





There are two changes to Minnesota employment law that go into effect on January 1, 2026 that employers need to be aware of and prepared for: (1) Minnesota Paid Family and Medical Leave (PFML); and (2) amendments to Minnesota's meal and rest break requirements.





# Paid Family and Medical Leave

PFML is a **state-run wage-replacement benefit** for eligible workers who need leave for certain medical or family-related reasons. It covers time off for an employee's own serious health condition, caring for a family member, bonding after birth or placement of a child, certain military-related needs, and other reasons defined by statute and rules.

Eligible Employees seeking Paid Leave must apply and provide information (e.g., certification supporting a request for Paid Leave, eligibility information, and other requested information) to the State. The State determines whether an applicant is entitled to Paid Leave and, if Paid Leave benefits are granted, directly pays benefits to the employee.

See <a href="https://paidleave.mn.gov">https://paidleave.mn.gov</a>.

Participation is **mandatory for nearly all employers with Minnesota employees,** regardless of size, unless the employer adopts a **state-approved private plan** that meets or exceeds the state program's requirements.





### **Eligibility Requirements**

To be eligible for Paid Leave, an employee applicant must work at least 50 percent of their time from a location in Minnesota or, if an employee does not work at least 50 percent of their time in any single state – for example, if they split their time equally between Minnesota and two other states – they are covered if some of the employment is performed in Minnesota and the employee's residence is in Minnesota during at least 50 percent of the calendar year.

Remote workers are covered by Paid Leave if they work at least 50 percent of their time from a location in Minnesota (including work from home in Minnesota) but remote workers are not covered by Paid Leave if they work more than 50 percent of their time in a different state.





### **Leave Types**

## PFML provides for paid leave benefits for the following reasons:

- Leave for the employee's own "serious health condition" (as defined by the statute), including a period of incapacity due to medical care related to pregnancy.
- "Family care" for a family member with a serious health condition or caring for a family member who is a military member.
- "Bonding time" for an employee who is a biological, adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the child's birth, adoption, or placement. Bonding leave begins at the time requested by the employee but must end within 12 months of the birth, adoption, or placement of a foster child, except that, in the case where the child must remain in the hospital longer than the mother, the leave must end within 12 months after the child leaves the hospital. Employees may also use bonding leave before the actual placement or adoption of a child in situations that include, but are not limited to, where the employee may be required to (1) attend counseling sessions; (2) appear in court; (3) consult with the attorney or doctors representing the birth parent; (4) submit to a physical examination; or (5) travel to another country to complete an adoption.
- "Medical care related to pregnancy", including prenatal care or incapacity due to pregnancy or recovery from childbirth, stillbirth, miscarriage, or related health conditions.
- "Qualifying exigency leave" to address needs arising out of a military member's active duty service or notice of an impending call or order to active duty in the United States armed forces, including providing for the care or other needs of the family member's child or other dependent, making financial or legal arrangements for the family member, attending counseling, attending military events or ceremonies, spending time with the family member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.
- "Safety leave" from work because of domestic abuse, sexual assault, or stalking of the applicant or applicant's family member, provided the leave is to: (1) seek medical attention related to the physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking; (2) obtain services from a victim services organization; (3) obtain psychological or other counseling; (4) seek relocation due to the domestic abuse, sexual assault, or stalking; or (5) seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to, or resulting from, the domestic abuse, sexual assault, or stalking.



#### **Duration of Leave**

The total number of weeks that an applicant may take benefits in a single benefit year for the applicant's serious health condition is the lesser of 12 weeks, or 12 weeks minus the number of weeks within the same benefit year that the applicant received benefits for bonding, safety leave, family care, and qualifying exigency, plus eight weeks.

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Depending on the type and duration of leave taken by an employee in a benefit year, an applicant employee may be entitled to up to 20 weeks of paid leave benefits in a single benefit year.

In addition to paid leave for continuous periods of time, paid leave may be taken on an intermittent basis in certain circumstances. Up to 480 hours of leave in any 12-month period may be taken intermittently, except that intermittent leave based on a serious health condition may be taken only if such leave is reasonable and appropriate to the needs of the individual with the serious health condition. An employee desiring intermittent Paid Leave must make a reasonable effort to share the need for leave and a proposed leave schedule with the employer before applying for Paid Leave benefits with the State.

