

e-Alert: MA PFML Exemption Updates



Background

Insurance carriers, the Department of Family and Medical Leave (DFML), and the Massachusetts Division of Insurance (DOI) are working together to develop tools that will make it easier to determine if private Paid Family and/or Medical Leave (PFML) plans meet the requirements to exempt an employer from the state plan. In addition to this joint effort, the DFML has enhanced its internal review process to evaluate and respond more efficiently to submissions from private plans.

Summary

Exemption Deadline: December 20, 2019

The deadline to file for an exemption from paying contributions for the period of October 1 – December 31, 2019, is December 20, 2019. What does this mean?

- Employers who apply for an exemption on or before December 20, 2019, and are approved, will be

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exempt effective October 1, 2019.

Important: This retroactive approval only applies to the first quarter of PFML contributions.

- Employers who submit their application after December 20, 2019, will be considered for an exemption that will begin in the next quarter. This quarter starts on January 1, 2020.

Important: You will still be required to submit PFML contribution payments for the quarter of October 1, 2019 - December 31, 2019. This payment is due by January 31, 2020.

Application Approval Process

Not long after you submit your application, the DFML will send you a provisional approval determination. They will review each plan to make sure it meets all the specified requirements to receive an exemption. If needed, they will request additional information regarding your plan to ensure that your submission is complete before the December 20, 2019, deadline.

Employee Notification for Exempted Plans

As an employer, you are responsible for informing your employees if you opt for an exemption rather than the state plan. For more detailed information on how to handle notifications depending on where you are in the exemption application process, please refer to the DFML's [website](#).

Plans Eligible for Exemptions

Two types of plans may qualify for an exemption:

- A private plan offered by an insurance carrier that is licensed by the DOI and is fully insured.
- A self-insured plan funded by an employer. This plan may be administered by a third-party administrator.

Standards for PFML Fully Insured Private Plans

Insurance carriers, the DFML, and the DOI are jointly developing a standardized template — a Declaration of Insurance form — for all carriers to use to ensure that plans follow the PFML requirements. For the time being, the DFML will consider a carrier-issued Declaration of Insurance as acceptable proof of family and medical leave coverage that follows the DFML standards.

Approved Insurance Carriers

The DOI has published a list of [insurance carriers](#) who can provide a PFML Declaration of Insurance that meets the DFML standards. Be sure to check this list on a regular basis as it is continually updated.

Bond Form Update for Self-Insured Plans

If you're an employer with a self-insured plan, and are approved for an exemption, you are required by law to provide the DFML a surety bond. Bond forms and the calculation formula were updated in September 2019. For the new bond forms, instructions, and the new bond calculation rate, [click here](#).

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Please note:

- The surety bond effective date needs to match the effective date of your exemption.
- If you applied on or before December 20, 2019, the effective date of your exemption is October 1, 2019, and the bond term will expire on September 30, 2020.
- You may submit your bond at the time of your application.
- If you have been provisionally approved for an exemption on a self-insured plan, MassTaxConnect will contact you with instructions on how to provide DFML with the bond as well as any additional information.

Employer Next Steps

- If you intend to apply for an exemption or have been provisionally approved for an exemption; please reach out to your insurance carrier to obtain the required Declaration of Insurance to add to your application file by December 20, 2019.
- Review your long-term and short-term disability policies.
 - Most long-term and short-term disability insurance policies do not meet the PFML requirements for a medical leave exemption. To be approved, a private plan must provide its employees with the same or better benefits as those required by [M.G.L. c. 175M. Section 11](#). A private plan must also provide the same or better rights and protections as those specified in M.G.L. c. 175M. Sections [2](#) and [9](#).
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy, or you would like more information on the exemption process please [email us](#).

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