




Employer's Guide to Contributions for the Maine Paid Family and Medical Leave Act

MAINE
DEPARTMENT OF
LABOR

**MAINE PAID FAMILY
& MEDICAL LEAVE**



*The Maine Department of Labor provides equal opportunity in employment and programs.
Auxiliary aids and services are available to individuals with disabilities upon request.*



This Employer's Guide to the Maine Paid Family Medical Leave Act is designed to assist employers to better understand their responsibilities and to help employers navigate Maine Paid Family Medical Leave Law as it relates to contributions. This document provides guidance but does not replace the authority of the Law or program Rules. The information in this guide may be subject to change. . Visit maine.gov/paidleave for the most up to date information.



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Online Portal

Setting Up Your Employer Account

The Maine Department of Labor has developed and will be implementing a secure and modernized application, *the Maine Paid Leave Portal*, to support Maine Paid Family and Medical Leave program contributions. Through *the Maine Paid Leave Portal*, employers must register with the department to determine liability for PFML contributions, submit quarterly contribution reports, and make required premium payments. The Portal has help menus to guide users through the registration and reporting processes.

All employers with employees earning wages in Maine are required to create a secure account in *the Maine Paid Leave Portal* to electronically file quarterly wage reports and remit premium payments.

Employers may also designate a third-party payroll administrator when registering through the Portal.

**** For more information about navigating the *Maine Paid Leave Portal* please visit [Maine.gov/paidleave](https://maine.gov/paidleave) ****



Employers

General Definition of Employers


Under the Maine Paid Family and Medical Leave (PFML) program, an employer is any person, sole proprietorship, corporation, association, or other business entity that employs at least one Maine-based employee, and includes:

1. Any person, sole proprietorship, partnership, corporation, association or other business entity that employs a Maine-based employee;
2. The State, including the executive, legislative and judicial branches, and a state department or agency;
3. A county, city, town or municipal agency;
4. An agent of an employer, the State or a political subdivision of the State;
5. A public employer, as defined in 26 M.R.S. § 962 (7) and
6. A tribal government that has elected coverage pursuant to 26 M.R.S. § 850-G

Localization of Work Provision to determine Maine-based Employees

Pursuant to 26 M.R.S. § 1043 (11) (A) and (D), some employers provide employment to workers outside of Maine, and some employers require workers to travel out of state for employment. These circumstances may leave employers wondering whether these employees are Maine-based for the purposes of this program. The PFML program uses the same test of locality under the Maine Unemployment Insurance law. A worker earning Maine wages can be determined through a four criteria sequential test, applied to the employee:

The following four factors, taken in sequence, determine whether or not employment is reportable in Maine:

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1. **Place Where Work Is Performed:** If the employee performs all work in Maine, or if the work outside Maine is incidental (temporary or minor), then Maine law applies. If this does not apply, continue to next factor.
 2. **Base of Operations:** If the employee performs work in Maine and other states, if the base of operations is in Maine, Maine law applies. The base of operations is the primary location from which the employee starts work and returns regularly. If this does not apply continue to next factor.
 3. **Place from Which Service Is Directed or Controlled:** If the employee performs some work in Maine and the service is directed or controlled from Maine, Maine law applies. This refers to the place of general authority rather than direct supervision. If this does not apply, continue to next factor.
 4. **Place of Residence:** If none of the above criteria apply, and the employee performs work in Maine and other states, and resides in Maine, then Maine law applies. If none of the above apply, the employment is not reportable in Maine.


Subject Wages for Maine-based employees

Formal definition of wages is:

“Wages” means 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 those included in Section II (B) of the 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).

The definition of PFML wages is calculated similarly to the Maine Unemployment Insurance program but is applied to a broader range of employment. For those employers who are subject to Maine Unemployment tax, the calculation for “subject wages” for Maine Employment reporting should be the same number you report for the Maine PFML program. However, employers who are not subject to Maine Unemployment tax due to



statute specific exclusions for that program are still subject to premiums for the Maine PFML program and must calculate subject wages using the definitions above. (Please refer to 'Employees Not Covered' below.)

Employer Size – Counting to 15

For the purposes of determining premium liability, any employer that employed 15 or more Maine-based employees per that employer's Federal Employer Identification Number (FEIN) on their established payroll in 20 or more calendar workweeks in the 12-month period ending September 30th of each year will be considered to be an employer of 15 or more covered employees for the calendar year thereafter. This count includes the total number of persons on establishment payrolls employed full or part time who received pay for any part of the pay period. Temporary and intermittent employees are included, as are any workers who are on paid sick leave, on paid holiday, or who work during only part of the specified pay period. On October 1, 2024, and October 1 of each year thereafter, the employer shall calculate its size for the purpose of determining premium liability for calendar year 2025 and each calendar year thereafter. This employer count will be reported upon first registering with the Maine Paid Leave Portal, and during Quarter 3 wage reporting annually thereafter.

