



## December 2020 Compliance Report

December 17, 2020

Family and Medical Leave, Benefit and Contribution Rates, Sick Leave and In the News

### Upcoming Updates in January 2021

On page 1 and 2 of this compliance report, Lincoln is providing employers with high-level summaries to help with preparation for 2021. The following discusses new and amended leave laws employers should take note of for compliance purposes, employee notification, and supervisor training.

## Family and Medical Leave

### Massachusetts

Covered individuals may apply for most paid family and medical leave benefits on January 1, 2021. These include medical leave for their own serious health condition, and family leave for care for a family member who is a covered service member, qualified exigency, and bonding.

### Connecticut

Employee payroll deductions for paid family and medical leave begin in January 2021. Employers without a private plan are responsible for withholding and submitting the payroll deductions to the Connecticut Paid Leave Authority on a quarterly basis. Sole proprietors and self-employed individuals may also opt into the PFML program on January 1, 2021.

### California

Amendments to the California Family Rights Act (CFRA) and Paid Family Leave (PFL) take effect beginning January 1, 2021. CFRA amendments include changes to the employer size requirement, expanded definitions of child and covered family members, the addition of qualifying exigency as a covered leave reason, removing the combined entitlement for married employees, removing the key employee exception, and repealing provisions of the New Parent Leave Act (NPLA). PFL amendments include changes to the definitions for family care leave, care recipient, care provider, and the addition of the definition for military member, to better align with the addition of qualifying exigency as a covered leave reason.

## **Sick Leave**

### **New York**

Employees will be able to take paid sick leave beginning January 1, 2021. Employers with 4 or fewer employees must provide up to 40 hours of unpaid safe and sick leave if the employer's net income is less than \$1 million in the previous tax year and must provide up to 40 hours of paid safe and sick leave if the employer's net income is \$1 million or more in the previous tax year. Employers with 5 or more employees, regardless of net income, must provide up to 40 hours of paid safe and sick leave if the employer employs up to 99 employees and must provide up to 56 hours of paid safe and sick leave if the employer employs 100 or more employees.

### **California**

Beginning January 1, 2021, an employee has the discretion to designate their sick leave as personal or kin care. This will not require employers to provide any additional paid time off, but simply clarifies who designates which type of sick leave is used when an employee uses a sick day.

### **Colorado**

Paid leave coverage under Colorado's "Healthy Families and Workplaces Act" (HFWA) broadens as of January 1, 2021. Employees accrue one hour of paid leave for every 30 hours worked, up to 48 hours of paid leave per year. During a public health emergency, up to 80 hours must be provided: 48 hours for any HFWA purpose (emergency-related or not); and 32 additional hours for any of the below purposes. This applies to private sector employers with 16 or more employees. Employers with 15 or fewer employees are exempt in 2021 from HFWA.

### **New York City**

Amendments to expand safe and sick leave and to bring the law in line with New York State paid sick leave requirements take effect beginning January 1, 2021.

## **Other Leave**

### **Maine**

Employees will be able to take earned paid leave beginning January 1, 2021. Employees accrue one hour of paid leave for every 40 hours worked, up to 40 hours of paid leave per year. This applies to private sector employers with at least 10 employees in Maine. Employees can use their accrued earned paid leave for any reason such as an emergency, illness, sudden necessity, planned vacation, etc.

### **California**

Amendments to expand leave rights for victims of crime or abuse take effect beginning January 1, 2021. The amendments expand the qualifying reasons to take this type of leave, add definitions for immediate family member and crime, and provides for additional certification methods for this leave.

## December Updates 2020

The below updates have or will take place in December 2020.

### Family and Medical Leave

#### Massachusetts

##### Ends December 31, 2020:

As a reminder, employers with a fully-insured PFML private plan exemption that is expiring on December 31, 2020 must renew their exemption on or before this date by submitting a renewal application in MassTaxConnect. The application renewal period is open from November 30, 2020 through December 31, 2020. A revised Insurance Declaration Document (IDD) is required to accompany the exemption renewal. Lincoln will provide updated IDD's for all impacted clients by early December.

##### December 2020:

The Department of Family and Medical Leave (DFML) is finalizing details for the launch of the Paid Family and Medical Leave benefits state program:

- *New website.* The DFML launched its PFML portal at [paidleave.mass.gov](https://paidleave.mass.gov). Massachusetts employers with PFML coverage through the Commonwealth should register to manage leave for their team; this portal is where employers can review paid leave applications from their employees, get updates about the program by email, and download documents and decision letters. Information about the PFML program is available at [Mass.gov/DFML](https://Mass.gov/DFML).
- *New available resources.* The DFML has published guides to aid employees in planning their PFML leaves. These guides are available on the DFML website:
  - [What to Expect when you Apply for Paid Family and Medical Leave Benefits](#)
  - [PFML Benefits Guide](#)
  - [PFML benefit reductions](#)
  - [Employer Role in the Paid Family and Medical Leave Review Process](#)
- *DFML claims.* Covered individuals can begin to file their claim applications on December 15, 2020 in advance of January 1, 2021 go-live date. They will have to create an account and apply for benefits under the state plan online services portal ([paidleave.mass.gov](https://paidleave.mass.gov)).
- *Serious health condition form.* Covered individuals applying for medical leave due to their own serious health condition, family leave to care for a family member with a serious health condition that relates to military service, or family leave to care for a family member with a serious health condition (starting July 1, 2021) will need to complete a Certification of a Serious Health Condition form with a healthcare provider as part of their application with DFML. The form is available [here](#).

