of genetic information or the results of a genetic test in the issuance, withholding, extension or renewal of an insurance policy. An insurer may not request, require, purchase or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested. |  |
| Pregnancy | [Title 5 § 4572-A](https://legislature.maine.gov/statutes/5/title5sec4572-A.html)(3) | A group DI policy that excludes benefits for pregnancy may be in violation of the Maine Human Rights Act: "Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, or related medical conditions, and recovery therefrom, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment." |  |
| Prohibition against Absolute Discretion Clauses | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-W.html)-V | Carriers are prohibited from including or enforcing absolute discretion provisions in disability income insurance policy, contracts or certificates. |  |
| Rebates | [Title 24-A § 2160](https://legislature.maine.gov/statutes/24-A/title24-Asec2160.html)  [Title 24-A § 2163-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2163-A.html)  [Bulletin 426](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/426.pdf)  [Bulletin 382](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/382.pdf) | Are there any provisions that give the insured a benefit not associated with indemnification or loss? Yes \_\_\_No \_\_\_ |  |
| Renewal provision | [Title 24-A § 2411](https://legislature.maine.gov/statutes/24-A/title24-Asec2411.html)  [Title 24-A § 2820](https://legislature.maine.gov/statutes/24-A/title24-Asec2820.html) | Policy must contain the terms under which the policy can or cannot be renewed prominently on first page of policy or certificate. |  |
| Specific Treatment | [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html)(B)(D) | It is inappropriate if a policy requires the claimant to receive specific treatment above what the claimant is receiving, when: -- The claimant is receiving regular and appropriate treatment from a practitioner operating within the scope of his/her license. |  |
| Statements In Application | [Title 24-A § 2818](https://legislature.maine.gov/statutes/24-A/title24-Asec2818.html) | There shall be a provision that all statements contained in any such application for insurance shall be deemed representations and not warranties. |  |
| Third Party 10 Day Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-C.html)-C  [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) | An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premium. FOR GROUP PLANS: Third Party Notice of Cancellation for group plans must be applied as follows: 1. If the entire cost of the insurance coverage is paid by the Policyholder, there is no requirement to send the Third Party Notice of Cancellation. 2. If the entire cost of the insurance coverage is paid by the Certificate holder and is direct billed, the insurer must include notification in the policy/certificate to advise the member of their rights. 3. If the entire cost of the insurance coverage is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. 4. If a portion of the cost of the insurance coverage is paid by the Policyholder and the remainder is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. Please review [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) and add the required language to the certificate. Additionally, pursuant to [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) § 6(A)(7), the requirement may be satisfied by including the notice of reinstatement right in an application that is incorporated into the contract. |  |
| **CLAIMS** |  |  |  |
| Time Payment of Benefits | [Title 24-A § 2827](https://legislature.maine.gov/statutes/24-A/title24-Asec2827.html) | Provision that all benefits payable under the policy, other than benefits payable for loss of time, will be payable not more than 60 days after receipt of proof and that all accrued benefits payable will be paid no later than the expiration of each period of 30 days during the continuance of the period for which the insurer is liable and that any balance remaining unpaid at the termination of such period shall be paid immediately upon receipt of such proof. |  |
| **MAINE DOL REQUIREMENTS** | **REFERENCES**  **All § are in Title 26 MRSA, chapter 7,**  **sub-6-C**  **except where noted** |  |  |
| Definitions | [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:  A. 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. (A company 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 state 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. |  |
| Coverage | [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. Coverage commences on the effective date of the policy. |  |
| 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 a scheduled workday or on a reduced leave schedule otherwise agreed to in writing by the employee and the employer. The taking of leave intermittently or on a reduced leave schedule may not result in a reduction in the total amount of leave to which the covered individual is entitled.  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 aggregate leave per benefit year. For example: the amount of benefits paid is equal to or more than the amount that would be paid 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 employee 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 policy 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 policy 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.  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. |  |
| 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 employer does not have the right to Department review of a Company’s decision of no 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 Company 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 policy. 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, 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 Company.   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 Company 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 policy.  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 Company must provide the employee an opportunity to provide the outstanding information. If such information is not provided within 10 business days of the Company’s request, the claim may be denied. The Company 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 policy, and the extent and timing of such benefits.  F. A complete claim for paid family or medical leave benefits may be submitted to the Company 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 Company finds good cause exists. Good cause for the late submission of a claim is at the discretion of the Company.  H. The Company 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 policy 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 the claim will go through an employer review as follows. Within 10 business days, the employer must submit any additional facts or information regarding the employee’s eligibility it wishes the Company to consider, and if the employer has determined that the proposed scheduling of the leave constitutes an undue hardship, the employer must also provide documentation supporting its determination. Failure to claim an undue hardship during this period shall be deemed a determination that the proposed schedule does not constitute an undue hardship. If the Company finds that the employer’s determination is reasonable and the claim would otherwise be approved, the Company shall impose a reasonable schedule provided by the employer. The employee shall be notified in writing by the Company of the finding of undue hardship and the new provided schedule. If the Company finds that the employer’s determination of undue hardship is not reasonable, the Company shall notify the employer in writing, and the claim shall be processed in accordance with the employee’s requested schedule. The employee may appeal the Company’s findings within 15 business days from that date the notice is issued. |  |
| 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 Company shall review a complete claim and issue a determination to the covered employee. The review of the claim shall begin no later than the close of the 10 business days within which the employer is required to provide information to the Company. During those 10 business days, the Company will not begin the review if the employer has not yet provided requested information.  B. If an employee is not approved to obtain benefits, the Company shall notify the employee and the employer and state the reason or reasons for the denial in the notification. The Company’s notice shall also inform the employee that they are entitled to request a reconsideration of the Company's decision by notifying the Company in writing within 15 business days from the date the notification is issued.  C. If the employee is approved to obtain benefits, the Company shall notify the employee and the employer 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 Company. The Company 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, the employer(s) from which they are taking leave 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 Company 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 Company before appealing to the Department. The Company shall notify the employer of the employee’s request for reconsideration. The Company shall notify the employee and 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 Company 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;   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 Company.  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 Company using the employee’s Average Weekly Wage, as calculated based on the applicable earnings data reported to the Company 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 saving 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, the policy may contain a provision permitting the carrier to reimburse the policyholder up to the Weekly Benefit Amount due to the employee. Payments by the policyholder 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 carrier 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 company may seek repayment of benefits from the recipient. The company 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 Company shall investigate complaints or reports of suspected PFML fraud. The Company 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 Company shall obtain all available documentation. An employee shall provide any requested documents within 21 days of receiving the request. 2. The Company 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 Company 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 Company 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 Company 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 Company may demand repayment of any benefits paid as a result of PFML fraud.  The Company shall notify the covered employee if it demands repayment of the amount due.  An employee may appeal to the Company 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 an appeal. However, absent good cause, the employee’s designation of ineligibility and immediate termination of current benefits shall not be tolled during the pendency of an appeal.  Any adverse Company 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. |  |