COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT
EMPLOYER WEBINAR SERIES

Private Plans
Part II

Division of Family and Medical Leave Insurance
famli.colorado.gov
September 27, 2022

COLORADO
Department of
Labor and Employment

About FAMLI Webinar Series

Housekeeping:

- Recording of the presentation will be available on **famli.colorado.gov.**
- Please ask your questions in the Q&A function of the Zoom meeting, chat is disabled.
- Questions and answers will be posted on our website.

Previous webinars on our YouTube Channel

- FAMLI and Local Governments
- FAMLI and Other Types of Leave
- How To Prepare Your Small Business for FAMLI

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FAMLI Timeline

Q4 2022

Soft Launch of
My FAMLI+ Employer
(famli.colorado.gov)

January 1, 2023

Employers begin payroll deductions for FAMLI premiums

Q1 2023

Employers must complete registration in My FAMLI+ Employer

April 30, 2023

First quarterly premium payments and wage reports due (30-day grace period)

January 1, 2024

Covered workers can begin submitting requests for FAMLI leave

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The Rulemaking Process

- Proposed and adopted rules, public comments and recordings of public hearings are published at famli.colorado.gov/proposed/adopted-rules.
- To send us your comments on our proposed rules, email cdle_famli_rules@state.co.us or fill out this form.

Adopted Rules	Proposed Rules	Upcoming Rules
Benefits and Employer Participation Rules	**Private Plan Rules** Virtual Public Hearing: October 17 at 5 p.m.	Coordination of Benefits Rules
Premium Rules		Employer Reimbursement of Advance Payment Rules
Local Government Rules		Amendments

Private Employers Are Not Exempt from FAMLI

The bottom line:
Nearly every Colorado employer will be required to provide a robust paid family and medical leave program.

Proposed Private Plan Requirements

Private Plan Rules Have Not Yet Been Adopted

Private plans must include:

- the same number of weeks of benefits
- the same level of wage replacement
- include no additional requirements or conditions and cannot deny benefits to new employees
- deduct no more than the same amount from employee paychecks
- cover all employees through the duration of their employment
- remain compliant with requirements set by the Division
- cover all employees localized to Colorado
- must use benefit application forms that are no more burdensome than the FAMLI benefit application process

Proposed 2023 Premium Refunds

- All private employers will pay premiums starting January 1, 2023.
- Refunds for any premiums paid in 2023 will be issued to employers with approved private plans that have an effective date on or before January 1, 2024.
- Private plan applications must be received by **October 31, 2023** in order to secure a refund for premiums paid in 2023.

Self-Insured Private Plans: Proposed Surety Bond Rules

- Surety bonds must be issued by a company authorized by the Colorado Insurance Commissioner.
- The bond amount must be equal to one full year of premiums.
- There must be a statement that the bonding company give 90 days notice to terminate liability to the employer and the Division.
- The bond must be maintained for the duration of the self-insurance plan.
- The Division will review the bond annually in relation to wage projections.
- Employers using self-insurance will need to establish and maintain a separate account for employee contributions.

Proposed Notice to Employees

- Amount of wage replacement
- Detail the plan's leave and job protection benefits
- Eligibility requirements
- Describe how premiums are calculated and collected
- Instructions for how to file a claim
- Contact information for the FAMLI Division
- Notify the employee of their rights pursuant to the FAMLI Act

Proposed Reporting Requirements

Starting April 1, 2025:

- Employers with approved private plans will need to submit a summary report from the previous calendar year.
- Records of any premium contributions collected from employees must be maintained for a minimum of 6 years.

Annual Summary Reports must include:

- total applications for benefits
- total amount of benefits paid
- total claims claims that were denied
- total number of employee appeals and appeal outcomes
- wage reports used to determine the amount of benefits issued

Changes to Your Plan

Modifications:

- Employers must notify the Division at least 14 days before any change will take effect.
- Notification must describe the changes and explain how benefits will not be reduced.

Voluntary Terminations:

- Notify the Division and employees no more than 30 days before termination takes effect.
- Remit amount equal to what would have been owed to the Division over the previous four calendar quarters if the employer had been participating in the state plan.

Proposed Private Plan Application Process

- Apply online via My FAMLI+ Employer (*coming in 2023*)
- FEIN, basic employer information, designated contact person
- Self-Insurance applications require a surety bond
- Attestation that the plan meets the requirements set forth in the FAMLI Act
- Copy of the Application of Benefits form to be used by employees
- Copy of the posted notice to the employee
- Administration fee

Frequently Asked Questions

Private Plans

Q: What happens if an employer's private plan is approved and 2023 premiums are refunded. Are employers obligated to return employee premiums if employees have left the employer?

A: The employer must issue a refund to its employees unless the terms of the approved private plan allow them to use the refund to fund the private plan. If the employee is no longer employed by the employer, that employee must be identified in the application for reimbursement, and the FAMLI Division will issue a refund directly to the employee.