This December, employers can expect updates on a more frequent basis on the [DFML website](#). Lincoln encourages employers with plan coverage through the Commonwealth to check the DFML website throughout the month or contact the DFML for further information. Lincoln has already provided employers with a private plan with employer and employee resources and guides to understand MA PFML claim administration. We encourage you to talk to your Lincoln representative to learn more.

**Concurrency of MA PFML, MA Parental Leave, and FMLA:** The PFML law provides for the concurrency of MA PFML, MA Parental Leave, and FMLA: “Leave taken under this chapter shall run concurrently with leave taken under [Massachusetts Parental Leave] or under the Family and Medical Leave Act of 1993.” When the PFML program launches, Massachusetts will not sunset the unpaid Parental Leave program, which requires employers to provide eight weeks of unpaid leave to employees for the birth or adoption of their child. The PFML regulations provide that even if employees do not file an application for PFML benefits but use any other type of leave for a PFML-qualifying reason, these employees will be entitled to job protected leave which will run concurrently with the leave period provided under the PFML program.

## Connecticut

### **Ends December 31, 2020:**

As a reminder, businesses covered under PFML will need to register before December 31, 2020 with the CT Paid Leave Authority to establish their account, and to prepare to remit employee payroll deductions which are set to begin January 1, 2021. This process will also allow for third-party administrator registrations and will include the ability to apply for a private plan. For more information, please see the [CT PFML website](#).

## Oregon

### **December 4, 2020:**

Oregon published new draft rules on contributions on December 4, 2020. Proposed draft rules will be posted for approximately four weeks to solicit early stakeholder input. The PFML rules are expected to be issued in several rounds and finalized not later than September 1, 2021. The full text of round 1 of the draft rules can be found on the [OR PFML website](#).

## Washington

### **December 2020:**

The Employment Security Department (ESD) published an updated Statement of Employee Rights. The updated form amends the original Statement of Employee Rights by requiring the employee’s name, the date, the employer’s signature, and the employer’s telephone number to be included. The updated form is available on the [WA PFML website](#). Please note that the ESD has also updated its general website and guides to aid employers in determining their roles and responsibilities, and employees in planning their PFML leaves.

## District of Columbia

### **Ends December 31, 2020:**

As a reminder, self-employed individuals may opt into DC’s PFL program during open enrollment from November 1 to December 31, 2020. The rate for self-employed individuals will be the same as those for covered employers: a 0.62% flat tax rate on their total gross earnings from all of their self-employed businesses that they perform work for at least 50% of the time in DC. For more information, please see the [DC PFL website](#).

## Benefit and Contribution Rates

### Washington

#### November 2020:

The PFML maximum weekly benefit increases to \$1,206 effective January 1, 2021 (up from \$1,000 in 2020). There will be no change to the premium rate (0.4%) effective January 1, 2021. Premiums are capped at the Social Security Wage Base, which will increase for 2021 to \$142,800.

### Hawaii

#### December 2020:

Hawaii released their 2021 Temporary Disability Insurance (TDI) plan updates. Please see below.

- Maximum benefit: \$640 (down from \$650)
- Maximum benefit percentage: 58% (no change)
- Maximum Employee contribution rate: \$5.51 (down from \$5.60)
- Maximum Weekly Wage Base: \$1,102.90 (down from \$1,119.44)

## In the News

#### November 2, 2020:

The EEOC announced that Northwest Wireless Enterprises, LLC has agreed to pay a \$175,000 settlement in an employment discrimination lawsuit alleging that an employee was terminated due to their disability. The employee had a hearing impairment from birth and heard that her manager said to other colleagues that the manager did not want to keep repeating themselves to the employee and wanted to terminate her. After filing internal discrimination complaints, she was terminated suddenly a month after the complaints were filed, despite her positive sales performance. In addition to monetary relief, the company must work with the Center for Continuing Education and Rehabilitation at the Northwest ADA center, and update their policies and procedures to better comply with the ADA.

## In the Spotlight: COVID-19

Lincoln Financial is here to help you remain confident and prepared during this evolving situation. We're continuously monitoring the latest news, information from the Centers for Disease Control and Prevention and other regulatory and medical experts to offer targeted guidance and support.

In this effort, we've created a dedicated [COVID-19 Guidance page](#). We recommend bookmarking this page for important messages from our leaders, timely updates on legislative changes specific to our offerings, employer best practices, and resources to support you as we navigate this unprecedented situation together.

## Michigan

### October 22, 2020:

Michigan Governor Gretchen Whitmer signed legislation (HB 6032) which prohibits an employee from reporting to work in certain circumstances related to COVID-19, and also protects employees from discharge, discipline, and retaliation when missing work or for reporting violations under the law. Employees are prohibited from reporting to work if they test positive, have symptoms, or come into close contact with an individual who tests positive or has the principal symptoms. An employee is protected under this law for the time they missed from work provided that the employee makes a reasonable effort to schedule a COVID-19 test within 3 days after an employer requests that they get tested, and this law's protections are still extended to the employee even if the results are negative. This law has a retroactive effective date back to March 1, 2020.

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