

# Colorado Paid Family and Medical Leave Insurance Act

CO FAMLI

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This document is meant to answer some of the questions that employers may have and provide them with a quick summary of information related to the law and the state-mandated plan as of April 1, 2022.

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# CO Paid Family and Medical Leave Insurance (CO FAMLI) Basics

## Is my business required to offer FAMLI benefits to employees?

Yes, virtually all private employers are required to offer these benefits. Employers are covered by the new law if they 1) employ at least 1 employee during each of 20 workweeks in the current or preceding calendar year or 2) paid wages of \$1,500 or more during any calendar quarter in the preceding calendar year. Those who are self-employed or are sole proprietors are also eligible to opt-in to the program for an initial period of not less than three years.

## Is my business required to use the state-run paid leave program?

No, while private employers are required to offer FAMLI, they may choose to offer the same benefits or better to all employees through private insurance or a self-funded program. A private plan should be for both paid family and paid medical coverages.

## How is the program funded?

The state-run program has a shared premium contribution of no more than 0.9% of an employee’s gross wages in 2023 and splits the cost 50/50 between employee and employer to fund the program. Employees will pay 50% of the contributions and employers with 10 or more employees will pay the remaining 50%. Employers with fewer than 10 employees are not required to submit the employer portion.

## How do you calculate FAMLI contributions amounts due for each employee in 2023?

Wages x 0.9% = FAMLI employee payroll deduction for the 2023 calendar year, split 50/50 between employee and employer\*. Contributions are capped at the state maximum based on the social security wage index. When the cumulative total of the employee’s contributions reaches the max, the payroll deductions stop. See example below for sample wages.

Examples	Employee A	Employee B	Employee C
<b>Annual salary</b>	\$45,000	\$75,000	\$147,000
<b>Total contribution rate for 2023 = 0.09% of employee wages</b>	0.45% employee 0.45% employer	0.45% employee 0.45% employer	0.45% employee 0.45% employer
<b>Total annual premium</b>	\$450	\$675	\$1,323
<b>Employer Pay*</b>	\$202.50	\$337.5	\$661.50
<b>Employee Pay</b>	\$202.50	\$337.5	\$661.50
<b>Weekly payroll deduction</b>	\$3.89	\$6.49	\$12.72

The state is still determining how they will collect contributions. Private plans contributions can be aligned to billing frequency of other coverages.

\* Employers with nine or fewer employees do not have to contribute to the program but do need to remit their employees’ share (0.45%) of premium payments each quarter.

## Private Plan Option

### What are the private plan requirements?

CO FAMLl private plans can be self-insured or fully insured. They must be available to all covered workers under the CO FAMLl law and contain the same or better benefits and protections. A private plan must be for both paid family and paid medical coverages.

### What do I need to file a private plan?

Employers may apply to the division of family and medical leave insurance for approval for a private plan. For a private plan to be approved as meeting an employer's obligations, a private plan must also comply with the following provisions:

- a) If the private plan is in the form of self-insurance, the employer must furnish a bond to the state, with some surety company authorized to transact business in the state, in the form, amount, and manner required by the state;
- b) The private plan must provide for all eligible employees throughout their period of employment;
- c) If the private plan is fully insured, the forms of the policy must be issued by an insurer approved by the state.

### Do employers with private plans need to re-file or re-apply with the state?

The state of CO is still developing the rules regarding private plans. This document will be updated after the rules are finalized.

## MetLife's Private Plan Solution

### What is MetLife's premium rate for fully insured or self-insured FAMLl coverage?

**Fully Insured:** CO FAMLl is underwritten based on the customer. The employee contribution is 0.45%, and the employer funds the balance of the cost if there is any.

**Self-Insured:** MetLife's prices are based on a service fee for administering the program. Employee contributions cannot be used to pay the service fee. However, employers may collect the contribution to help fund benefits payable under the FAMLl program.

