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Navigating the Patchwork of State Paid Family and Medical Leave Programs

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Introduction

The United States is the only member of the Organization for Economic Co-operation and Development (OECD)—and one of only six countries globally—without a national paid parental leave policy. The United States is also one of just a few high-income countries without a national family caregiving or medical leave policy.[1] Currently, under the Family Medical Leave Act, certain workers qualify for *unpaid* family and medical leave.

Thirteen states and the District of Columbia have taken steps to address this gap by establishing mandatory paid family and medical leave (PFML) programs covering approximately 90 million workers.[2] Additionally, nine states have implemented voluntary coverage by authorizing the sale of paid family leave insurance policies. Complementing these state-level initiatives, medium- to large-sized employers have increasingly been providing PFML benefits directly to their employees.[a] The percentage of private industry workers with access to paid family leave through their employer has increased substantially in recent years.

Although millions of additional workers have gained access to paid leave through these state programs, the lack of uniformity among states has created a growing patchwork of paid leave laws, as no two programs are the same. This resulting patchwork presents multistate employers with the daunting and inefficient task of meeting diverse state standards while striving to offer consistent benefits to their employees across the country.

To address this issue, the Bipartisan Policy Center developed a framework for a voluntary national private PFML option for multistate employers. Adoption of this framework would not only streamline administrative burdens for employers and states but also promote innovation, incentivize coordination among states, and, most important, make it easier for more workers to access PFML benefits across the country.

BPC collaborated with experts from across the ideological spectrum to evaluate perspectives on the impact of the existing patchwork of state laws and to identify specific compliance challenges for multistate employers. The proposed framework carefully considers existing federal and state leave laws, as well as employer-provided PFML benefits, to balance the interests of workers, businesses, and state administrators.

This brief describes the PFML landscape, summarizes the primary challenges faced by multistate employers, and outlines BPC's proposed framework for a voluntary national private option.

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a For the purposes of this report, medium- to large-sized firms are defined as those with 250-plus employees

U.S. Family and Medical Leave Landscape

THE FAMILY AND MEDICAL LEAVE ACT

The United States does not guarantee paid family and medical leave for workers. However, through the 1993 Family Medical Leave Act (FMLA), federal law does mandate unpaid, job-protected leave for certain workers. FMLA guarantees some workers up to 12 weeks of *unpaid*, job-projected parental, family caregiving, and personal medical leave.[3] To qualify under FMLA, a worker must:

- have worked for a company for at least one year;
- worked at least 1,250 hours during that year (or approximately 156 days);
- live within 75 miles of the workplace; and
- work for an employer who employs 50 or more workers for at least 20 weeks during the current or previous year.[4]

As a result of these eligibility requirements, FMLA covers approximately 56% of employees nationwide.[5] Additionally, in 2019, the Federal Employee Paid Leave Act amended FMLA to allow eligible federal workers, including military personnel, to take 12 weeks of *paid parental* leave.

STATE JOB-PROTECTED FAMILY AND MEDICAL LEAVE LAWS

Sixteen states and the District of Columbia have passed laws expanding access to job-protected leave beyond FMLA coverage. Many of those states have expanded access through paid leave laws, while others have only expanded protections for unpaid leave.[6] These state laws provide unpaid, job-protected leave for the same reasons covered under FMLA, but they also each expand the criteria to some degree. Examples include covering more family members, lowering the employee threshold, reducing eligibility standards, or providing additional leave. Three states—Hawaii, Vermont, and Wisconsin—do not have an accompanying mandatory state paid leave law.

STATE PAID FAMILY AND MEDICAL LEAVE LAWS

Paid family and medical leave is compensated time away from work for specific caregiving or medical needs. Despite the many differences among the federal and state laws, generally three types of paid leave are available:

