



## Massachusetts Paid Family Medical Leave Act Frequently Asked Questions (FAQ) for Employees

Beginning on January 1, 2021, the new Massachusetts Paid Family & Medical Leave Act (MAPFML) takes effect. These questions and answers are designed to provide details about the new law, available benefits, and changes to our leave application and administration processes.

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### I. **Massachusetts Paid Family and Medical Leave Act Overview**

#### 1. **What is Massachusetts Paid Family and Medical Leave (MAPFML)?**

**On January 1, 2021**, the new Massachusetts Paid Family and Medical Leave (MAPFML) law will take effect. As a result, all eligible workers with a work location in Massachusetts will be entitled to certain paid medical and family leave benefits through the Massachusetts Department of Family and Medical Leave:

Paid medical leave may be taken to:

- Manage a personal serious health condition.

Paid family leave may be taken to:

- Bond with a child during first 12 months after birth, adoption, or foster placement (including employees who had a baby during the 2020 calendar year)
- Deal with complications resulting from the military deployment of a family member

**On July 1, 2021**, paid family leave benefits will become available from the Department of Family and Medical Leave for those who need to care for a family member with a serious health condition.

For complete details about eligible leaves, visit <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-benefits-guide#eligible-types-of-leave>. Note that the Department of Family and Medical Leave is responsible for determining employee eligibility for leaves and benefits under this new law.

#### 2. **Who's eligible for MAPFML?**

Generally, MAPFML coverage is available to all W-2 workers who work in Massachusetts, whether full-time, part-time, or seasonal. In addition, former employees who have been unemployed for 26 weeks or fewer, and are not reemployed, are covered.



**3. What is the maximum amount of leave I can take through the new law?**

The benefit duration depends the type of leave requested and approved:

Type of Leave	Available Beginning	Maximum Duration
Medical leave for your own serious health condition	January 1, 2021	20 weeks
Family leave to bond with a new child	January 1, 2021	12 weeks
Family leave arising from a covered service member's call to active duty	January 1, 2021	12 weeks
Family leave taken to provide care to a family member with a serious health condition suffered while on active duty in the armed forces	January 1, 2021	26 weeks
Family leave to care for a family member with a serious health condition	July 1, 2021	12 weeks
<b>Combined family and medical leave maximum per full-time employee per benefit year</b>		<b>26 weeks</b>

A benefit year is the period of 52 consecutive weeks beginning on the Sunday after your first day of MAPFML leave.

**4. What is the “elimination period” for MAPFML coverage?**

The elimination period, or waiting period, is the period of time before benefits are paid by the Department of Family and Medical Leave. For MAPFML, there is a 7-calendar day elimination period after which you become eligible to receive benefits.

**5. What is the paid benefit I will receive from MPFML?**

The amount of benefits you are eligible to receive under MAPFML plan is determined by the Department of Family and Medical Leave and is based on your own average weekly wage when you apply for leave. The maximum total amount that you can receive in MAPFML benefits right now is \$850 per week. Please see the [Massachusetts Paid Family and Medical Leave Benefits Calculator](#) created by the Department of Family and Medical Leave to estimate your weekly benefit should you choose to apply.

**6. How is MAPFML different from FMLA (Family and Medical Leave Act)?**

FMLA is a federal law that provides unpaid, job-protected leave that is administered by the employer for similar reasons as MAPFML. However, there are important differences between the two laws:

	FMLA	MAPFML
<b>Who's eligible?</b>	Employee <b>must have worked with their employer for 12 months</b> , with at least 1,250 hours worked	Generally, <b>all MA employees</b> who meet the eligibility criteria previously described
<b>For what and for how long can I use benefits?</b>	12 weeks for family and medical 26 weeks for family member in the military	12 weeks for family <b>20 weeks</b> for medical 12 or 26 for family member in the military



