

October 4, 2021

MASSACHUSETTS ANNOUNCES NEW 2022 BENEFIT AMOUNTS AND CONTRIBUTION RATES FOR MA PFML -- AND MA COVID-19 SICK LEAVE LAW IS EXTENDED/EXPANDED UNTIL APRIL 1, 2022

October 1st is a significant date for MA mandated benefit programs; October 1, 2021 in particular. The state's average weekly wage (SAWW) is determined/updated each October 1. Not only is the SAWW integral to MA unemployment insurance benefits, but it also figures into MA PFML benefit calculations as well as the maximum weekly PFML benefit (currently \$850/week).

Furthermore, October 1st is the statutory date by which the DFML must make any adjustments to the PFML contribution rate (currently .75%) for the coming calendar year.

Finally, September 30, 2021 was the statutory expiration date for the temporary MA COVID-19 Emergency Paid Sick Leave law, which has just been extended effective October 1, 2021 through and until April 1, 2022 (subject to fund availability under the program).

NEW MA PFML BENEFIT CAP AND CONTRIBUTION RATE ANNOUNCED FOR 2022

As of October 1, 2021, the **new state average weekly wage (SAWW)** for Massachusetts has been set at **\$1,694.24** (a \$206 increase from the current \$1487.78). **For the DFML program, the new SAWW takes effect on January 1, 2022.**

IN A NUTSHELL

Effective January 1, 2022:

- **New SAWW for PFML purposes is increased to \$1694.24**
- **New weekly maximum PFML benefit is increased to \$1084.31**
- **New employer contribution rate is DECREASED to .68%**

This means any amount of an employee's own average weekly wage that is less than or equal to \$847.12 (50% of the new SAWW effective January 1, 2022) will be replaced at a rate of 80%. Any part of an employee's average weekly wage that is greater than \$847.12 will be replaced at a rate of 50%, up to the maximum allowed benefit amount.

Beginning January 1, 2022, the maximum allowed benefit amount that an employee can receive in PFML benefits will be **\$1,084.31 per week**. This a \$234 increase in maximum weekly PFML benefit compared to the current \$850/week.

Finally, Massachusetts employers are required to make payroll withholdings on behalf of their workforce in compliance with the MA PFML law. These withholdings are based on contribution rates set by the DFML to fund the administration of benefits.

Since October 1, 2019, the PFML contribution rate has been .75% of wages. This rate will continue until December 31, 2021.

Effective January 1, 2022 the **new contribution rate** on eligible employee wages will be **.68%**.

- Thus, Employers with 25 or more covered individuals will be required to remit a contribution to the Department of Family and Medical Leave of 0.68% of eligible wages.
- Employers with fewer than 25 covered individuals must remit an effective contribution rate of 0.344% of eligible wages. This contribution rate is less because small employers are not required to pay the employer share of the medical leave contribution (.336%), reducing the total contribution amount.

MA PFML Stats for the first six months -- January 1, 2021 through June 30, 2021:

- *DFML approved 43,440 applications and denied 9,989 applications.*
- *Medical leave accounted for 58.13% of applications (25,252 applications).*
- *Family leave to bond with a child following birth, adoption or foster care placement accounted for 41.81% of applications (18,165 applications).*
- *There were no applications for leave to care for a family member as of June 30, 2021, as that leave type was not available until July 1, 2021.*
- *DFML paid out a total of \$167,915,781.01 in family and medical leave benefits -- Medical leave benefits paid out amounted to \$92,047,826.80 and family leave benefits paid out amounted to \$75,867,954.20.*
- *The average weekly benefit was \$705.98 for family leave and \$699.00 for medical leave*
- *Assuming a five-day work week, the average duration of a leave was 53 days from start to finish, or 10.7 weeks.*
- *More than twice as many women applied for paid leave benefits as men.*
- *The largest share of applicants were individuals in their 30s, with almost twice as many as in any other decade of life.*

Stats taken from DFML Fiscal Year 2021 Annual Report -- Period ending 6/30/21

MA COVID-19 EMERGENCY PAID SICK TIME EXTENDED TO APRIL 1, 2022

Last May the MA legislature enacted and Governor Baker signed (on May 28, 2021) H.3702 -- an Act Providing for Massachusetts COVID-19 Emergency Paid Sick Leave. The Act requires employers to make emergency paid sick leave time available to Massachusetts employees for certain reasons related to COVID-19. (See the June 2, 2021 Alert discussing the new law.)

The law was intended to be a temporary measure ending on the earlier of September 30, 2021, or the exhaustion of the \$75 million in program funding, established by the law, to reimburse employers for providing their employees with emergency paid sick leave.

On September 29, 2021, just one day prior to the expiration of the Massachusetts COVID-19 Emergency Paid Sick Leave law, H. 4127 was signed into law extending the emergency sick



leave benefit until the earlier of April 1, 2022 or the exhaustion of the \$75 million in program funding.

According to DFML FAQs (updated 9/29/21), "if the state funds are expected to become depleted prior to April 1, 2022, employers will be notified with 15 days advance notice. Employers may continue to access reimbursement for leave taken up until the termination date of the program, and additional state funding will be added to the program as necessary to ensure that all eligible costs are reimbursed."

In addition to the extension, effective October 1, 2021, employees may use MA COVID sick leave to care for a family member who needs to obtain or recover from a COVID-19 immunization. This COVID-19 benefit/reason is not available prior to October 1, 2021.

According to a recent email sent to employers by the Commonwealth:

- "During the extension period, employers must continue to offer Massachusetts employees leave time for qualifying reasons related to COVID-19. Further information on the updated law is available at <https://www.mass.gov/info-details/covid-19-temporary-emergency-paid-sick-leave-program>.
- Employers may continue to apply for reimbursement by logging into the Department of Revenue's MassTaxConnect website. Further information, including detailed instructions, is available here: <https://www.mass.gov/info-details/covid-19-temporary-emergency-paid-sick-leave-program#how-to-apply-for-reimbursement->."

Finally, employers will want to replace their current MA COVID-19 Emergency Paid Sick Leave poster with a revised version once it becomes available on the DFML website.

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About the Author. Richard A. Szczebak, Esq. is an accomplished attorney and consultant with a strong background in regulatory and compliance matters regarding employee benefit plans, federal health care reform (ACA) and Massachusetts health care reform. His firm, RAS Law, P.C., concentrates exclusively in employee benefits law. **Mr. Szczebak is the author of the 4th edition of the Bloomberg BNA Tax Management Portfolio on Code Section 125 Cafeteria Plans (cited as Szczebak, 397-4th T.M., *Cafeteria Plans*).** He can be reached at rszczebak@raslawpc.com.

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