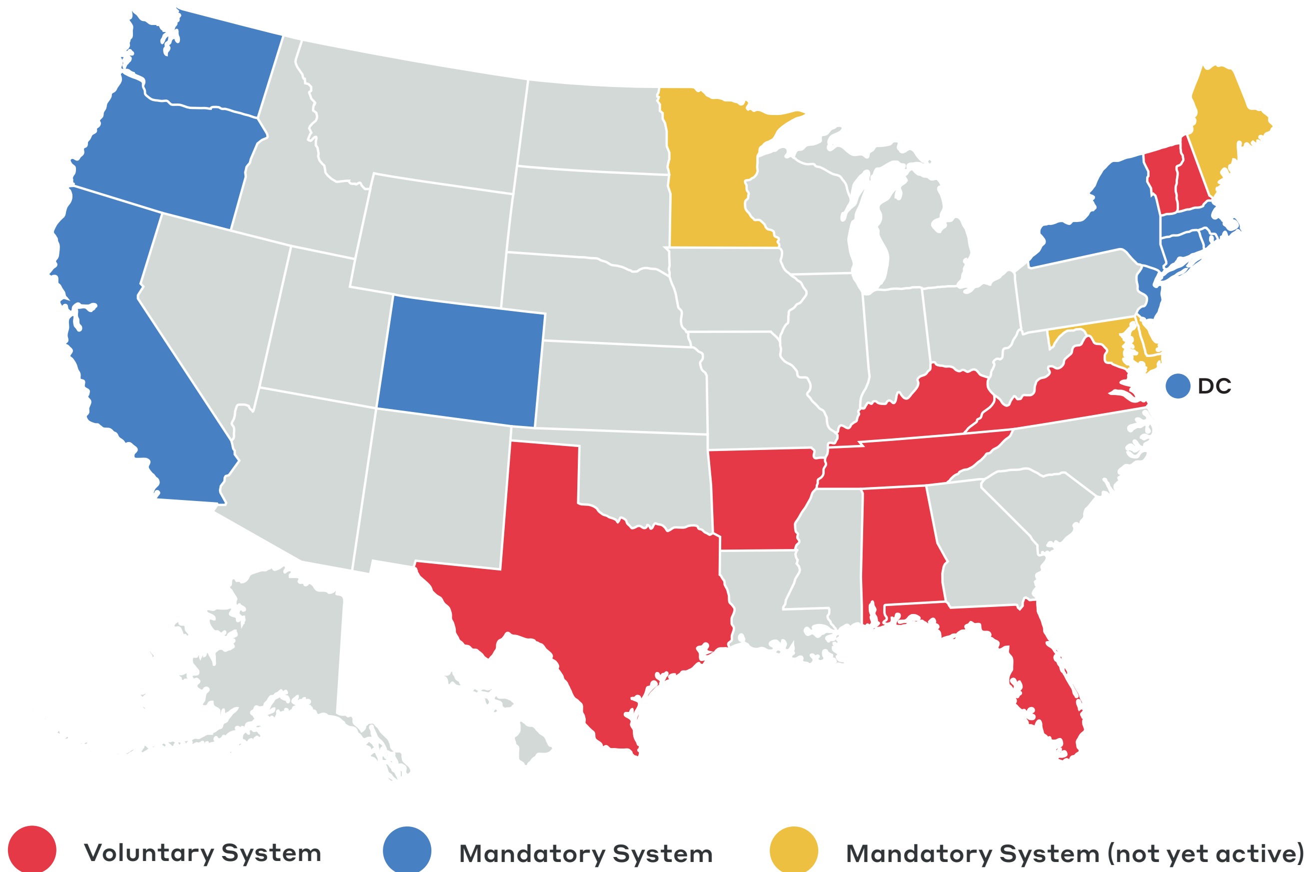
- **Parental**—time away from work for a parent to bond with a newborn, newly adopted, or newly fostered child. This category includes paternity and maternity leave.
- **Family Caregiver**—time away from work to care for a qualifying family member with an illness or injury. The federal definition of "family" includes parents, spouses, and children, although many states have expanded that definition in their paid and unpaid leave laws.
- **Medical**—time away from work to recover from a personal health issue that makes the employee unable to work.

As of July 2024, 13 states and the District of Columbia have enacted mandatory paid family and medical leave programs. Most of these operate as social insurance systems, meaning they provide comprehensive paid leave benefits to employees in the state, often regardless of the employer's size, and are funded through pooled payroll taxes on employees and/or employers.[b] New York, however, uses a mandatory private insurance system that requires employers to purchase PFML plans through a private market where insurance companies, including the state-run New York Insurance Fund, offer coverage.[7]

In addition to these mandatory programs, nine states have approved voluntary systems for paid family leave through private insurance plans. These voluntary systems provide an option for employers to offer paid family leave benefits to their employees through a private insurer.

b Although most states require all businesses, regardless of size, to participate in their programs, some exempt small employers from the payroll deduction or the program altogether, while others provide additional financial support.