<b>Who makes the determination regarding eligibility for leave and the benefit amount?</b>	Employer	Department of Family and Medical Leave
<b>Is the benefit paid?</b>	No	<b>Yes; paid by the Department of Family and Medical Leave</b>
<b>Is my leave job protected?</b>	Yes	Yes
<b>What is the definition of covered family member?</b>	Spouse, child, parent (including any other individual who stood <i>in loco parentis</i> to the employee when the employee was a child)	Spouse, <b>domestic partner</b> , child, parent or <b>parent of a spouse or domestic partner</b> ; a person who stood <i>in loco parentis</i> when you were a minor; or <b>your grandchild, grandparent or sibling</b>

Major differences are highlighted **in bold** above. MAPFML will run at the same time (concurrently) as leave available under other state and federal laws, including the FMLA and the Massachusetts Parental Leave Act, as well as BILH benefits if you are eligible (including Short-Term Disability).

You can access <https://www.mass.gov/info-details/how-pfml-is-different-than-fmla> for more information, including a helpful video.

**7. What does *in loco parentis* mean?**

The term *in loco parentis* is Latin for “in the place of a parent.” It refers to the legal responsibility of a person to take on some of the functions and responsibilities of a parent. Under MAPFML, an employee may take leave to care for a child whom the employee has assumed the obligations of a parent, or for an adult who assumed the obligations of a parent for the employee when they were a child. (Note: The fact that a child has a biological parent in the home, or has both a mother and a father, does not prevent an adult from standing *in loco parentis* to that child.)

**8. What is the definition of a domestic partner under this law?**

A person 18 years of age or older who either:

- is dependent upon the covered individual for support as shown by factors like:
  - common ownership of real or personal property,
  - a common household,
  - children in common,
  - signs of intent to marry,
  - shared budgeting, and
  - the length of the personal relationship; or
- has registered as the domestic partner of the covered individual with any registry maintained by either of their employers, or in any U.S. state, county, city, town or village.

**9. Where can I find more information about MAPFML?**

The most complete and current detail about MAPFML is available on the Mass.gov website at [www.mass.gov/DFML](http://www.mass.gov/DFML). You can find a Benefits Guide at <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-benefits-guide>. You can also refer to the Massachusetts Paid Family and Medical Leave Policy.



#### **10. What is the cost of MAPFML?**

Contributions began in October 2019 via paycheck deductions and employer contributions.

Currently, the total contribution amount is 0.75% of wages. The 0.75% is split into a family leave contribution (0.13%) and a medical leave contribution (0.62%).

Under the law, the organization is deducting from employees' wages 40% of the medical leave contribution (40% of the 0.62% of wages) and 100% of the family leave contribution (100% of the 0.13% of wages).

The deductions for 2021 break down as follows: for every \$100 you earn, \$0.38 will be deducted for the covered contribution share. This will consist of:

- \$0.13 to cover your family leave contribution; and
- \$0.248 to cover your medical leave contribution.

The maximum amount of earnings subject to these contribution rates was \$132,900 in 2019 and \$137,700 in 2020 for each covered individual. The 2021 maximum amount of earnings is \$142,800.

Note that amounts and percentages can be adjusted by the state annually, and BILH reserves the right to change them as permitted under the law.

#### **11. Can I opt out of deductions for MAPFML?**

No. You cannot opt out of this program or the paycheck deductions if you work in the state of Massachusetts.

#### **12. What if I work in Massachusetts but live out of state?**

If you live out of state but work in Massachusetts, and you have Massachusetts taxes taken out of your paycheck, you are eligible for MAPFML benefits.

For employees currently working out of state due to remote work requirements for COVID-19, you will remain eligible for MAPFML and deductions will continue. If your work status changes to a permanent remote status out of state, please contact the Payroll office regarding deductions for your work state.

## **II. Medical Leave**

#### **13. When am I eligible for a paid medical leave under the MAPFML?**

You must have a serious health condition to be eligible for a paid medical leave under MAPFML. Under the MAPFML, a serious health condition is an illness, injury, impairment or physical or mental condition that involves:

- inpatient care in a hospital, hospice, or residential medical facility; or
- ongoing treatment by a health care provider.

See <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-benefits-guide#what-is-a-serious-health-condition?> for examples.

Medical leave under the MAPFML will overlap with medical leave under the FMLA in most circumstances, both of which will run concurrently.