For the 2025 premium liability, the employer will report their employer size when they first register on the Maine Paid Leave Portal. For each subsequent year, the employer will update their employer size when reporting Quarter 3 wages through the Maine Paid Leave Portal to be applied to the following calendar year.



Coverage

Covered Employees


The following employees are covered by this Act:

1. Employees who earn wages paid in the State (see “Wages” and “Localization of Work”).
2. Self-employed individuals who elect coverage as set forth in the Act and program rules.

Employees Not Covered

The following are not covered by this Act:

1. Any employee subject to the Railroad Unemployment Insurance Act, 45 U.S.C. §§ 351 – 369.
2. Incarcerated persons earning wages in a Maine correctional facility established in 34-A M.R.S. § 1001 (6) or a detention facility established in 34-A M.R.S. § 1001 (8-A).
3. Students that are earning wages as part of the Federal Work-Study Program and are enrolled in any public or private higher educational institution in the State of Maine. Note: Students who earn wages from other type of employment (for example, campus employment that is not federal work-study) are covered by this law for those specific wages.
4. Individuals who volunteer for an employer or governmental entity if the volunteer:
 - a. Performs hours of service for the employer or governmental entity for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered. Although a volunteer may receive no compensation, a volunteer may be paid expenses, reasonable benefits or a nominal fee to perform such services;
 - b. Offers services freely and without pressure or coercion, direct or implied, from an employer; and

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- c. Is not otherwise employed by the same employer or governmental entity to perform the same type of services as those for which the individual proposes to volunteer.

5. Employees of the federal government, including employees of the United States Postal Service.

Elective Coverage

Elective coverage is available to self-employed individuals and tribal governments under the following conditions:

1. Electing coverage:
 - a. A self-employed individual who is a resident of the State of Maine may elect to obtain coverage for paid family or medical leave benefits for themselves by filing a notice of election and providing a copy of their tax return for the previous year via the Maine Paid Leave Portal..
 - b. A tribal government may elect to obtain coverage for paid family and medical leave benefits as an employer for the tribal government's employees by filing a notice of election on the Maine Paid Leave Portal.
 - c. Elective coverage must be for an initial period of not less than three years, renewable after the initial period in one-year increments.

2. Effect of electing coverage:
 - a. Approved elective coverage becomes effective on the first day of the first quarter following the approval of the self-employed individual or tribal government's election.
 - b. A self-employed individual who has elected for coverage may apply for benefits on the same basis as any other applicant, pursuant to section VI of this rule.
 - c. A tribal government that has elected for coverage shall be treated for the period of coverage as an employer in the meaning of the Act and these rules.

“Wages for self-employed individuals” has the same meaning as income as defined in 26 U.S.C. § 1402(b). These wages are based on the net earnings from all self-employment, including, but limited to, income reported to Maine on the personal tax return from a prior tax year or as filed with Maine Revenue Services. Applicable tax returns must be submitted annually to the department by June 1. A self-employed individual's reported wages must meet the minimum threshold for covered individuals in order to be eligible for PFML benefits.



Withdrawing or Renewing Elective Coverage

A self-employed individual or tribal government may withdraw from coverage a form provided by the Department within 30 days following the end of the coverage period. The Department shall notify, through the Maine Paid Leave Portal, all elective coverage employers and individuals of the end date of their coverage period no later than 60 days before the end date. If the self-employed individual or tribal government does not withdraw during the specified period, their coverage renews for an additional one-year period.

A self-employed individual may also withdraw from coverage within 30 days of ceasing self-employment.

The effective date of any withdrawal under this section is 30 days after the filing of notice of withdrawal or the date of the Department's notification of approval of withdrawal, whichever is later.

A self-employed individual or tribal government that has been covered but whose coverage has lapsed may elect coverage again, beginning with an initial three-year period of coverage.



Premiums and Contribution Reports

Premium Amount


Beginning January 01, 2025, premiums will be calculated at a combined rate of no more than 1.0%. Beginning in 2027, the Department shall set the premium for the coming calendar year based on a percentage of employee wages.

Premiums are required up to the contribution and benefit 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 United States Code, Section 430. When reporting wages in the Maine Paid Leave Portal, the employer should report all employee wages, and the system will calculate the premiums due based on this wage cap.

Employers with 15 or more covered employees shall remit one hundred percent (100%) of the premium (1% of wages) to the Department and may deduct up to fifty percent (50%) of the premium (.5% of wages) from the employees' wages. **Employers with fewer than 15 covered employees** shall remit fifty percent (50%) of the premium (.5%) and may deduct up to the full fifty percent (50%) of the premium (.5%) from employees' wages.

