

Washington
Paid Family & Medical Leave

PREPARE TO BE THERE FOR CARE

WASHINGTON'S NEW PAID FAMILY & MEDICAL LEAVE PROGRAM

EMPLOYER TOOLKIT

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About this toolkit

This toolkit is intended to help anyone with employees in Washington know how to prepare for this new program and to help you inform your employees about what to expect.

Some program details are still under development and this toolkit will be updated to reflect the most current information available. Our anticipated update schedule is below, however dates are subject to change based on program development and rulemaking.

UPDATE SCHEDULE

~~Version 1.1: October 25, 2018~~

~~Version 2.1: November 14, 2018~~

Version 3.1: December 6, 2018

Version 4.1: March 8, 2018

We are committed to giving you accurate information and the best tools we have as soon as they are available. Please go to www.paidleave.wa.gov for updates and check the file name in the footer of this document to make sure you're looking at the most current version.

Stay informed and get involved

1. Explore our website (www.paidleave.wa.gov).
2. Connect with us. Sign up for our listserv (bit.ly/paidleavelist) and follow us on social media (@PaidLeaveWA on Facebook, Twitter and Instagram).
3. Get involved in rulemaking; It will be ongoing through 2019. Details at paidleave.wa.gov/rulemaking.

About the program

We know that the most important things in life happen outside the workday. People we care about become ill. Families welcome new members. Big moments that require extra attention come along for all of us.

Support in these times means we can be stronger both at home and at work. Paid Family and Medical Leave is an essential benefit that strengthens companies by ensuring every employee can take paid time for care when needed. This new statewide insurance program will make Washington an even better place to live, work and do business.

In 2020, our program will be the strongest in the nation and a model for other states looking to implement this benefit.

To build the program, requirements for employers begin on Jan. 1, 2019.



Employer responsibilities

Which employers and employees does this involve?

Almost every Washington employer must participate in this program, and almost every Washington employee will be eligible to receive benefits. This includes businesses of all sizes and non-profits, charities and faith organizations. If you are a public or private business with even one employee in Washington, you'll very likely be a part of Paid Family and Medical Leave.

Exceptions are:

- Federally recognized tribes (may opt in)
- Federal employees
- Self-employed individuals (may opt in)
- Some employees subject to collective bargaining agreements (see below)

How is the program funded?

A shared premium of 0.4% of employee wages will fund the program (learn more on page 8).

What do employers need to do?



Starting in 2019, employers must:

- Report employee wages, hours, and more to ESD (learn more on page 9).
- Collect premiums from employee paychecks and remit them to the Employment Security Department.
- Provide notice of this program to employees.

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Self-employed individuals and federally recognized tribes are not required to participate in Paid Family and Medical Leave but may opt in to the program to receive access to benefits.

How do existing collective bargaining agreements figure in?

Employers and employees subject to collective bargaining agreements (CBAs) that were in existence on or before Oct. 19, 2017, are not subject to the rights or responsibilities of Paid Family and Medical Leave – including the withholding of premiums and the reporting requirements – until the agreement is reopened, renegotiated, or expires. Employers and employees covered under CBAs negotiated after Oct. 19, 2017, are in the program and subject to the program’s requirements.

What about small businesses?

Unlike the federal unpaid Family and Medical Leave Act (FMLA), small businesses are required to participate in this program. However, there is financial help for small business built into the program:

1. **Businesses with fewer than 50 employees are exempt from the employer portion of the premium.** Employers must still remit the employee portion of the premium, and the employees are fully eligible to receive paid leave. Small business employers may withhold the employee share of the premium or opt to cover that premium as an added benefit.
2. **Small business assistance grants are available to employers with 150 or fewer employees.** These grants provide up to \$3,000 to help cover costs associated with employees on leave. An employer may apply for up to 10 of these grants each year, with one per employee on leave. Employers with fewer than 50 employees that opt to pay the employer portion of the premium can also be eligible for these grants.

How is business size calculated?

ESD will calculate your business’s size on an annual basis Sept. 30 of each year. It is based on your average employee headcount over the previous four quarters as reflected in the reports you submit to ESD. It is not calculated by FTE positions.

For 2019 only:

ESD will determine the size of your business based on your first quarter report (Jan – March), and this is the number ESD will use for 2019.

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On Sept. 30, 2019, ESD will average the number of employees reported over the previous quarters to determine business size for calendar year 2020.

