



Implementing the New Connecticut Paid Leave



Presenters



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CT Paid Leave & CT FMLA Update

Agenda

- Overview of CT Paid Leave
- Changes to CT FMLA Law
- Managing CT Paid Leave
 - Help, my employee just asked for a paid leave of absence
 - What can I ask – What can't I ask?
 - What documentation do I provide? What do I need to keep?
 - How does my employee get paid?
 - How can I prepare for requested leaves?
 - Can I find temporary assistance? Where do I go?
 - How do I tell others?



Overview

Overview of CT Paid Leave

- Applies to all employers with one or more employees *except unionized State employees and Federal workers, municipalities, BOEs, private elementary & secondary schools*. Includes self-employed or sole proprietors who choose to enroll
- Exceptions: In the case of municipal employers and BOEs, once a municipal/BOE bargaining unit negotiates inclusion into the program, non-union employees for that municipality/BOE will automatically be included in the program as well
- Provides for Income Replacement
 - Up to 12 weeks in a 12-month period

Covered Reasons - CT Paid Leave

- Covered Reasons to receive income-replacement benefits include:
 - Medical leave
 - Bonding leave
 - Caregiver leave
 - Military Caregiver leave
 - Qualifying Exigency leave
 - Family Violence leave

Overview of CT Paid Leave Reasons

➤ **Medical leave**

- Is taken by a worker to receive treatment for or recover from one's own serious health condition. This includes serving as an organ or bone marrow donor and pregnancy

➤ **Bonding leave**

- Is the emotional and physical attachment that occurs between the parent and the child. Bonding leave can be taken by a worker not only for the time physically spent with the newborn or newly placed child, but also the time needed to process adoption or foster care placement, if applicable

Overview of Paid Family & Medical Leave

➤ **Caregiver leave**

- Is taken by a worker to provide physical or psychological care or psychological comfort and reassurance for a family member experiencing a serious health condition

➤ **Military Caregiver leave**

- Is taken by a worker to care for a covered family member who is a member of the military and has experienced a serious injury or illness that occurred in the line of active duty in the Armed Forces

➤ **Qualifying Exigency leave**

- Is taken by a worker to engage in certain activities arising from a spouse, child or parent who is on active duty, or has been notified of an impending call or order to active duty in the Armed Services that involves deployment overseas

Overview of CT Paid Leave Reasons

➤ **Family Violence leave**

- Can be taken by a worker who is a victim of family violence. Time off can be used:
 - to seek medical/psychological care or counseling for physical or psychological injury or disability;
 - to obtain services from a victim services organization;
 - to relocate due to such family violence;
 - or to participate in any civil or criminal proceeding related to or resulting from such family violence

Note: Limited to (Up to 12 days in a 12-month period)

Types of CT Paid Leave

- **Block:** Continuous absence for a single qualifying reason
- **Reduced schedule:** Leave schedule that reduces a worker's usual number of working hours per workweek, or hours per workday for a period of time, normally from a full-time schedule to a part-time schedule
- **Intermittent:** Leave in separate, non-consecutive time periods rather than a single span of time for a single qualifying reason

Regardless of the reason(s) for leave, an individual generally may not receive more than 12 weeks of income replacement benefits from CT Paid Leave within a 12-month period.

However, 2 additional weeks of income replacement benefits are available for a person who has serious health condition resulting in an incapacitation during pregnancy



What's New for CT FMLA?