Figure 1: Status of PFML Laws



Source: BPC review of state PFML programs

EMPLOYER-PROVIDED PAID FAMILY AND MEDICAL LEAVE BENEFITS

Many medium- to large-sized businesses provide PFML benefits directly to their employees, significantly increasing access to paid family leave. The percentage of private industry workers with access to employer-provided paid family leave rose from 13% in 2017 to 27% in 2023. Among the largest firms (500 or more employees), access to paid family leave benefits increased from 23% to 41% during the same period.[8]

A 2019 survey conducted by the ERISA Industry Committee (ERIC), which represents large multistate employers and helps them navigate the complexities of federal, state, and local laws under the Employee Retirement Income Security Act (ERISA), found that member companies offered the following paid benefits:

- 100% provided short- and long-term disability benefits;
- 90% provided some paid parental leave; and
- 65% provided some paid family caregiving leave.[9]

The importance of helping these large businesses provide benefits is underscored by the growing number of employees they encompass. The number of people working for these firms has steadily risen over the past decade, from 18.5 million in 2013 to 23.2 million in 2023.[10] Ensuring that large firms continue to offer and expand PFML benefits can have a substantial impact on coverage for a significant portion of the workforce. Moreover, a 2017 Pew Research Center survey found that most Americans prefer to receive benefits from their employer rather than the government.[11]

WORKFORCE AND ECONOMIC BENEFITS

Survey findings consistently show that the demands placed on unpaid caregivers—those actively providing care to family members—have a profound and lasting impact on caregivers' lives and create a ripple effect on the U.S. economy. A 2024 poll from BPC Action, in partnership with Pivotal Ventures and Morning Consult, found that 3 in 10 private-sector workers identify as unpaid caregivers. Among these caregivers, 62% reported that their caregiving responsibilities have affected their careers: Nearly 1 in 3 (31%) have had to reduce their regularly scheduled work hours at least once a week in the past year, and nearly 3 in 10 (29%) have had to decline a promotion or new job opportunity as a result of caregiving responsibilities. Additionally, more than 2 in 3 (68%) stated that the availability of caregiving benefits would be an important factor in their decision to accept a new job opportunity.[12]

A 2023 BPC–Artemis Strategy Group survey supports these findings. It found that prime-age (ages 20–54), nonworking Americans continue to face significant caregiving- and health-related barriers to working, and that access to PFML benefits could help many of them enter or return to the workforce. Notably, 46% of prime-age adults who were not in the labor force because of family caregiving responsibilities said they likely would have continued to work in their last job if they had paid family caregiving leave benefits. Meanwhile, 45% of parents out of the labor force due to child care responsibilities said they would be more likely to start or return to work if a future employer offered paid parental leave.[13]

Navigating the Patchwork of Paid Family and Medical Leave Laws

The adoption of mandatory paid leave programs has accelerated in recent years, increasing compliance burdens for multistate employers. California was the first state to create a comprehensive paid leave program (2004), followed by New Jersey (2009), Rhode Island (2014), and New York (2018). Since 2018, five additional states and the District of Columbia have established programs, and all 14 programs will be in effect by 2026.

Although the increasing number of state programs provides important benefits to millions of workers, each program was created independently, resulting in 14 unique state programs with significant differences.[c] Those differences are not limited to just one or two components but can vary *across nearly 30* (see Table 1). To better understand this patchwork of laws, BPC sorted these policy components into four categories: (1) **substantive benefits**; (2) **financing**; (3) **eligibility requirements**; and (4) **administrative requirements**.

c Because the details of the employer-provided plans in the nine states with voluntary PFML marketplaces are left to the discretion of the employers and insurance providers, these laws do not contribute directly to the patchwork problem.