### **Premium Contributions: Shared Cost of Coverage**

The Paid Leave program is funded by premiums paid by the employer or split between the employer and its employees. The initial premium rate is 0.88% of an employee's covered wages up to the Social Security cap (which in 2026 is \$185,000). An employer may deduct up to 50% of the Paid Leave premium from the wages paid to its covered Minnesota employees (0.44% of covered wages in 2026), with the balance of the premium paid by the employer.

Employers must begin collecting PFML premiums on wages paid for time worked on or after January 1, 2026, and remit the employer and employee share of the premiums to the State on a quarterly basis.





### **Required Poster and Employee Notification**

Employers must provide written notice to covered Minnesota employees setting forth any premium split that will be applied and providing additional information regarding PFML. A copy of the State provided notification form can be found at <a href="https://pl.mn.gov/employers/">https://pl.mn.gov/employers/</a> <u>roles-and-responsibilities#section-456-tell-your-employees-about-paid-leave.</u>

In addition, employers must post or otherwise make accessible the State mandated poster addressing PFML which can be found at <a href="https://mn.gov/deed/assets/paid-leave-">https://mn.gov/deed/assets/paid-leave-</a> mandatory-employer-poster-acc tcm1045-700342.pdf.

#### **Continued Insurance**

During any approved Paid Leave, an employer must maintain coverage under any group insurance policy, group subscriber contract, or health care plan for the employee and any dependents as if the employee was not on leave, provided, however, that the employee must continue to pay any employee share of the cost of such benefits.







Employers may not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining benefits or leave, or for exercising any other right under the Minnesota Paid Leave law.

Upon return from Paid Leave, an employee is entitled to be restored to the same position held at the commencement of leave or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. However, job reinstatement protections do not apply until the employee has been that job reinstatement protections do not take effect until 90 days after an employee's date of hire. Further, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the period of approved Paid Leave. Further, if a shift has been eliminated or overtime has been decreased, an employee would not be entitled to return to work that shift or the original overtime hours upon restoration.

If an employee is laid off during the course of taking an approved Paid Leave and employment is terminated, the Company's responsibility to continue the leave, maintain group health plan benefits, and restore the employee cease at the time the employee is laid off (subject to any continuing obligations under a collective bargaining agreement or otherwise).

If an employee was hired for a specific term or only to perform work on a discrete project, the Company has no obligation to maintain group health plan benefits and restore the employee if the employment term or project is over and the Company would not otherwise have continued to employ the employee.

IMPORTANT NOTE: An employer cannot require a covered Minnesota employee to seek benefits under the Paid Leave Law. The decision on whether to apply for Paid Leave benefits through the State must be left entirely up to the employee. In addition, an employer cannot require that an employee exhaust his or her available sick, vacation, or personal time before or while taking leave Paid Leave through the State. An employee may choose to do that, but again that must be the employee's decision.





### **Overview of Benefit Application Process**

- 1. The employee applies to the State for paid leave benefits.
- 2. The employee applicant must provide a certification to the State addressing the nature and circumstances of the leave. An employer has the right to require an applicant employee to provide that certification to the employer as well. What type of certification, as well as what must be included in the certification, varies depending on what type of paid leave is requested.
- 3. The Department will notify the employer within no more than five business days that a claim for benefits has been filed by the employee.
- 4. The Department will make an eligibility determination and then must notify the employer of the same within two weeks.
- 5. If the Department determines that an employee applicant is eligible for benefits, it must promptly notify the employer of the same, which must include at a minimum (a) the name of the applicant, (b) that the applicant has applied for and received benefits, (c) the week the benefits commenced, (d) the weekly benefit amount payable, and (e) the maximum duration of benefits.
- 6. Similar to unemployment eligibility determinations, Employers have a right to appeal a benefit eligibility determination but only on the limited issues of (a) whether the services performed constitute employment, (b) whether the employment is covered employment, or (c) whether money paid constitute wages. On its face, the statute does not allow the employer to appeal a determination that leave is for a covered reason. An appeal will result in an informal evidentiary hearing (similar to unemployment appeals).