You won't receive ESD's calculation of your business's size until we receive your first quarterly report in April 2019. However, tracking the headcount of your employees for the first quarter of 2019 will give you the best indication of whether you will need to pay the employer portion of the premium in April.

Can I opt out?

Starting Jan. 1, 2020, all eligible employees in Washington must have access to paid family and medical leave benefits either through the state program or an employer-funded program. Employer-funded programs are called voluntary plans, and may be provided for family leave, medical leave, or both. The benefits offered to employees under a voluntary plan must meet or exceed the benefits of the state plan. To get more information about voluntary plans and whether it is right for your business, download the voluntary plan guide at www.paidleave.wa.gov/employers.

The voluntary plan application is available at www.paidleave.wa.gov/voluntary-plan-application.

How does Paid Family and Medical Leave work with FMLA?

When a qualifying event is covered by both Paid Family and Medical Leave and FMLA, the leave available in both programs is taken concurrently, unless the employer permits otherwise.

More rules about the interaction of Paid Family and Medical Leave and other leave programs will be developed throughout 2019.

Premiums

Employers start collecting premiums for Paid Family and Medical Leave on Jan. 1, 2019.

For 2019, the premium is 0.4% of each employee's gross wages, minus tips. Detailed information on calculating premiums, including a calculator you can use to estimate your premiums, is available on our website at www.paidleave.wa.gov/employers.

What are gross wages?

In Paid Family and Medical Leave, wages are generally referred to as gross wages without tips. Gross wages include, but are not limited to, salary or hourly wages, sick leave, vacation leave, holiday pay, bereavement leave and paid time off, bonuses, stocks as part of a compensation package and the cash value of meals and lodging when given as compensation.

Wages are defined in statute ([RCW 50A.04.010](#)) as the remuneration paid by an employer to an employee (up to the Social Security cap for premium assessment).

How do I calculate premiums?

Businesses of all sizes calculate premiums using the same formula. Unless you are operating an approved voluntary plan, this is how you calculate premiums:

Step one

Calculate the total premium amount for each of your employees.
The premium for 2019 is 0.4% of an employee's gross wages, so:



$$\text{Gross Wages} \times .004 = \text{Total Premium}$$

Step two

Calculate the employee and employer shares. Under the law, employers may split the cost of the program with employees by withholding up to 63.333% of the premium.



$$\text{Total Premium} \times .6333 = \text{Maximum Employee Share}$$



$$\text{Total Premium} \times .3667 = \text{Minimum Employer Share}$$

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All employers, regardless of size, are responsible for remitting the employee share of the premium to ESD on a quarterly basis. You can choose to withhold the entire 63.333% from your employee's paycheck, or you can cover all or some of the premium on your employee's behalf.

Important details:

- If you are using a voluntary plan for family or medical leave, your calculations may be different. Visit www.paidleave.wa.gov/voluntary-plans for more.
- Premium withholdings are capped at the Social Security cap, which is updated annually. It is \$132,900 for 2019.

If you have fewer than 50 employees, you will only be assessed the employee portion of the premium. Starting Jan. 1, you must withhold that portion of the premium from your employees or opt to cover that portion yourself. If you do not withhold that portion from your employees' paychecks, you will be responsible for paying it yourself. Premiums should be withheld from each paycheck. Employers cannot collect missed premiums in later pay periods.

If you have 50 or more employees, you will be assessed both the employee and employer portions of the total premium. If you do not withhold the employee portion from paychecks, you will be responsible for paying both portions yourself. Premiums should be withheld from each paycheck. Employers cannot collect missed premiums in later pay periods.

Reporting

Starting in 2019, employers will be required to report employee information to ESD quarterly. The first report will be due April 30 and you should begin tracking your employees' hours and wages on Jan. 1, 2019.

Reporting fields

- UBI number
- Business name
- Total premiums collected from employees
- Name of the report preparer

Then, for each employee:

- SSN or ITIN
- Last name

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- First name
- Middle initial
- Wages paid in the reporting quarter and associated hours

Reporting periods follow calendar quarters and are aligned with the reporting periods for Unemployment Insurance.

Reporting quarter	Report due
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

Reporting process

In April 2019, employers will submit employee hours, wages and more for the first time. The process is currently in development and we plan to make it like reporting for Unemployment Insurance. However, it will be a separate report from Unemployment Insurance and other state programs.

We expect most employers will submit reports online through our employer account management system. Bulk filing and paper reporting options will both be available.