**12. How is the amount of pay I will receive during a personal medical leave determined?**

First, all determinations of how much pay an employee will receive during an approved leave will be made solely by the Department of Family and Medical Leave (State of Massachusetts). The Department calculates MAPFML benefits as a percentage of your average weekly wage using a statutory formula, up to a maximum of \$850 per week, which is subject to change each October. See FAQ number 6 above. To calculate your average weekly wage, take the two highest calendar quarters of gross wages in the last four completed calendar quarters prior to your leave, and divide it by 26 (the number of weeks in two quarters). This number is then rounded to the next highest dollar.

Under MAPFML, gross wages generally include salaries, hourly pay, commissions and bonuses, overtime, shift differential, vacation, and sick pay.

For example, let's say an employee applies for a leave on March 6, 2021. To calculate the employee's average weekly wage, follow the steps outlined below:

Calculation Steps	Application Date: March 6, 2021
Last four completed quarters:	Q1 – Q4 2020 Q1 gross wages: \$5,100 Q2 gross wages: \$4,900 Q3 gross wages: \$5,500 Q4 gross wages: \$5,000
Gross wages for two highest quarters:	Q1 gross wages: \$5,100 Q3 gross wages: \$5,500
Divide the sum of the two highest quarters by 26:	Sum = \$5,100 + \$5,500 = \$10,600 \$10,600 / 26 = \$407.69
Round to the next highest \$ for average weekly wage:	\$408

**13. I took a medical leave for my own illness in 2020. Am I eligible for benefits in 2021?**

Yes. You are eligible for job protection and paid benefits under MAPFML regardless of leave time used in 2020. The new law is effective January 1, 2021, so no time taken for leave in 2020 will be deducted from your MAPFML allotment.

**14. Is it possible to take MAPFML personal medical leave on an intermittent basis?**

Intermittent leaves for an employee's serious health condition may be taken if medically necessary based on the schedule your physician provided in the medical certification (e.g., flare-ups, scheduled appointments, reduced schedule). An employee who is approved for intermittent or reduced schedule leave must work with the employer to try to take leave so as to not unduly disrupt operations.

**15. Can I use Paid Time Off/Extended Illness Bank to provide salary continuation during the 7-day waiting period for medical leave benefits?**

You may use your accrued paid time off **only** during the first week (waiting period) to receive 100% pay. Once the waiting period expires, you cannot receive accrued paid time off at the same time as MAPFML paid benefits from the Department of Family and Medical Leave.

**III. Family Leave**

**16. What is family leave?**

Under MAPFML, **starting January 1, 2021**, you may be eligible for up to 12 weeks of time off for bonding with a new child or certain situations related to active military service (some eligible for up to 26 weeks). Starting **July 1, 2021**, you may be eligible for up to 12 weeks of time off for caring for a sick family member.

Leave for bonding with a child can be taken anytime during the first 12 months after birth, adoption, or foster placement.

Family leave under the MAPFML will overlap with medical leave under the FMLA in most circumstances, both of which will run concurrently. Family bonding leave will also overlap with leave under the Massachusetts Parental Leave in most circumstances, both of which will run concurrently.

**17. Can I take an FMLA leave and/or MPFLA, and then take a MAPFML leave for the same reason?**

Generally, no, as MAPFML will run at the same time (concurrently) as other federal and state laws when both apply, including leave under the FMLA and MPLA. So, you cannot take 12 weeks of FMLA leave or 8 weeks of MPLA leave, then another 12 weeks of MAPFML. The leaves will run concurrently. That said, any FMLA or MPLA leave taken in 2020 will not count against your MAPFML leave entitlement that begins in January 2021.

**18. If I am approved by the state for a family leave, what pay will I receive?**

All determinations of how much pay an employee will receive during an approved leave will be made solely by the Department of Family and Medical Leave. The amount of benefits you are eligible to receive from the Department of Medical and Family Leave for MAPFML is based on your own average weekly wage when you apply for leave, and the average weekly wage for workers throughout Massachusetts.