An employer's determination as to whether or not to deduct premiums from employees' wages must apply to all employees, except as required for employees of separate collective bargaining agreements with the same employer. If an employer changes that determination, the employer must provide notice to all employees in writing at least seven (7) days prior to the employees' first affected paycheck.

Employers who deduct the employee share of the premium from wages must make the deductions from employees' regularly scheduled paychecks, except that an employee and employer may mutually agree to less frequent deductions as long as the agreement is voluntary and memorialized in writing. Deductions may not be made less frequently than quarterly, even if the employer and employee agree. Employers shall include in the employee's pay statement that a premium deduction for Paid Family and Medical Leave has been deducted from the employee's wages.



A self-employed individual, including and independent contractor, sole proprietor, or partner that has elected coverage to obtain benefits must remit to the Department fifty percent (50%) of the premium on the self-individual's income to the Department. The premium amount will be determined on the self-employed individual's net income from the prior year divided by four for quarterly income. Premiums will be due no later than the last day of the month following the close of the quarter.

A tribal government that has elected coverage to obtain benefits on behalf of their employees must remit to the Department the premiums at the rate of non-tribal government employers to the Department on or before the last day of the month following the close of the quarter.


Remittance of Premium Amount and Contribution Reports

Keeping accurate records is always a good business practice, but it is required for reporting wage information. ***It is your responsibility to maintain up-to-date reports, and update any changes to your business information in the Maine Paid Leave Portal. If applicable, you should also update this account information with the Maine Bureau of Unemployment Compensation..***

Under 26 M.R.S. § 850-F, employers are to remit contribution reports and premiums. Beginning January 1, 2025, for each employee, an employer shall remit employer contribution reports and premiums quarterly. The first wage reports and contributions will cover January through March 2025, and will be due no later than April 30, 2025.

Quarter	Dates	Due Date
January through March	01/01-03/31	04/30
April through June	04/01-06/30	07/31
July through September	07/01-09/30	10/31
October through December	10/01-12/31	01/31

The employer's premium amount and contribution report must be remitted quarterly on or before the last day of the month following the close of each quarter for which premiums have accrued. The contribution report must be in a manner approved by the



Department and all employers covered under the act must register online for the program in the manner prescribed by the Department.

Premium payments and contribution reports may be remitted by an employee leasing company or authorized third party administrator on behalf of the employer. Bulk uploads for contribution reports will be permitted using the Maine Paid Leave Portal and will require uploading employee and wage information quarterly in specified e-file formats and template determined by the Department. The bulk wage report specifications can be found at Maine.gov/paidleave under “Employer Resources”.


- For the purposes of determining when withholding for premiums begin, withholdings will begin on wages for the first pay period with a payment date in January 2025.
- For the purposes of reporting wages on contribution reports, amounts will be reported to the nearest **cent**. For the purposes of calculating premiums owed, amounts will be rounded to the nearest **whole dollar**.
- Premiums are required up to the contribution and benefit 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.

Self-employed individuals that elect coverage must submit applicable tax returns annually to the Department by June 1.

Failure to Remit Premiums and Contribution Reports

An employer that has failed to remit premiums in whole or in part or failed to submit contribution reports on or before the last day of the month following the close of the quarter following the close of the quarter shall be assessed a penalty of 1.0 percent of the employer’s total payroll for the quarter. The assessment imposed will apply to only the quarter in which the employer failed to remit premiums in whole or in part or submit contribution reports. In addition, the employer shall be liable for the full amount of family leave benefits and medical leave benefits paid to covered individuals for whom it failed to make premium contributions.

The Department will notify employers, through the Maine Paid Leave Portal, of any delinquent contribution reports no later than 15 days after premiums were due. If the employer fails to remit the delinquent payments or contribution reports on the due date



established in the notice, an assessment will be imposed. If an assessment is imposed for failure to pay, the employer may seek an appeal pursuant to Section XV of the program rules.

A self-employed individual who elects coverage to obtain paid family or medical leave benefits and fails to submit premiums for at least two consecutive quarters as required in this rule may be disqualified from family leave benefits and medical leave benefits by the Department. Prior to disqualification, the Department shall notify the self-employed individual that premiums have not been paid in full for at least two consecutive quarters. If the self-employed individual has failed to remit premiums to the Department after 30 days, the self-employed individual will be disqualified. The self-employed individual may appeal a disqualification pursuant to Section XV of the program rules. If the self-employed individual has demonstrated successful payments of the delinquent premiums and additional premiums equivalent to the number of quarters the self-employed individual failed or refused to remit premiums, the Department in writing must notify the self-employed individual of their reinstatement to obtain coverage for paid family or medical leave benefits.

Refunds

If the remitting of premiums for an employee results in an overpayment, a covered employee may seek a refund from the Department. A request for a refund may require documentation, such as Forms W-2 or other statements summarizing earnings and deductions.