### How do I calculate MetLife's premium?

MetLife uses the Self Administer Premium Billing (SAP) method and can be aligned with the frequency of other coverages offered. As payroll deductions and employer contributions are collected, they should be submitted to MetLife. See example above for payroll deduction or see the state calculator here.

### How will MetLife coordinate state benefit with employer-paid benefits?

Your MetLife service team can help you review your employer-paid benefit that may overlap with the state leave benefit. We document overlaps and your preferred contact and action when the overlap happens on a Claim Benefit Coordination Tip Sheet. The same Tip Sheet can be used for multiple states with paid leave programs.

## CO FAMLl Benefit Details

### Who is eligible for coverage?

All employees working for a covered employer are eligible for benefits.

An employee is covered if they earn \$2,500 in wages during their base period (the first four of the last five completed calendar quarters immediately preceding the first day of the individual's benefit year). Earned income has to be in the state but does not have to be with the same employer.

## What are the state benefits and what life events can they be used for?

Eligible workers can receive wage replacement benefits for the below qualifying events, and job protection:\*\*



Paid Medical Leave	Safe Leave	Paid Family Leave		
<b>Own Serious Health</b> Employee's own medical need including pregnancy	<b>Family Violence</b> For an employee or family member experiencing issues related to domestic violence, stalking or, sexual assault	<b>Child Bonding</b> Including newborn, adoption, and foster care placement	<b>Family Caregiver</b> When a covered family member has a serious health condition	<b>Military Exigency</b> When a covered family member is called to active service
<b>Benefit Duration</b>				
Up to 12 weeks in a 12-month period. Extra 4 weeks if complications related to pregnancy or childbirth.				

\*\*Job protection applies if the employee has been at their current job for at least 180 days. FMLA should run concurrent with FAMLl when applicable.

## How much of a benefit can an eligible employee receive?

Benefits are paid as a percentage of the employee's average weekly wage.

<b>Maximum weekly benefit (before 2025) is \$1,100. 90% of the state average weekly wage.</b>
<b>Benefit calculation</b>
90% of the employee's average weekly wage that is equal to or less than 50% of the state average weekly wage, plus 50% of the employee's average weekly wage that is more than 50% of the state average weekly wage, up to cap.

## Leave Request Process

### How do employees file for benefits?

The state is still developing the details regarding the program, which will deploy in January of 2024. We expect it to follow our standard process below.

1 Notify employer	2 Apply for benefits	3 Submit supporting documentation	4 Stay connected until return to work
At least 30 days prior if leave is foreseeable or as soon as the employee can if unforeseeable	<ul style="list-style-type: none"> <li>Contact claim administrator within 30 days prior or within 30 days after leave starts</li> <li>MetLife can accept claims via web, telephone, or paper claim. The method is dependent on the employer's coverage plan</li> </ul>	<ul style="list-style-type: none"> <li>Proof may be required before the claim decision can be made</li> <li>MetLife will make a claim decision within 10 calendar days of receiving all information (or the first day of leave, whichever is later)</li> </ul>	Employer and MetLife will need to have the employee's anticipated return to work date scheduled or an intermittent leave plan on file to efficiently manage the claim

## Coordination with Other Benefits

Colorado Family and Medical Leave Insurance (FAMLI) and Family Medical Leave Act (FMLA) can be taken at the same time and should be taken at the same time when applicable.

### Can an employee qualify for more than one benefit?

Employees may qualify for more than one benefit based on the leave reason. Some common events are listed below:

