

UPDATE: Massachusetts Delays Paid Family and Medical Leave Law Deadlines

Employers now have until September 30, 2019, to provide individualized notice and October 1, 2019, to begin contributions.

As covered in a previous Latham & Watkins [Client Alert](#), Massachusetts employers face imminent deadlines under the state's Paid Family and Medical Leave (PFML) law. On June 13, 2019, Governor Baker signed an emergency bill amending the PFML law to delay deadlines for three months to allow employers more time to prepare for changes under the law. The amendment also includes an increased total contribution rate.

As a result of these changes, employers who may have already provided individualized notice must provide individualized updates, for which the Massachusetts Department of Family and Medical Leave (the Department) has made available a 2019 rate update form. The Department has also made available an [updated poster](#) and individual notice forms to use moving forward. The Department also released final regulations on its website.

Delayed Deadlines

Employers in Massachusetts now face the following deadlines under the PFML law:

- September 30, 2019 – Provide individualized notice to employees and covered contractors and obtain written acknowledgement (previously June 30, 2019)
- October 1, 2019 – Begin payroll deductions (previously July 1, 2019) and remit contributions each quarter; employers must remit contributions for the October 1–December 31 quarter by January 31, 2020
- December 20, 2019 (Optional) – File for a private plan exemption (previously September 20, 2019)

Increased Contribution Rate

To make up for the delay in collecting contributions, the new law has increased the total contribution rate, from 0.63% to 0.75% of qualifying earnings (the Total Contribution Amount). Of the Total Contribution Amount, 82.7% is earmarked for medical leave (the Medical Leave Contribution), and the remaining

17.3% is earmarked for family leave (the Family Leave Contribution), which represents a slight modification from the split previously reported.

Employers with at least 25 covered workers are still required to fund a minimum of 60% of the Medical Leave Contribution (*i.e.*, 60% of 82.7% of 0.75%, or 0.37% of qualified earnings), and all employers can still require the covered workers to pay up to, but not more than, 40% of the Medical Leave Contribution (*i.e.*, 40% of 82.7% of 0.75%, or 0.25% of qualified earnings) and up to 100% of the Family Leave Contribution (*i.e.*, 100% of 17.3% of 0.75%, or 0.13% of qualified earnings) through payroll deductions.

Updated Poster and Notice Forms

The Department has published a [new poster](#) with the changes to the PFML deadlines and contribution rate. As noted in the previous [Client Alert](#), employers must conspicuously post this poster in each workplace in Massachusetts, in English and in each language other than English that is the primary language of at least five workers of that workplace, if the Department has made available the poster in such language. As of this update, the [revised poster is available in](#) Arabic, Chinese, English, French, Haitian Creole, Italian, Khmer, Korean, Lao, Portuguese, Russian, Spanish, and Vietnamese.

The Department has also published [new individual notice forms](#):

- One for employees of small employers (with fewer than 25 covered workers)
- One for contractors of small employers (with fewer than 25 covered workers)
- One for employees of large employers (with 25 or more covered workers)
- One for contractors of large employers (with 25 or more covered workers)

As of this update, the Department had not yet published translations of the notice forms. Employers should monitor the Department's website for translations, updates, and other helpful guidance concerning implementation of the PFML law.

2019 Rate Update Form

Employers who may have already provided individualized notices to their employees and covered contractors are not required to provide new notices. However, employers must provide these workers with a written update explaining the new dates and contribution rates. For this purpose, the Department has made available [a 2019 update form for small employers](#) (with fewer than 25 covered workers) and [a 2019 update form for large employers](#) (with 25 or more covered workers). The Department has clarified that the individuals are not required to acknowledge in writing receipt of the update, but employers must keep a record of distribution.

If you have questions about this update or our [previous Client Alert](#), please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

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