An employer may seek a refund of a premium overpayment on behalf of covered employees employed by the employer and on behalf of the employer. If an overpayment of premiums is made by the employer, the employer may retain any portion of premiums made by the employer but also must return to its employees any portion of the reimbursed amount that it collected from its employees.

Failure to Deduct Employee Share

If an employer fails to deduct the required employee share of the premium from wages paid during a pay period, the employer is considered to have elected to pay that portion of the employee share. The employer shall not deduct this amount from a future paycheck of the employee for a different pay period. However, where there is a lack of sufficient employee wages to cover the employee share of premiums for a pay period, the employer may deduct the uncollected portion of the employee share from one or more paychecks for future pay periods.



Private Plan Substitution

An employer may request to substitute a substantially equivalent private plan pursuant to 26 M.R.S. § 850-H. The proposed substitute plan must be a) a fully-insured private plan, approved pursuant to XIII(B) of the program rules, or b) a self-insured plan, approved pursuant XIII(C) of the program rules.


Applications for substitution may be made after April 1, 2025. Applications for substitution must be submitted on the Maine Paid Leave Portal. Applications for substitutions may be accepted on a rolling basis. An application fee set by the Department must be included with the submission of the application.

Beginning 4/1/2025, the nonrefundable application fee is \$250 for review of the application. If the application is approved an additional \$250 administrative reimbursement fee is required. The fees may be increased by the Department on January 1, 2026 or thereafter, based upon inflation or based upon a redetermination by the Department that the current application fees do not cover the actual cost for administering private plans. Any such increase in the application fees shall be posted on the Department's website.

An approved substitution is valid for a period of three years. The employer is responsible for ensuring that any renewals of the private plan are made to provide continuous coverage in the same approved plan during the period of three years. If an employer intends to switch between fully insured products or between fully insured and self insured products within a three-year substitution period, they must apply for a new three-year substitution period through the Maine Paid Leave Portal.

The exemption from the obligation of premiums begins on the first day of the quarter in which the substitution is approved, except if that application for substitution is submitted less than 30 days prior to the end of the quarter, in which case the exemption is effective on the first day of quarter following when the application for substitution was submitted, assuming it is an approval. If employee withholdings were made prior to the substitution being approved, the employer must refund the withholdings to the effective date of the exemption. The employer is responsible for premiums provided under the Act and this rule until the effective date of exemption and premiums owed prior to the effective date of exemption must be remitted and are non-refundable.

During the duration of an employer's substitution, if an employer seeks to make any material change to the approved plan, the employer must notify the Department at least



60 days in advance of the effective date of any proposed change and must receive written approval from the Department. A material change is any change which affects the rights, benefits or protections afforded to employees under the Act.

Following approval for substitution, the Department may conduct audits and/or investigate employee complaints to determine whether, in operation, the substituted plan provides the rights, benefits, and protections that are substantially equivalent to those provided in the Act. Failure to demonstrate adequacy of performance may lead to revocation of a private plan substitution in this rule.

If the employer's approved plan is canceled due to nonpayment of premium, the employer's approved substitution will be revoked. If an employer's substitution is revoked for any reason, the employer will be responsible for premiums, beginning with the first quarter following revocation. The employer is prohibited from seeking another substitution for a period of three years from the date of the revocation unless the Department allows a lesser period of time.


The Department shall notify employers, through the Maine Paid Leave Portal, of the end date of their approved substitution sixty (60) days prior to the end date. Employers must submit an application for renewal thirty (30) days prior to the end date of their approved substitution. If the employer fails to apply to renew or if the renewal is denied, the employer must remit both the employer and employee contributions to the Fund calculated from the date of the prior exemption expiration, and the employer may not deduct the employees' portion from payroll.

An employer may appeal a denial of substitution, a denial of cancellation, a revocation, or the issuance of any penalty for violation pursuant to section XV of program rules within 15 business days of receiving notice of the denial or revocation.

Reporting Requirements for Employers with Private Plans

An employer with an approved substitution must collect and submit all data required under 26 M.R.S. § 850-E (6) to the Department. The employer must submit data for the July to June period no later than July 31 each year. Data reports prepared for fully insured private plans by insurance companies offering such plans to several employers may meet the requirement of this paragraph. Failure to submit data reports may result in revocation of the substitution.

An employer with an approved substitution must submit to the Department contribution reports for each employee on a quarterly basis online, pursuant to Section XIII of the



program rules. Failure to file contribution reports may result in revocation of the substitution.

An employer with an approved substitution must provide appropriate tax forms for benefits to employees taking leave based on guidance from the Internal Revenue Service and Maine Revenue Service around the taxability of such benefits.

**** For more information about private plans please visit [Maine.gov/paidleave](https://www.maine.gov/paidleave) ****