Overview of the New FMLA Requirements

- **CT FMLA is UNPAID but provides job protection**
- **One or More Workers**
 - All businesses in CT with one or more workers are required to comply with CT FMLA starting January 1, 2022
 - This is new - prior to January 1, 2022, only businesses with 75+ workers were required to comply with CT FMLA
- **Three Months**
 - Workers are eligible for job protection under CT FMLA after three months of employment
 - There is no minimum number of hours worked requirement

Overview of New CT FMLA Requirements

➤ **Up to 12 Weeks in a 12 Month Period (Except)**

- Up to 12 days in a calendar year for family violence
- Additional 2 weeks available for incapacity during pregnancy
- Up to 26 weeks available for military caregiver leave

➤ **CT FMLA Provides Job Protection**

- This means that a worker who is out on leave for a qualifying reason must be returned to their original position, pay, and schedule upon their return to work

Interaction of CT Paid Leave & CT FMLA

- When an employee requests leave, you need to determine if they are entitled to job protection under Federal or CT FMLA or other statutes and if they are entitled to income replacement under your policies. Federal and CT FMLA can run concurrently
- The employee (not the employer) applies to the CT Paid Leave Authority for income replacement benefits if they will be out of work on unpaid leave for a qualifying reason
- The CT Paid Leave Authority (not the employer) determines if the employee is entitled to income replacement benefits under the CT Paid Leave

Measuring the 12 Month Period

- Employers need to establish the method they will use to measure the 12-month period and need to be consistent. Options include:
 - Rolling back
 - First day of leave going forward
 - Calendar year
 - Any Fixed 12-month period

Measuring the 12 Month Period

- **Rolling back:** 12-month period measured backward from the date an employee uses any CTFMLA leave. Under the “rolling” 12-month period, each time an employee takes CTFMLA leave, the remaining leave entitlement would be the balance of the 12 weeks which has not been used during the immediately preceding 12 months.

Example:

- Employee requests leave on May 1, 2022
- Employer looks back 12 months to see if employee used any leave after May 1, 2021
- Employee used 4 weeks of leave in the month of July 2021
- Employee has 8 weeks of leave immediately available as of May 1, 2022
- Employee will have an additional 4 weeks of leave available after July 1, 2022, as the days start dropping off and become available for use

Measuring the 12 Month Period

- **First day of leave going forward:** 12-month period measured forward from the first date an employee takes CTFMLA leave. The next 12-month period would begin the first time CTFMLA leave is taken after completion of the prior 12-month period.

Example:

- Employee requests leave May 1, 2022
- Employer looks back 12 months to see if employee used any leave after May 1, 2021
- Employee previously used 16 weeks of leave starting June 1, 2021
- Employee would not be eligible for any time on May 1, 2022
- Employee would become eligible for 12 weeks of leave starting June 1, 2022

Measuring the 12 Month Period

- **Calendar year:** 12-month period that runs from January 1 through December 31.
- No need to look back as the employer resets leave entitlement every January 1
- All eligible employees will have 12 weeks of leave available on January 1, 2022

Measuring the 12 Month Period

- **Any fixed 12-month period:** 12-month period such as a fiscal year (for example, October 1 through September 30) or a year starting on an employee's anniversary date

Example:

- Employer's fixed 12-month period is July 1 to June 30
- Employee requests leave on February 1, 2022
- Employer looks back to July 1, 2021, as that was the new fixed 12-month period
- Employee used 4 weeks of leave in October 2021
- Employee has 8 weeks of leave available to use starting on February 1, 2022
- As the fixed period is July 1 to June 30, all eligible employees will have 12 weeks available to use starting on July 1, 2022, including this employee

FMLA vs CT FMLA vs CT Paid Leave

	Federal FMLA (job protection)	CT FMLA (job protection)	CT PAID LEAVE (income replacement)
If private sector employee, must have:	50+ employees	1+ employee(s)	1+ employee(s)
Length of employment:	At least 12 months	At least 3 months	Currently employed or was employed within the 12 weeks immediately preceding leave
Hours worked requirement:	At least 1,250 hours in the past 12 months	None	None
Earnings Requirement:	None	None	At least \$2,325 in the highest earning quarter of the first 4 of the 5 most recently completed quarters (wages from multiple employers may be combined)
Length of Leave/Benefit:	Up to 12 weeks in a 12-month period for all reasons except:	Up to 12 weeks in a 12-month period for all reasons except:	Up to 12 weeks in a 12-month period for all reasons including military caregiving, except:
	Up to 26 weeks in a 12-month period for military caregiver leave	<ul style="list-style-type: none"> Up to 26 weeks in a 12-month period for military caregiver leave Up to 12 days in a calendar year can be used for family violence leave Up to 2 additional weeks of leave may be available for incapacity during pregnancy 	<ul style="list-style-type: none"> Up to 12 days in the 12-month period may be used for income replacement during family violence leave Up to 2 additional weeks of income replacement during leave for incapacity during pregnancy