Table 1: Key Policy Components of Mandatory State Paid Family and Medical Leave Laws

Substantive Benefits	Financing
• Duration of Leave Benefits • Wage Replacement Rate • Weekly Maximum Benefit • Job Protection	• Payroll Deduction Rate • Premium Contributions • Small Business Exemptions
Eligibility Requirements	**Administrative Requirements**
• Qualifying Absences • Intermittent Leave • Employer Coverage • Employee Eligibility • Definition of Family • Interaction with Other Leave Laws • Interaction with Other Employer-Provided Leave • Treatment of Remote/Hybrid/Mobile/Union/ Self-Employed Workers • Employee Disqualification • Confidentiality	• Documentation • Claim Filing Process • Waiting Period • Recordkeeping and Reporting • Notice to Employees • Employer Posting and Written Policy Requirements • Employee Notice and Scheduling • Medical Recertification • Benefits Continuation • Data Collection

Sources: Seyfarth Shaw LLP and BPC review of state PFML programs

SUBSTANTIVE BENEFITS

Substantive benefits include the duration of paid leave and the amount of pay a worker receives—both the wage replacement rate and weekly maximum benefit—during that leave.

Duration: Although FMLA covers 12 weeks of unpaid leave across all types of leave, the duration of paid leave varies by state and by type of leave, as shown in Table 2. For example, most states cover up to 12 weeks of paid parental leave to workers, while California offers up to eight weeks and Rhode Island offers up to six weeks. Additionally, several states have extended parental leave to birthing mothers under certain circumstances. In these cases, mothers can extend their parental leave for prenatal care, complications related to childbirth, or by combining medical leave for childbirth and recovery with parental leave for bonding with a newborn.

Alternatively, when considering paid medical leave, 12 weeks of leave is generally the *minimum* duration covered by states—except for Delaware, which offers up to six weeks. Several states cover extended paid medical leave: Massachusetts (20 weeks), New Jersey and New York (26 weeks), Rhode Island (30 weeks), and California (52 weeks). Additionally, Colorado, Connecticut, Oregon, and Washington allow extended paid medical leave due to complications related to childbirth or pregnancy.

Table 2: Summary of Maximum Leave Duration under Mandatory State Laws

Weeks of Benefit per Year[a]	Parental Leave	Family Caregiver Leave	Medical Leave
6 Weeks	RI[b]	DE,[c] RI[b]	DE[c]
8 Weeks	CA	CA	-
12 Weeks	DE,[c] ME,[c] MD,[c] MA, MN,[c] NY	CO, CT, DC, ME,[c] MD,[c] MA, MN,[c] NJ, NY, OR, WA	CO, CT, DC, ME,[c] MD,[c] MN,[c] OR, WA
14 Weeks	CT, DC, OR	-	-
16 Weeks	CO	-	-
18 Weeks	WA	-	-
20 Weeks	NJ	-	MA
26 Weeks	-	-	NJ, NY
30 Weeks	-	-	RI
52 Weeks	-	-	CA

Source: BPC review of state PFML programs

a The durations listed are the maximum for each qualifying event in one year. Instances where employees can combine leave when experiencing more than one qualifying event in a year are not included.
b Beginning January 1, 2025, workers will be eligible for seven weeks of paid leave, which will increase to eight weeks starting January 1, 2026.
c The program is not yet in effect.

Wage Replacement Rate: State programs cover a portion of a worker's wages while on leave. Most states—Connecticut, Colorado, District of Columbia, Maine, Maryland, Massachusetts, Minnesota, Oregon, and Washington—use a *progressive benefit formula* to ensure that the lowest-wage earners retain a larger portion of their wages over the leave duration. Notably, Oregon is the only state that covers 100% of wages for some workers. To calculate the wage replacement rate, states relying on a progressive benefit formula use the state's average weekly wage rate as the basis against which a percentage of the employee's wage is determined. The remaining programs calculate an average weekly wage rate for workers based on previous earnings, typically determined using the preceding quarters or 12-month period.

Maximum Weekly Benefit: To curb costs while ensuring that the benefit better targets the lowest wage earners, states apply a maximum weekly benefit amount that workers could receive while on leave. Weekly maximums range from as low as $900 in Delaware to as high as $1,620 in California.