### **Leave Stacking**

One area of concern that arises from the fact that employers cannot compel eligible employees to apply for and receive State paid leave benefits is the prospect that an employee could attempt to stack leave periods, thus extending the amount of time they are off work. The good thing is that the Paid Leave Law addresses this and provides that FMLA and MN Pregnancy and Parenting leave runs concurrently with Paid Leave, thus prohibiting stacking.







- 1. Set up an Employer Account at <a href="https://paidleave.mn.gov/">https://paidleave.mn.gov/</a>
- 2. Provide the required Paid Leave Notice to MN eligible employees. On a going forward basis, this Notice must be provided to an eligible employee ... either a new employee or an existing employee who becomes eligible because of changed circumstances ... not more than 30 days from the beginning date of the employee's employment, or 30 days before premium collection begins, whichever is later.
- 3. Post the mandatory Paid Leave poster.
- 4. Submit wage detail reports for eligible employees dating back to October 31, 2024 through your Employer Account and set up process to ensure provision of guarterly wage detail reports going forward.

NOTE: Under PFML, the first quarterly wage detail reports were due by October 31, 2024 reporting on wages paid from July 1, 2024 through September 30, 2024. However, if you did not submit a report by October 31, 2024 you may submit reports back to this quarter when you begin reporting.

For employers whose entire workforce is covered by Minnesota Unemployment Insurance the quarterly wage reporting required for Unemployment Insurance will also satisfy the required quarterly wage reporting for Paid Leave.

- 5. Make arrangements with your payroll team or payroll processor to collect and remit the required premiums. The State will compute the premium due from the wage detail report submitted by you and notify you of the premium due. The premiums must be paid to the family and medical benefit insurance account and must be received by the State on or before the last day of the month following the end of the calendar quarter. All premium payments must be made by electronic payment. The first premium payments are due on April 20, 2026 on wages paid to eligible employees from January 1 through March 31, 2026.
- 6. Update your employee handbook to address Minnesota Paid Family and Medical Leave.





# Changes to Meal and Rest Break Requirements

Amendments to the Minnesota meal and rest break laws go into effect on January 1, 2026.

#### **Meal Breaks**

As amended, the Minnesota meal break law (Minn. Stat. §177.254) provides: "An employer must allow each employee who is working for six or more consecutive hours a meal break of at least 30 minutes."

The previous version of the law required that an employee working 8 or more consecutive hours be provided sufficient time to eat a meal. The amended law requires that employees working for 6 or more consecutive hours be afforded a meal break of at least 30 minutes.

### **Rest Breaks**

As amended, the Minnesota rest break law (Minn. Stat. §177.253) provides: "An employer must allow each employee a rest break of at least 15 minutes or enough time to utilize the nearest convenient restroom, whichever is longer, within each four consecutive hours of work." Note that the rest break must be allowed within each four consecutive hours of work – not at or after four hours.

The previous version of the rest break law required an employer to allow each employee adequate time from work within each four consecutive hours of work to utilize the nearest convenient restroom. The amended law expands the scope of the rest break requirement to include breaks other than those necessary to use the nearest convenient restroom. In addition, it requires a rest break of at least 15 minutes or enough time to utilize the nearest convenient restroom which, depending on the circumstances, could permit more than a 15-minute break to use the restroom.