About the benefit

Paid Family and Medical Leave allows employees to take up to 12 weeks, as needed, if they:

- Welcome a child into their family (through birth, adoption or foster placement).
- Experience a serious illness or injury.
- Need to care for a seriously ill or injured relative.
- Need time to prepare for a family member's pre- and post-deployment activities, as well as time for childcare issues related to a family member's military deployment.

If employees face multiple events in a year, they may be eligible to receive up to 16 weeks, and up to 18 weeks if they experience a serious health condition during pregnancy that results in incapacity.

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Employer readiness checklist

FALL 2018

- Review our Voluntary Plan Guide (www.paidleave.wa.gov/employers), participate in a webinar, and decide whether a voluntary plan is right for your business.
- If you're interested in offering employee benefits through a voluntary plan, apply online at www.paidleave.wa.gov/voluntary-plans.
- Calculate employee and employer premiums to prepare for Jan. 1, 2019, withholding.
- Share this toolkit with your payroll administrator.
- Share the paystub insert with your employees (page 16 of this toolkit).

WINTER 2019

- Starting Jan. 1, 2019, document in your own system the number of hours worked by each of your employees, regardless of whether they are full-time employees or not.
- Begin withholding your employees' share of the premium, unless you choose to pay your employees' share, from paychecks beginning Jan. 1, 2019.
- Share the paystub insert with your employees (page 16 of this toolkit).

SPRING 2019

- Access the Paid Family and Medical Leave employer account management system at www.paidleave.wa.gov. You will use your existing Secure Access Washington (SAW) account (or create one if you don't have one already).
- Beginning April 2019, remit all premiums and report employee hours and wages to ESD on a quarterly basis.
- Share the paystub insert with your employees (page 16 of this toolkit).

Sample employee communications

Employers, HR or payroll are the first place most people will go when they notice new deductions from their paycheck. To help assist you in informing your employees of this new program, we've provided sample communications for you to share with your employees, including:

- Sample employee handbook materials
- Sample text for a blog, newsletter or email
- Sample paystub insert/attachment

Note: These materials are not offered, nor should they be construed, as legal advice. It is strongly advised that you have your company attorney review the draft before preparing your final copy.

Under the law, you are required to inform your employees about their rights under Paid Family and Medical Leave by posting a notice in a place customarily used to post other employment-related notices. This notice will be made available to you before Jan. 2020. Go to www.paidleave.wa.gov for more.

Sample employee handbook materials

Paid Family and Medical Leave overview

Paid Family and Medical Leave is a mandatory statewide insurance program that will provide almost every Washington employee with paid time off to give or receive care.

If you qualify, this program will allow you to take up to 12 weeks, as needed, if you:

- Welcome a child into your family (through birth, adoption or foster placement)
 - Experience a serious illness or injury
 - Need to care for a seriously ill or injured relative
 - Need time to prepare for a family member's pre- and post-deployment activities, as well as time for childcare issues related to a family member's military deployment.
- For specifics on military-connected paid leave, visit www.dol.gov/whd/regs/compliance/whdfs28mc.pdf

If you face multiple events in a year, you might be eligible to receive up to 16 weeks, and up to 18 weeks if you experience a serious health condition during pregnancy that results in incapacity.

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Payment of premiums

The program is funded by premiums paid by both employees and employers. It will be administered by the Employment Security Department (ESD).

Premium collection starts on Jan. 1, 2019. In 2019, the premium is 0.4% of wages, or \$3.85 per week for someone making \$50,000 a year. Employers can either pay the full premium or opt to withhold a portion of the premium from their employees. Employers who choose to withhold premiums from their employees may withhold up to about 63 percent of the total premium, or \$2.44 per week for an employee making \$50,000 annually. The employer is responsible for paying the other 37 percent. Businesses with fewer than 50 employees are exempt from the employer portion of the premium but must still collect or opt to pay the employee portion of the premium.

Premium collection will begin Jan. 1, 2019. Your employer will calculate and withhold premiums from your paycheck and send both your share and theirs to ESD on a quarterly basis.

Taking leave

Starting Jan. 1, 2020, employees who have worked 820 hours in the qualifying period (equal to 16 hours a week for a year) will be able to apply to take paid medical leave or paid family leave. The 820 hours are cumulative, regardless of the number of employers or jobs someone has during a year. All paid work over the course of the year counts toward the 820 hours, including part-time, seasonal and temporary work.