Job Protection: An important aspect of paid leave laws is job protection—guaranteeing an employee the same or an equivalent position and protecting them from retaliation upon returning from leave. FMLA provides explicit job protection for eligible employees taking qualified leave, while 16 states and the District of Columbia also have their own job-protected FMLA laws.[14] However, state laws can vary significantly from federal law and each other due to differences in duration, types of leave covered, and eligibility requirements. In certain circumstances, given these expanded definitions, an individual might be eligible for leave based on state law but not qualify for FMLA leave, complicating an employer's ability to determine paid or unpaid leave for employees in different states.

Although most state programs include job protections, each law differs in scope. Many state FMLA laws begin covering unpaid leave (or paid when tied to a state leave program) earlier in an employee's tenure than FMLA, creating additional complexity for employers to navigate. For example, Colorado provides job protection for employees who have worked for an employer for at least 180 days, while Oregon requires only 90 days of employment before the start of leave. FMLA, by comparison, requires working for one year and at least 1,250 hours at the same employer to become eligible. Eight other states offer job protection to all eligible employees, regardless of their length of employment. Some states, such as California, do not include job protections as part of their paid leave program; they instead ensure job-protections through a separate state FMLA leave law that runs concurrent to their state PFML program.

Further complicating the landscape, Hawaii, Vermont, and Wisconsin have enacted job-protected leave laws but do not have mandatory PFML laws. This adds another layer of complexity for employers, especially large businesses operating across multiple states, as they must navigate a patchwork of regulations that vary not only in coverage but also in the interplay between job protection and paid leave benefits.

Table 3: Comparison of Pay Covered Under Mandatory State Programs

EE = employee
AWW = average weekly wage

State	Wage Replacement	Maximum Weekly Benefit
CA	60% to 70% of EE's AWW depending on income[a]	$1,620.00
CO	90% of EE's AWW up to 50% of the state AWW, plus 50% of the AWW that is greater than 50% of the state AWW up to the weekly maximum benefit	$1,100.00
CT	95% of EE AWW up to 40x CT's minimum wage, plus 60% of the AWW that is greater than 40x CT's minimum wage up to the weekly maximum benefit	$941.40
DC	90% of EE's AWW up to 150% of DC's minimum wage and 50% of the EE's AWW above 150% of DC's minimum wage	$1,118.00
DE (2026)	80% of EE's AWW during the preceding 12 months	$900.00
ME (2026)	90% of EE's AWW up to 50% of the state AWW and 66% of the EE's AWW above 50% of the state AWW	$1,103.71 (in 2024)[a]
MD (2026)	90% of EE's AWW up to 65% of the state AWW and 50% of the AWW above 65% of the state AWW	$1,000.00
MA	80% of EE's AWW up to 50% of the state AWW and 50% of EE's AWW greater than 50% of the state AWW	$1,149.90
MN (2026)	90% of EE's wages up to 50% of the state AWW plus 66% of wages greater than 50% of the state AWW but less than 100% of state AWW, plus 55% of wages above 100% of state AWW	$1,337.00 (in 2024)[a]
NJ (PFL)	85% of EE's AWW up to maximum weekly benefit amount	$1,055.00
NY (PFL)	67% of EE's AWW up to the maximum weekly benefit	$1,151.16
OR	100% of EE's AWW up to 65% of the state AWW, plus 50% of EE's AWW wage over 65% of the state AWW	$1,523.63
RI	50% to 60% of EE's AWW depending on income[c]	$1,043.00
WA	90% of the EE's AWW up to 50% of the state AWW, plus 50% of the AWW above 50% of the state AWW up to the weekly maximum	$1,456.00

Sources: Seyfarth Shaw LLP and BPC review of state PFML programs

a California workers earn 70% of their AWW if they earned between $929 and $7,154.32 in their highest paid quarter. If they earned more than $7,154.33 in their highest quarter, they earn 60% of their AWW.
b Maximum weekly benefit will be set annually to the state AWW.
c Rhode Island workers earn a weekly benefit equal to 4.62% of their gross wages earned in their highest paid quarter.

STATE OPT-OUTS

Most states allow employers to opt out of their mandatory state program if they provide private PFML plans directly to their workers, either through self-funded plans or a private insurance provider. When opting for a private plan, businesses and workers are *not* required to contribute to the state program via payroll taxes. However, businesses are still required to **meet or exceed** all aspects of the substantive benefit determined by the state program, while still complying with the state's eligibility *and* administrative requirements.