Other Legal Considerations

Include:

- Americans with Disabilities Act (15+ workers)
- Pregnancy Discrimination Act (15+ workers)
- CT Pregnancy Discrimination and Accommodation in the Workplace (3+ workers)
- CT Fair Employment Practices Act (3+ workers)



My Employee Just Asked for Leave!

Employee Asked for a Leave – What Now!

- When a worker notifies you of their intent to take leave, you must determine their entitlements under CT FMLA and manage their leave including tracking according to the company's attendance and leave policies
- You should also alert the worker that they may be eligible for income replacement benefits under CT Paid Leave and direct them to ctpaidleave.org for more info
- If they apply for CT Paid Leave, you will need to complete Employment Verification Form and return it to Aflac within 10 days

Employment Verification Form

CT Paid Leave – Employment Verification



Administrative Office PO Box 84077 Columbus, GA 31908-84077		Toll Free: (877) 499-8606 Fax Number: 888-485-0973 Email: CTPLF@aflac.com	
Applicant Information (To be completed by the Applicant)			
First Name	Last Name	Date of Birth	
Phone number	Last 4 Digits of SSN	Case #	
Address	City, State	Zip Code	
Beginning date for leave:	End date of leave:		
Leave type: <input type="checkbox"/> Continuous <input type="checkbox"/> Intermittent <input type="checkbox"/> Reduced schedule			
Under penalties of perjury, I declare that to the best of my knowledge and belief, the information contained herein is true, correct, and complete. Any false statements or other failure to provide truthful, accurate and complete information may result in monetary and other penalties as well as the possibility of criminal prosecution. I further certify that if benefits are paid in excess of the amount to which I am entitled, I will return to the Authority the amount that was overpaid, and I acknowledge that failure to do so may result in the accrual of interest and other penalties.			
Employee Signature and Title			Date
Employer Information (To be completed by the Employer)			
Instructions to the employer: Please complete the following information and return to Aflac within 10 calendar days of receipt from your employee. You can send it by email CTPLF@aflac.com or fax to 888-485-0973.			
Employer Name:			
FEIN	Tax ID	SIC/NAICS code	
Address			
City	State	Zip Code	
Contact name	Communication preference - <input type="checkbox"/> Email (Preferred method) <input type="checkbox"/> USPS mail		
Contact phone number	Contact email		
Employee's date of hire	Employee's date of termination (If Applicable)		
Employee's job title	Date last worked? _____		
Has the employee returned to work? <input type="checkbox"/> Yes <input type="checkbox"/> No Return to Work Date: _____ (<input type="checkbox"/> Actual <input type="checkbox"/> Estimated)			
Please select the work days that the employee typically works <input type="checkbox"/> Sunday <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday			
Please provide the scheduled work hours from the last 12 weeks that the employee reported to work:			
Week 1	Week 2	Week 3	
Week 4	Week 5	Week 6	
Week 7	Week 8	Week 9	
Week 10	Week 11	Week 12	

Employment Verification Form

Other Potential Sources of Income	
Is the leave request a result of employee's injury on the job? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, has the employee applied for Worker's Compensation payments/benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, has the employee receiving Worker's Compensation payments/benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Amount of Weekly Payment/Benefit : \$ _____ Effective date of benefits: _____	
Is the employee required or permitted to receive PTO, Sick, or other paid time off, prior to or while receiving Paid Leave benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, how many PTO, Sick or other paid time off hours does the employee have available?	
Number of Hours: _____ Start date: _____ End date: _____	
Please advise if there are Company shutdowns scheduled and, if so, provide the dates:	
Please advise if there are Company holidays scheduled? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, what are the holiday dates _____	
What amount of compensation would the employee receive? \$ _____	
Under penalties of perjury, I declare that to the best of my knowledge and belief, the information contained herein is true, correct, and complete. Any false statements or other failure to provide truthful, accurate and complete information may result in monetary and other penalties as well as the possibility of criminal prosecution.	
Employer Signature and Title	Date