The maximum total amount that you can receive in MAPFML benefits is currently \$850 per week. The average weekly wage in Massachusetts is reevaluated each October. The state will use that new average weekly wage to calculate PFML benefit amounts, which will start on January 1 of the next year. Please access <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-benefits-guide#benefit-calculator> to estimate your benefits under MAPFML for family leave.

**19. Can I use Paid Time Off/Extended Illness Bank to provide salary continuation during the 7-day waiting period for family leave benefits?**

Yes, you can use accrued time during the waiting period for family leave benefits.

**20. Who are covered family members under the MAPFML?**

For the purposes of MAPFML family leave, family members include your spouse, domestic partner, child, parent, grandchild, grandparent or sibling, the parent of your spouse or domestic partner, and guardians who legally acted as a parent when you were a minor.

A child is a biological, adopted or foster child, a stepchild or legal ward, a child to whom the employee stands *in loco parentis*, or a person to whom the employee stood *in loco parentis* when the person was a minor child.

**21. When do benefits to care for a sick family member begin?**

MAPFML family leave benefits to care for a sick family member will become available beginning July 1, 2021.

**22. Is it possible to take family medical leave on an intermittent basis?**



Intermittent leaves for a family member's serious health condition can be taken if medically necessary based on the schedule your family member's physician provided in the medical certification (e.g., flare-ups, scheduled appointments, reduced schedule). An employee who is approved for intermittent or reduced schedule leave must work with the employer to try to take leave so as to not unduly disrupt operations.

**23. If I begin my parental bonding leave prior to my child's first birthday, could my leave continue beyond my child's first birthday?**

No. You are only eligible for bonding leave during the first 12 months following birth. You should plan carefully, so that all your bonding leave is complete by your child's first birthday. If you begin your leave one week before your child's first birthday, you would only be eligible to take one week of leave.

**24. How is pregnancy/birth defined in MAPFML?**

MAPFML separates the medical component of pregnancy from bonding. The medical certification from the treating provider will determine how much leave time is covered under personal medical leave or STD for recovery from birth, typically 6-8 weeks. After that leave ends, you will be eligible to continue using family leave for the bonding benefit. There is no waiting period for the bonding portion when used directly following the medical leave.

**25. If I took a maternity or paternity leave in 2020, am I eligible for additional leave time in 2021 under the new MAPFML?**

You may be entitled for MAPFML bonding benefits for up to one calendar year after the baby's date of birth. If you took a leave of absence in 2020 for bonding, you are still entitled to time for bonding under MAPFML since the law was not in effect at that time.

**26. I'm expecting twins in 2021. Do I receive additional leave time for multiple births under MAPFML?**

No. Under MAPFML, the maximum amount of paid leave for bonding is 12 weeks. However, depending on your medical situation you could receive additional entitlement under the personal medical leave plan. The total combined benefit is 26 weeks. Note that a different state law, the MPLA, provides eligible employees 8 weeks of unpaid paid leave per child in the event of multiple births, which would run concurrently with MAPFML and FMLA leave.

**27. My spouse also works at my organization. Do we both get bonding leave under MAPFML?**

Yes. Under MAPFML, both parents can take 12 weeks for bonding. You and your spouse may choose to take family leave to bond with the child at the same time, or separately.

**28. What is the maximum time off and pay for someone who is on bed rest prior to delivery?**

Under MAPFML, the maximum amount of time someone can be out and paid for is 26 weeks in a benefit year. For personal illness (bed rest), the maximum duration of time off and pay is 20 weeks, which would then leave you with an additional 6 weeks of time off and pay for bonding under MAPFML.

**29. Can family members other than parents, such as a grandparent, take bonding leave under MAPFML?**

Family leave can be taken by a parent or legal guardian to bond with a child during the first 12 months after the child's birth, adoption, or foster care placement.