Private plans allow businesses to compete for talent by providing benefits directly to workers—often offering more generous wage replacement amounts than state programs. However, meeting the standards for an approved private plan in each state is administratively onerous. Consequently, whether complying with state programs or adhering to state standards for private plans, multistate employers face significant administrative burdens, increased compliance costs, and other legal fees to offer adequate earned benefits to workers.

FINANCING

In states with a social insurance policy design (and New York's private insurance system), PFML leave benefits are funded through pooled payroll taxes on employees or employers, or both. The payroll deduction rate is set by the state and is used to pay premiums into the state's PFML fund (or to pay insurance premiums in New York).

Payroll Deduction: Most payroll deduction rates are 1% or less of wages up to an income maximum; California and Rhode Island impose slightly larger deductions of 1.1%. Eight states have linked their taxable maximum amount to the federal Social Security cap, which in 2024 is $168,600. California and District of Columbia impose no taxable maximum, while Delaware, New Jersey, New York, and Rhode Island have a lower taxable threshold.

Premium Contributions: In all comprehensive paid leave programs except for the District of Columbia, employees are responsible for part, if not all, of the premium contributions. The portion of the payroll deduction paid by employees varies greatly across states. In four states, employees pay the entire payroll deduction, while five states split the cost 50/50 between the employer and employee, and Oregon splits costs 60/40. Two states—Washington and Massachusetts—determine the distribution between employers and employees

based on the type of leave. For example, in Washington, employees pay 45% of their payroll deduction for paid medical leave and 100% of the paid family caregiver leave portion.

PREMIUM CONTRIBUTION OPT-OUT

When employers opt out of a state's program, neither they nor their employees are required to contribute to the state program through payroll taxes. In all states that approve employer private plans, employees cannot be required to pay more for leave under the private plan than they would under the state program.

ELIGIBILITY REQUIREMENTS

State programs set the eligibility criteria and qualifying absences for employees to receive PFML benefits, in many cases expanding qualifying absences, eligibility criteria, and the definition of family beyond what is set in FMLA. Those criteria and definitions also vary across states, making it challenging for multistate employers to determine which employees are eligible for leave and for what reasons.

Employee Eligibility: To determine when workers are eligible to claim benefits, states have implemented minimum earnings thresholds *or* tenure requirements over a one-year base period. This eligibility resembles FMLA's tenure *and* hours requirement, which requires a worker to be employed by the same employer for at least one year *and* to have worked at least 1,250 hours for that employer within that year. Currently, four states have a tenure requirement; three of these states have a lower threshold than FMLA, while Delaware matches the FMLA threshold of 52 weeks. Nine states and the District of Columbia have an earnings threshold. For example, the District of Columbia simply requires any income in one-base period quarter, whereas Colorado requires minimum earnings of $2,500 over the 12 months. New Jersey determines eligibility based on either a wage or tenure requirement (whichever the worker meets first).[15]

As a result of these differences, two workers in the same company could face different requirements to claim PFML benefits: An employee in Colorado becomes eligible to claim PFML benefits with earnings of $2,500, while his or her peer in New York needs to have worked full time for 26 weeks before being eligible to claim benefits.

Qualifying Absences: Every mandatory state program has three types of paid leave—parental, family caregiving, and personal medical—that align with

FMLA.[d] However, some states have expanded the list of qualifying absences. The most common expansion, offered in six states, is for safe leave, which generally allows workers to take leave if they (or a covered family member) were the victim of domestic violence, sexual abuse, or stalking. Other expansions include Washington's bereavement leave for the death of a child.[16]

Definition of Family: FMLA limits leave for caregiving related to an immediate family member, defined as an employee's child (including adopted and foster), spouse, and parent. All state programs except Delaware (which uses the FMLA classification) have expanded the definition of family to include—with some variation by state—grandchildren, grandparents, parents-in-law, siblings, and/or domestic partners. A handful of states have further expanded the definition of family to include individuals who do not have traditional familial ties but have close ties to the employee and have formed a similar bond. Stakeholders told BPC that the broadening definition and the lack of consistency across states often leaves them confused about who qualifies for paid family or caregiver leave.

