

ALERT: Massachusetts Releases New Guidance and Employee Notice Template For Massachusetts Paid Family and Medical Leave (PFML). Action Required by May 31, 2019!

1. Introduction

On April 17th the Massachusetts Department of Family Medical Leave (The DFML) released formal guidance on the steps that Massachusetts' Employers need to take to satisfy the employee and independent contractor notice requirement under the state's new paid leave law. This new formal guidance replaces earlier informal guidance that the DFML provided in January.

2. The Employee Notice Compliance Distribution Requirement for Current Employees

The notice must be provided by employers to their current workforce on or **before May 31, 2019**. The notice will advise employees of the Paid Family Medical Leave (PFML) benefits, contribution rates, and other provisions required by the law

Independent contractors who contract with a business that issues 1099-MISCs for more than 50% of its workforce are treated as "covered individuals;" they too must be provided a notice and their contributions will be remitted to the DFML by an employer just like its own employees.

a. Electronic Distribution Permitted, Employee Acknowledgement Required

The notice, which may be provided electronically, must include the opportunity for an employee or self-employed individual to acknowledge receipt or decline to acknowledge receipt of the information. In the event that an employee or self-employed individual fails to acknowledge receipt, the Department shall consider an Employer to have fulfilled its notice obligation if it can establish that it provided to each member of its current workforce a notice and the opportunity to acknowledge or decline to acknowledge receipt.

b. Future Workforce

An employer must issue the notice to each employee within 30 days of their first day of employment. The notice must be written in the employee's primary language. The Department's website has many foreign language/non English templates available to employers. Find more information below at *Additional Resources/Links*.

Like its current employee population, an employer must obtain from each employee a written statement acknowledging receipt of the notice or a statement indicating the employee's refusal to acknowledge the notice.

There is no annual notice requirement in the law.

c. The Department Has Provided a Template Notice and Has Given Employers' The Option To Create Their Own Notice

An employer can acquire a notice template by clicking this link: [download a template notice provided by DFML](#).

If an employer chooses to create its own notice, it must contain:

- An explanation of the availability of family and medical leave benefits
- The employee's contribution amount and obligations
- The employer's contribution amount and obligations
- The employer's name and mailing address
- The employer identification number assigned by DFML
- Instructions on how to file a claim for family and medical leave benefits
- The mailing address, email address, and telephone number of DFML

3. Duty to Advise Employees If You Have an Approved Private Plan

An employer that offers paid leave with benefits that are at least as generous as those provided under the law may apply for an exemption from paying the DFML and Employment Security Trust Fund contribution. An employer may apply for an exemption from the medical leave contribution, family leave contribution, or both. The details of any private plan must be provided to employees by an employer at the same time as the notice.

4. Don't Forget the Poster Requirement!

All Massachusetts employers must display Paid Family and Medical Leave mandatory workplace poster prepared by DFML that explains the benefits available under the PFML law. An employer must post this poster at their workplace in a location where it can be easily read.

The poster must be available in English and each language which is the primary language of 5 or more individuals in your workforce if such translations are made available from DFML.

5. Additional Resources/Links

<https://www.mass.gov/info-details/informing-your-workforce-about-paid-family-and-medical-leave>

Employer notice to employee (DOCX 48.47 KB)

<https://www.mass.gov/guides/a-guide-to-paid-family-and-medical-leave-for-massachusetts-employers>

Paid Family and Medical Leave mandatory workplace poster (PDF 250.29 KB)

<https://www.mass.gov/orgs/department-of-family-and-medical-leave>