Leave Process & Timelines

- Employee is to notify their employer/HR at least 30 days prior to the start of leave for foreseen circumstances, and as soon as practicable for unforeseen circumstances
- Employee has fifteen (15) days from initiation of claim to provide all requested documentation
- Employer/HR has five (5) business days from receipt of documentation to approve/deny leave under CT FMLA
- Employer/HR has ten (10) days from the date of request for employment verification information to provide the information to Aflac

Responsibilities

- The employer determines if an employee is eligible for job protection under CT FMLA
 - CT DOL enforces CT FMLA and hears complaints filed by employees regarding unlawful denials of FMLA leave
- The CT Paid Leave Authority is responsible to determine IF your employee gets paid under the CT Paid Leave program

What Can I Ask?

You Can Ask the employee...

- What Type of Leave are you requesting?
- Are you requesting Continuous (Block) Leave, Reduced Schedule? Or Intermittent Leave?
- When are you leaving?
- Do you plan on returning?

What Can't I Ask?

You Can't Ask the employee...

- Are you going to get better?
- Have you always dealt with family violence?
- When was the last time your family member was called to duty?
- Are you going to expand your family again?

What Documentation Can I Request?

You can only request documentation for CT FMLA – you do not have a right to see the documents associated with a claim under CT Paid Leave

Follow your policy! Documentation can include:

- **Family Expansion or Bonding**
 - Medical Documentation/Healthcare Cert
 - Bonding Statement – according to your policy
- **Own Serious Health Condition**
 - Medical Documentation/Healthcare Cert
- **Family Member's Serious Health Condition**
 - Medical Documentation/Healthcare Cert

What Documentation Can I Request?

- **Military Family Injured**
 - CT Certification or statement by Healthcare provider
- **Family Violence**
 - Copies of court dates or appearances
- **Qualifying Exigencies**
 - Military Orders



Getting Paid under CT Paid Leave

Must be “Eligible” To Be Paid

- Must have qualifying reason for leave
- Must be currently employed OR have been employed within the last 12 weeks
 - Includes part-time employees
- Must have earned wages of at least \$2,325 in highest earning quarter in the base period
 - Base period – is defined as the first four of five most recently completed quarters
- Must **WORK** in Connecticut (CT Paid Leave Authority follows the same definition of “working in CT” as is used to determine unemployment insurance obligations)

Getting Paid

- Employers do not need to answer employees' questions on CT PL payments (like Unemployment Insurance)
- Calculation:
 - A covered employee's weekly benefit is calculated as 95% of the Base Weekly Earnings up to 40 times the state minimum wage, and
 - 60% of the employee's Base Weekly Earnings that exceeds 40 times minimum wage with total weekly benefits capped at 60 times the minimum wage
- Approved claims are paid two (2) weeks in arrears on Tuesdays. Payments are made weekly via EFT or Stored Value Card (debit card). No paper checks will be issued

Getting Paid - Maximums

- 40 times the minimum wage will be equal to:
 - \$520 weekly in January 2022
 - \$560 on July 1, 2022
 - \$600 on June 1, 2023

- 60 times the minimum wage (the cap) will be equal to:
 - \$780 weekly in January 2022
 - \$840 on July 1, 2022
 - \$900 on June 1, 2023

Use of Paid Time Off

- Employers may require and employees may elect to use accrued paid time off (vacation, sick, PTO), but employees must be allowed to retain two (2) weeks of paid time off
- The total amount received by the employee cannot exceed 100% of their usual weekly wages