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d Under FMLA, military exigency leave is also covered; however, most state programs do not cover this leave. Although it is an important form of leave that policymakers should consider, it is outside the scope of this report.

Table 4: Summary of State Definition of Family

Family Member Included	States
Child, Parent, Spouse*	All mandatory laws
Parent-in-Law	CA, CO, CT, DC, ME, MD, MA, MN, NJ, NY, OR, RI, WA
Domestic Partner	CA, CO, DC, ME, MD, MA, MN, NJ, NY, OR, RI, WA
Sibling	CA, CO, CT, DC, ME, MD, MA, MN, NJ, NY, OR, WA
Grandparent	CA, CO, CT, DC, ME, MD, MA, MN, NJ, NY, OR, RI, WA
Grandchild	CA, CO, CT, ME, MD, MA, MN, NJ, NY, OR, WA
Sibling, Grandparent, and/or Grandchild of Employee's Spouse or Domestic Partner	ME, MN, CO, OR
Child's Spouse and/or Domestic Partner	MN, OR, WA
Individual whose close association with the employee is the equivalent of a family relationship	CO, CT, ME, NJ, OR
Individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee will care for the person	WA
Individual who has a relationship with the eligible employee that creates "an expectation and reliance" that the employee will care for the individual, regardless of residence	MN

Sources: Seyfarth Shaw LLP and BPC review of state PFML laws
*Denotes definition aligned with FMLA.

ADMINISTRATIVE REQUIREMENTS

The administrative requirements of each state law are unique, and complying with them is complex. Employers cannot adjust to each state's administrative requirements by turning a dial to comply with leave duration and wage replacement rates of each state program. Rather, employers must develop systems and deploy technologies in each state to collect, track, and report relevant data for each state, adhere to different notice and posting requirements, comply with differing medical documentation requirements, and more (see Table 1).

Recordkeeping and Reporting: Employers are responsible for maintaining detailed records of each employee's leave, including how much leave each employee has accrued, taken, and has remaining, along with the type of leave taken when applicable. This is particularly challenging due to the various duration and eligibility standards across different state programs. Additionally, to ensure compliance with state law, employers must register with the respective state's preferred online system and submit regular reports to state authorities on PFML benefit use. Ensuring data accuracy and completeness is crucial, as errors can lead to noncompliance and legal issues. The administrative burden of managing records often leads multistate employers to contract with third-party administrators (TPAs) to ensure accuracy and compliance with these different reporting requirements.

USE OF THIRD-PARTY ADMINISTRATORS

According to ERIC's 2019 report, 47% of employers said mitigating administrative costs was their top priority. Similarly, a 2018 survey by Mercer, cited in the ERIC report, found that 64% of employers across industries reported increased resource needs to manage changing mandates and ensure compliance with various PFML laws.[17]

To meet these challenges, an increasing number of businesses are turning to TPAs to help with administrative tasks, such as employer notice and posting requirements, employee scheduling, recordkeeping, reporting, and remitting. The ERIC report also noted that in the 2018 Mercer survey, 38% of participating employers hired TPAs to manage the tracking, administration, and compliance requirements of state and local paid leave ordinances.

Employer Notice and Posting Requirements: To ensure that workers are aware of available benefits, state PFML programs typically require employers to regularly notify workers about those benefits. Most states require regular written notice to employees, typically including at the time of hiring and annually, at a minimum. Some states require physical posting of benefit information, with the District of Columbia and Oregon also requiring notice when an employer learns about an event that might require leave. Connecticut and Oregon both require written notice but have no physical posting requirement, while Colorado and the District of Columbia require that an employer place a physical poster in a prominent location in the workplace. The District of Columbia also requires the employer to send a copy of the physical poster to remote or teleworking employees.

Companies complying with multiple state programs must tailor these materials to each state or design notices that encompass and/or exceed the minimum requirements for each state. Moreover, as more states enact or update their laws, many require employers to notify employees of the changes and update postings in a timely manner. Ensuring employees know about available PFML benefits is critical, but the varying benefit programs and information-sharing requirements can be a challenge for employers to navigate.