**30. Under what situations can I take family leave related to active military service?**

There are two types of family leave available if you have a family member who is, was, or will be deployed in a foreign country. Beginning January 1, 2021:

**You can take up to 26 weeks of family leave per year to care for a family member who is a current member of the Armed Forces, including the National Guard and Reserves, who is:**

- Undergoing medical treatment, recuperation, or therapy for a serious health condition that was received or aggravated while they were deployed in a foreign country
- In outpatient status for a serious health condition that was received or aggravated while they were deployed in a foreign country
- On the temporary disability retired list for a serious injury or illness that happened while deployed in a foreign country
- On the temporary disability retired list for a serious injury or illness that existed before the beginning of the member's active duty, and was aggravated by service while deployed in a foreign country

**You can take up to 12 weeks of family leave per year to manage any needs that take place immediately after a family member is deployed in a foreign country or has been notified of an upcoming deployment in a foreign country.** These needs may include:

- Caring for a deployed family member's child or other family member immediately before their deployment
- Making financial or legal arrangements for deployed family member
- Attending counseling
- Attending military events or ceremonies
- Spending time with a deployed family member during a rest or recuperation period
- Spending time with a family member when they return from deployment
- Making necessary arrangements following the death of a family member who had been deployed

See <https://www.mass.gov/info-details/paid-family-and-medical-leave-pfml-benefits-guide#about-family-leave-for-family-members-who-are-active-service-members> on the MAPFML website for more information.

**IV. Coordination with Short-Term Disability**

**31. Can I receive accrued Paid Time Off, MAPFML paid benefits and STD at the same time?**

No. The MAPFML regulations effectively do not allow for the use of more than two of the following paid leave benefits to be utilized together: MAPFML, STD, and Paid Time Off (PTO)/Extended Illness Bank (EIB). If you are eligible for PTO/EIB or another type of illness bank, you can use these hours based on the eligibility outlined in your organization's policy. Please contact the BILH Benefits Helpline at 888-402-1884 for questions on what you are eligible for.

**32. If I elected STD, will I get the full amount under both STD and MAPFML paid benefits?**

No. Under the state paid family medical leave, you cannot "top off" your STD benefit with employer-paid time off (also known as PTO/ET/EI) if you are receiving paid family or medical leave benefits from the state. Your STD benefits will be offset (reduced) by any MAPFML funds you receive. That is, MAPFML will not be in addition to any funds you receive from a disability policy through Unum. Note that your STD benefit will also be reduced by what you would have received for the MAPFML benefit even if you do not elect to receive MAPFML payments.





**33. Can I use accrued paid time off with MAPFML paid benefits?**

No. You can only use paid time off for a leave if you do not elect to receive MAPFML benefits through the state. If you wish to elect to use accrued paid leave instead of receiving MAPFML benefits, you must elect to do so in writing. If you elect to use accrued paid leave, it will count against your leave available under the MAPFML (even though you do not receive the paid benefits from the state).

**34. Can I use paid leave to receive a higher income replacement while on STD?**

No. If you are on STD, remember that your benefit will be offset (reduced) by what you would have received for a MAPFML benefit. This means you may no longer supplement to reach your 100% pre-disability wage.

**V. Leave Process**

**35. What steps should I take to initiate a leave?**

Here is the process to follow:

- a) Notify your supervisor of an expected leave no later than 30 days prior to the leave, unless the circumstances of the leave do not allow for 30-day advance notification. In those situations, you must notify your supervisor as soon as feasible.
- b) Notify your Leave Administrator to request leave using the normal process for your organization.
- c) Decide how you want to be paid (if using EIB or PTO time) and notify your supervisor how much accrued time you want to use. (EIB or PTO may not be used while receiving the MAPFML benefit from the state).
- d) Apply for MAPFML leave benefits through the state.
- e) If you have elected STD and your leave is eligible for STD, contact Unum to initiate the claim.

**How can I learn more?**

Contact the BILH Benefits Helpline at 1-888-402-1884 or email [BILHbenefits@sentinelgroup.com](mailto:BILHbenefits@sentinelgroup.com).

*Please note: These frequently asked questions are based on our current understanding of MAPFML, it's regulations, and your organization's administrative processes. The Commonwealth is still defining the benefits, tax implications and workflows so we are unable to answer all common questions at this time. Details are subject to change, and we will provide updated information as applicable.*