Staffing During Leave

Staffing Considerations

- Be prepared! Develop a plan to cover potential absences and provide adequate training:
 - Create job descriptions for all positions including essential functions and mental/physical demands
 - Determine if work can be redistributed temporarily to current staff (may increase your overtime expenses)
 - Document tasks/processes and create a training plan. Consider recording the processes.
 - Review non-value add tasks and eliminate them or suspend temporarily during the leave

Staffing Considerations

- Establish relationships with staffing agencies, schools & universities
- Conduct ongoing recruiting to establish a pipeline or “bench” for future absences
- Hire Temporary Employees
 - **Staffing Agencies** — StaffWorks, Robert Half, Randstad, Creative Financial Staffing
 - **Social Media** — Facebook, LinkedIn, Instagram
 - **Job Postings** — Indeed, ZipRecruiter, CareerBuilder
 - **Local trade schools, colleges/universities** - Center for Career Development and Placement Offices
 - **Employee Referrals** — “Friends & Family”. Consider a bonus program for referrals

Staffing Considerations

Unemployment Claims:

- Act creates a “non-charge” against an employer’s unemployment tax experience rate when an employee’s separation is due to the return of someone who was on bona fide CT FMLA leave
- This allows an employer to lay off an employee who was temporarily filling the job of an employee on CT FMLA leave without increasing employer’s unemployment taxes



Getting Prepared

Preparing for January 2022

In addition to planning for employee absences:

- Educate staff and management on CT Paid Leave and CT FMLA regulations
- Create or update your current leave policies and handbook regarding documentation requests and return to work certifications
- Update your current paid leave policies to ensure compliance (must be allowed to keep 2 weeks of paid time off)
- Review your current Short-Term Disability plans
- Distribute required notices to current staff and new hires (no later than July 2022) as required

All Employee Notification - Sample

You may be aware that Connecticut has enacted a paid family and medical leave law, commonly referred to as CT Paid Leave. CT Paid Leave is funded by employees like you, through a small payroll deduction of 0.5%.

Beginning in January 2022, you may be eligible to receive income replacement benefits for leave that you take in connection with a qualifying life event. These qualifying life events include:

- caring for yourself if you are experiencing a serious health condition;
- caring for a loved one experiencing a serious health condition;
- bonding with a new child that has entered your family through birth, adoption, or foster care;

All Employee Notification - Sample

Con't

- caring for a loved one in the Armed Forces injured in active duty; addressing needs arising from your spouse, child or parent being called to active duty overseas;
- or addressing issues arising from family violence.

If you know you will need to take leave on or after January 1, 2022, for which you will require CT Paid Leave benefits, you should contact CT Paid Leave at least 30 days before the onset of your leave. For unforeseen circumstances, you must notify CT Paid Leave as soon as is reasonable and practical

If you are going to be out of work, remember that you must follow our standard policies for requesting time off. For additional information about CT Paid Leave, visit www.ctpaidleave.org



Communication & Privacy Concerns

What Can You Say To Staff?

- Address work implications, not the employee's personal situation. Communicate who will cover the employee's job duties during the leave
- Best Practice is to simply say the employee is out of the office and for how long
- Protected Health Information (PHI) must be kept confidential
- Direct employee questions to Sr. Management and/or Human Resources



Summary & Next Steps

Summary

- Effective January 1, 2022
 - New CT Paid Leave
 - Updated CT FMLA
- CT Paid Leave is funded through employee payroll deductions
- The CT Paid Leave Authority handles claims for replacement income and employers manage claims for leave under CT FMLA. Aflac is the claims administrator for CT paid Leave

Next Steps

- Employers should prepare now for absences
- Educating staff and management is key
- Updated forms for CT FMLA are expected to be issued by the CT DOL in early December

Resources

- www.ctpaidleave.org
- www.ctdol.state.ct.us
- www.ctsbdc.uconn.edu
- www.hr-consulting-group.com



Q & A



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Care For Your Clients**

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