Temporary or Gig Workers: Tracking temporary or gig workers introduces additional complexity. State programs treat independent contractors differently, particularly the processes for tracking and invoicing temporary work. For example, Massachusetts requires employers to maintain the same notice, recordkeeping, reporting, contribution, and administration requirements for independent contractors and temporary employees as they do for full-time workers, exceeding FMLA requirements.

* * *

As this overview illustrates, the patchwork challenges are significant. As we work to expand access to PFML benefits, addressing the core variations between state programs (substantive benefits; financing; eligibility requirements; and administrative requirements) is essential to establishing durable programs that work for employers and employees alike.

BPC's Framework for Voluntary National Paid Leave for Multistate Employers

The rapid enactment of state paid leave programs signals a growing appreciation for the role that paid leave can play in supporting workers and families. However, the patchwork of state laws is complicating the delivery of benefits, stifling employer innovation in benefit design, and preventing multistate employers from providing uniform paid leave benefits across the country.

To address these inefficiencies, BPC developed a framework for multistate employers who seek to provide PFML benefits directly to workers. This framework:

- enables employers to provide benefits in a more uniform way to workers across the country;
- improves access to and/or generosity of paid leave benefits in states lacking a mandatory program;
- makes it easier for workers to claim PFML benefits;
- maintains state autonomy in benefit generosity;
- eases compliance burdens on employers; and
- reduces the administrative burden on states administering paid leave.

Under this framework, multistate employers could opt into a national private option for PFML. To qualify, the employer's private plan must meet a determined national minimum standard for PFML benefits. Employers who opt into the private option would be exempt from state-specific requirements concerning financing, eligibility, and administrative requirements. However, if a state's substantive benefits—duration, wage replacement, and maximum weekly benefit—exceed the substantive benefit requirements of the national voluntary minimum standard, employers must still meet or exceed the state benefits to be compliant with the national framework.

CORE ELEMENTS OF BPC'S PFML FRAMEWORK

1. **Establish a voluntary, national minimum standard and private option for employer-provided paid family and medical leave benefits.**
2. **Require employers who opt in to meet or exceed the national minimum standard.** Multistate companies in compliance with the national minimum standard would be exempt from most state requirements related to financing, eligibility, and administrative standards. They would have to offer the same benefits to all their employees, whether they live in a state with a PFML program.
3. **Require employers to meet the more generous of the substantive benefit between the minimum standard and the state standard.** If the substantive benefit—duration, wage replacement rate, and weekly maximum benefit—an employee would receive under state law exceeds the national minimum standard, a company would need to go above the minimum standard to satisfy the state's requirements. However, companies would be exempt from all other state requirements.
4. **Authorize the U.S. Department of Labor or another federal agency** to oversee all aspects of implementing the voluntary national private plan option, including approving participating companies and enforcing requirements among them. The agency would establish application processes and admission procedures and would initiate the necessary coordination with states when businesses opt out of their programs.
5. **Authorize the administering agency would establish an advisory committee of state officials and private sector representatives.** The committee would help define—and revise as needed—the administrative and eligibility requirements of the minimum standard. The advisory committee would also bring stakeholders together to increase coordination and collaboration between state programs and federal, state, and local stakeholders. The committee would also need to consider how the job protection required by the national voluntary option interacts with national and state FMLA laws. While an outsized issue for large businesses, enhanced coordination could also help ease compliance burdens on small- and medium-sized employers, who might lack adequate resources to track programs in multiple jurisdictions.

Conclusion

The rapid proliferation of state-level paid leave laws has increased access to PFML benefits across the country, to the benefit of millions of workers and families. However, the lack of coordination and uniformity among state laws has created major issues for multistate employers who seek to provide generous benefits to their workers. As a result, employers, states and workers need a solution that eases compliance challenges while ensuring that states retain autonomy in designing benefits and workers receive adequate benefits.

BPC's framework would establish a voluntary nationwide private plan to address these challenges. A private plan option featuring robust national minimum standards would, besides easing employers' compliance challenges and allowing states to retain autonomy in their benefit design, make it easier for more workers to access benefits and would reduce states' administrative burdens.

Endnotes

1 Bipartisan Policy Center, "Paid Leave Across OECD Countries," September 2022. Available at: https://bipartisanpolicy.org/explainer/paid-family-leave-across-oecd-countries/.

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