Leave reason	CO FAMLI		Federal FMLA	Company	Other
	CO PML	CO PFL			
Employee has complications due to pregnancy	Yes	No	Yes	STD	
Employee has a serious health condition requiring multiple days/weeks/months away from work	Yes	No	Yes	<b>STD-continuous or reduced leave schedules with partial disability</b> No intermittent leave	
Employee is injured at work	<b>Maybe (rules to be defined)</b>	No	Yes	No	Workers Comp
Employee is bonding with newborn or fostering or adopting a child	No	Yes	Yes	Maybe (Parental/Bonding leave)	
Employee needs to care for a family member, parent, child, or spouse with a serious health condition	No	Yes	Yes	Sick leave, PTO	
Employee needs to care for other family members: grandparent, grandchild, sibling, or any individual with whom the employee has a significant personal bond that is or is like a family relationship with a serious health condition	No	Yes	No	Sick leave, PTO	
Former employee receiving unemployment has a qualifying event	No	No	No	No	Unemployment

### If an employer has a private plan for parental leave that pays 100% salary for a designated number of weeks how would MetLife coordinate the private plan with the CO FAMLI benefit?

As part of our benefit coordination process, MetLife's claims team will reach out to you to coordinate dates of the company leave that directly overlap with the state leave (i.e., company's parental leave and PFL-child bonding), and apply the necessary adjustment. The state of CO is still developing the rules regarding private plans. This document will be updated after the rules are finalized.

### **If an employee takes a private plan benefit at a different time, can my company be reimbursed benefits?**

The state of CO is still developing the rules regarding private plans. This document will be updated after the rules are finalized.

### **What proof or supporting documentation is needed to support a claim?**

The state of CO is still developing the rules regarding certification. This document will be updated after the rules are finalized.

## **Claims Processing**

### **What happens if an employee is out on STD or an approved absence starting in 2023, which extends into 2024?**

**If STD**, the employee may be eligible for CO FAMLI beginning on January 1, 2024. Claimants are encouraged to discuss the new CO FAMLI benefit with their STD claim specialist.

**If FMLA or FAMLI**, the employee may be eligible for paid leave beginning on January 1, 2024 as these leaves should run concurrently when applicable.

### **Can CO FAMLI be taken intermittently?**

Yes, CO FAMLI may be taken intermittently in increments of either one hour or shorter periods if consistent with the increments the employer typically uses to measure employee leave, except that benefits are not payable until the employee accumulates at least eight hours of FAMLI benefits.

### **Can an employee who is taking parental leave in 2023 wait until 2024 to take receive CO FAMLI benefits for child bonding?**

Likely yes, depending on the date of the child's birth. Under CO FAMLI law, covered employees can request FAMLI for bonding with a new child at any time within the first year of the child's birth, adoption, or foster care placement.

### **Why does the law say the employee must give a 30-day advance notice of foreseeable leave?**

The 30-day advance notice requirement is for the employee to alert their supervisor/employer that they will be absent. This may help with staffing and identify back up training to cover while the employee is out for an extended period of time. There is no requirement for the insurance claim to be submitted early.

### **What if a claim is denied?**

For private plans, if a claim has been denied, the claimant may reach out to MetLife and request a claim reconsideration, especially if they have new information to support their claim. Claimants may also file an appeal with the state. The denial letter will provide the appeal filing instructions. The state of CO is still developing the rules regarding appeals. This document will be updated after the rules are finalized.

### **Who is a covered family member?**

Family member means child, parent, spouse, domestic partner, grandparent, grandchild, sibling, or any individual with whom the employee has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship.

## **General Tax Questions**

The state of CO is still developing the rules regarding taxes. This document will be updated after the rules are finalized.

## Resources



### Need more information? Visit:

The MetLife PFML [website](#) regarding state mandated benefits.

For CO State resources please [click here](#).

For details regarding your coverage, contact your MetLife Representative.

**Please Note:** The information presented in this brochure is not legal advice and should not be relied upon or construed as legal advice. It is not permissible for MetLife or its employees or agents to give legal advice. The information in this brochure is for general informational purposes only and does not purport to be complete or to cover every situation. You must consult with your own legal advisors to determine how these laws will affect you. Like most paid leave programs, paid leave programs offered by MetLife and its affiliates contain certain exclusions, exceptions, waiting periods, reductions, limitations, and terms for keeping them in force. Please contact MetLife or your plan administrator for complete details.

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