### **Penalties Imposed**

- The amended meal and rest break laws add penalties for a violation of the laws.
- If an employer does not allow an employee rest breaks as required by this section and related rules, the employer is liable to the employee for the rest break time that should have been allowed at the employee's regular rate of pay, plus an additional equal amount as liquidated damages.
- If an employer does not allow an employee meal breaks as required by this section and related rules, the employer is liable to the employee for the meal break time that should have been allowed at the employee's regular rate of pay, plus an additional equal amount as liquidated damages.
- Employers who do not provide the meal and/or rest breaks required now must pay additional compensation to the employee for the break time that should have been allowed at the employee's regular rate of pay plus an additional equal amount as liquidated damages.
- If an employee is denied a 15-minute rest break to which he or she was entitled, the employer must pay the employee for (1) the 15 minutes the employee spent working during what should have been a rest break; (2) additional compensation for 15 minutes paid at the employee's regular rate of pay; and (3) liquidated damages in an amount equal to 15 minutes at the employee's regular rate of pay. The penalty for violating the rest break statute thus amounts to at least 30 minutes paid at the employee's regular rate of pay on top of the employee's compensation for the time spent working during what should have been a rest break.
- If an employee is denied a 30-minute meal break to which he or she was entitled, the employer must pay the employee for (1) the 30 minutes the employee spent working during what should have been a rest break; (2) additional compensation for 30 minutes paid at the employee's regular rate of pay; and (3) liquidated damages in an amount equal to 30 minutes at the employee's regular rate of pay. The penalty for violating the meal break statute thus amounts to 60 minutes paid at the employee's regular rate of pay on top of the employee's compensation for the time spent working during what should have been a meal break.

### **CBA Exceptions**

The amended meal and rest break laws both provide that the statutory break requirements will not apply if an employer and employee have established different meal and/or rest break requirements under a collective bargaining agreement. Consequently, employers operating under current CBAs that provide different rest and meal break requirements may continue to follow the applicable CBA without running afoul of the amended meal and rest break laws.





### MN DL&I FAQs

The Minnesota Department of Labor & Industry has issued FAQs regarding the changes to the meal break law as well as the rest break law that clarify certain key points:

- An employer is only required to provide a 30-minute meal break to an employee working 6 or more consecutive hours one time per day, regardless of the total number of hours worked by the employee in a given day. The law does not require an employer to provide more than one meal break a day.
- Employers can require that meal breaks be taken on employer premises.
- The required meal break need not be paid, and any meal break of more than 20 minutes in duration is not considered hours worked for compensation and overtime purposes provided the employee is completely relieved of work duties during the break period. If the employee is not completely relieved of work duties during the meal break it must be paid.
- Depending on the employee's work and break schedule, the employee's 30-minute meal break and two 15-minute rest breaks could be combined into a single unpaid 1-hour meal break. This is addressed in the following FAQ:

I would like to schedule my employees to work from 8 a.m. to 4:30 p.m. with a one-hour break from 11:45 a.m. to 12:45 p.m. Can I combine rest and meal breaks under this schedule?

Yes. It would be permissible to combine rest and meal breaks here because employees would still receive a 15-minute rest break within each four consecutive hours worked (11:45 a.m. to noon; 12:30-12:45 p.m.) as well as a 30-minute meal break when working six or more consecutive hours (noon to 12:30 p.m.).







• The FAQs also address situations where employees request the opportunity to work through their breaks, but cautions employees about waivers of required breaks:

### If I have an employee who wants to work through their breaks, do I need to require them to take breaks?

Under Minnesota law, employers must "allow" their employees to take rest and meal breaks. However, employees may choose to not take these breaks.

An analysis of whether an employer "allows" their employees to take breaks is factintensive and may include, but is not limited to, whether:

- the employer has breaks-related policies;
- these policies have been communicated to employees; and
- work circumstances make it possible for employees to take breaks.

If an employee voluntarily waives their breaks, it is a best practice to confirm this in writing with the employee. Employers may consider seeking the assistance of an employment law attorney to determine whether their policies and practices allow employees to take breaks as required by Minnesota law.

### **Key Steps for Employer Compliance**

- 1. Update your employee handbook's meal and rest break provisions to ensure they comply with the new Minnesota laws.
- 2. Consider requiring employees to record all rest and meal break times, and certify the accuracy of the same, so you have a contemporaneous record of compliance.
- 3. If you are inclined to afford employees the opportunity to voluntarily work through breaks which we do not recommend develop a clear waiver form that must be signed by the employee acknowledging that he or she has voluntarily requested to skip required rest and/or meal breaks.



### For More Help

If you need assistance with Minnesota Paid Family and Medical Leave, the changes to the Minnesota meal and rest break laws, or other Minnesota employment issues, we would be happy to assist you at DeWitt. Please contact Jim Kremer.



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