Q: Can employees of companies with less than 9 employees opt out?
A: No employer with Colorado employees may opt-out unless they are a local government employer whose governing body has voted to do so.

Q: Do private plans have to cover seasonal employees?

A: Yes. Private plans must cover all employees localized to Colorado for the duration of their employment.

We want to hear from you!

We want to build a FAMLI program that is fair and meets the needs of both employers and workers.

Please help us by:

- *Participating in our webinar series*
- *Sharing your ideas and concerns*

Your input is essential!

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Thank You!

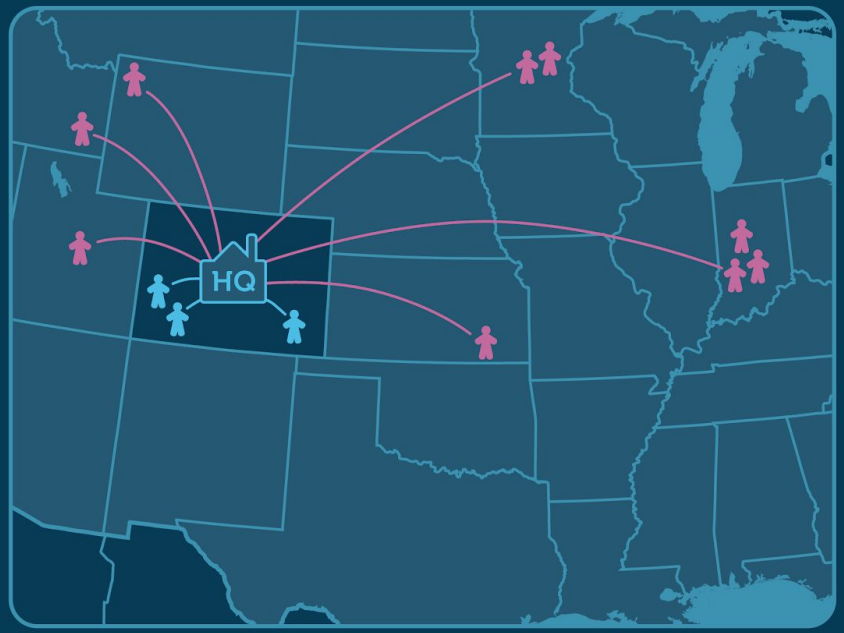
Questions?

Counting Your Employees for **FAMLI**

All employees who work 20 or more weeks during the previous calendar year, even if they only work one day a week, need to be counted towards the employer's total headcount.

Any employee who works fewer than 20 weeks during the previous calendar year will not count as an employee when determining the employer's total headcount.

Counting Remote Employees for **FAMLI**



- **Total remote employees outside Colorado:** 9
- Colorado employees: 3
- Employer is required to pay and remit the full 0.9% premium for its 3 Colorado employees.

Q: Who counts toward the company's total number of employees if some employees work outside of Colorado?

A: If the total number of employees, including those working outside Colorado is 10 or greater, the employer is responsible for sending the full 0.9% premium (0.45% from employees and 0.45% from the employer) along with wage reports for its **Colorado** employees to the Division once a quarter.

Counting Nationwide Employees for **FAMLI**

- **Total nationwide employees:** 15+
- Colorado employees: 8
- Employer is required to pay and remit the full 0.9% premium for its 8 Colorado employees.

Q: Who counts toward the company's total number of employees if the employer is based outside of Colorado?

A: If the total number of employees working for the company nationwide is ten or greater, the employer is responsible for sending the full 0.9% premium (0.45% from employees and 0.45% from the employer) along with wage reports for its **Colorado** employees to the Division once a quarter.

Denial of Private Plan

Notice will be provided to the applicant.

Another application may be submitted.

To avoid a second application fee:

- Submission must be within 30 calendar days
- Deficiencies should be corrected

Each application will be considered a separate application for the purposes of determining the effective date.

Denials are not subject to an appeal.

Technical Capabilities for Remitting Premiums and Submitting Wage Reports

Method / Function	Employer Registration	Wage Reporting	Payments
	Process for creating an employer account with FAMLI	Process to submit employee wage data to FAMLI.	Electronic (ACH) payment of premium contributions due.
Online via My FAMLI+ Employer Portal	Available	Available	Available
API (JSON)	Available	Available	Available
File Upload (XML) via My FAMLI+ Employer Portal	Available	Available	No
File Upload (CSV) via My FAMLI+ Employer Portal	Available	Available	No
File Transfer via SFTP to FAMLI Servers	No	No	No
Other Payment Methods ACH Credit via NACHA File, Check or Bill Pay (Note: all occur outside of FAMLI systems)	N/A	N/A	Available

● Method is available for the function

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