While on leave, you are entitled to partial wage replacement. That means you will receive a portion of your average weekly pay. The benefit is generally up to 90 percent of your weekly wage, with a minimum of \$100 per week and a maximum of \$1,000 per week. You will be paid by the State of Washington rather than your employer.

Unlike the federal Family and Medical Leave Act (FMLA), employees of small businesses may take Paid Family and Medical Leave if they meet the standard eligibility requirements.

More information on applying for benefits will come in 2019. Please go to www.paidleave.wa.gov for more information.

What protections are there for me?

Employees who return from leave under this law will be restored to a same or equivalent job if they work for an employer with 50 or more employees, have worked for this

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employer for at least 12 months, and have worked 1,250 hours in the 12 months before taking leave (about 24 hours per week, on average).

You can keep your health insurance while on leave. If you contribute to the cost of your health insurance, you must continue to pay your portion of the premium cost while on leave.

Your employer is prohibited from discriminating or retaliating against you for requesting or taking paid leave.

Sample text for a workplace blog, newsletter or employee email

Starting in 2020, Washington will be the fifth state in the nation to offer paid family and medical leave benefits. This benefit offers partially paid leave to care for yourself or a loved one in times of serious illness or injury, to bond with a new child joining your home through birth, adoption or foster placement, and for certain military-connected events if you have a family member in active duty service.

As a worker in Washington, you will experience a few changes in 2019. In your first paycheck of 2019, you might notice a new deduction. For example, if your gross wages are \$50,000 per year, you may pay up to about \$2.44 from per week. Employers contribute to this program too, so we're in this together.

In 2020, you will be able to apply for leave when you experience a qualifying event and have worked 820 hours (about 16 hours a week, on average) in the year leading up to your date of leave.

This isn't like paid sick leave; you will file your claim with the Employment Security Department (ESD), and your payment will come from ESD. Typically, you'll have access to up to 12 weeks of paid leave. You can learn more at www.paidleave.wa.gov/workers.

Do you have questions? Ask your HR representative or ask your questions directly to the Paid Family and Medical Leave program at paidleave@esd.wa.gov. You can also find them on Twitter, Instagram and Facebook @PaidLeaveWA.

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Employee paystub insert

Washington's Paid Family and Medical Leave program is starting soon.

Let's all get ready to be there for care.

Starting January 2019, Washington employees and many employers will begin investing in a statewide program that will provide paid leave to give or receive care.

When the benefits begin in 2020, Paid Family and Medical Leave will support Washingtonians, whether they are recovering from a serious illness or injury, caring for a new child or helping an aging parent. It means workers won't have to choose between a paycheck and caring for their health and their family.

What it is:

The program is mandatory because the spirit behind this benefit is one of understanding that at some time we all need—or need to give—extra care and attention.

Who's eligible:

Nearly every Washington employee who works at least 820 hours (approximately 16 hours weekly) qualifies for the program. All paid work counts toward the 820 hours, including part-time, seasonal and temporary work. To learn more, visit paidleave.wa.gov/workers.

Benefit details:

- Allows up to 12 weeks of paid leave, or up to 18 weeks in certain circumstances.
- Workers receive between \$100 and \$1,000 per week, depending on income.

Your contribution:

To build this insurance program, on January 1, 2019 you may see a premium set aside from your paycheck, like you see for Medicare. The total premium is 0.4% of your wages and may be shared between an employee and employer. For an employee earning \$50,000 a year, the maximum premium is just \$2.42 a week.

Visit paidleave.wa.gov to calculate your contribution and learn more about how you can take time for care.

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If you choose to deduct premiums from your employee's paycheck, you may want to share the paystub insert with them to explain the new withholding.

Visit www.paidleave.wa.gov/paystub to download the full-page English and Spanish versions, as well as additional translations in:

- Arabic
- Chinese
- Japanese
- Khmer
- Korean
- Laotian
- Punjabi
- Russian
- Somali
- Tagalog
- Ukrainian
- Vietnamese

Document change log

November 14, 2018

- Updated employer reporting requirements and deadlines (p 9)
- Updated Social Security cap for 2019 (p 9)

November 19, 2018

- Updated timeline for ESD's release of the required employee notification poster (p 12)

December 5, 2018

- Updated description of calculating business size (p 6)
- Updated definition of gross wages (p 8)
- Expanded the explanation of calculating premiums (p 9 and 10)

December 11, 2018

- Removed stipends and per diem from the definition of gross wages (p 8)