



COLORADO
Family and Medical Leave
Insurance Program (FAMLI)
Department of Labor and Employment

FAMILY AND MEDICAL LEAVE INSURANCE



2023 EMPLOYEE HANDBOOK TO FAMLI



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Starting January 1, 2023, most Colorado workers (full-time, part-time and seasonal) will see a new deduction on their paychecks of 0.45% their wages.



What is FAML I?

Colorado voters approved Proposition 118 in November 2020, paving the way for a state-run paid Family and Medical Leave Insurance (FAML I) program. FAML I supports both employees and businesses alike by protecting and supporting them when certain life events happen.

Starting in January 2024, most Colorado workers will be able to apply for FAML I leave benefits to help them get through the following circumstances:

- » Caring for a new child during the first year after the birth, adoption, or foster care placement of that child.
- » Caring for a family member with a serious health condition.
- » Caring for your own serious health condition.
- » Making arrangements for a family member's military deployment.
- » Obtaining safe housing, care, and/or legal assistance in response to intimate partner violence, stalking, sexual assault, or sexual abuse.



Payroll Deductions

The FAML program is funded through premiums paid by both workers and employers (depending on how many employees the business has). The portion paid by workers will be made through a simple payroll deduction facilitated by your employer. Most workers will see a FAML deduction coming out of their paychecks starting in January 2023.

- » The employee share of FAML premiums is set at 0.45% of employee wages through 2024.
- » For every \$100.00 an employee makes, an employer may deduct up to \$0.45. For someone making \$45,000/year that's a deduction of less than \$8 per biweekly paycheck.

To see what your estimated deduction will be, check out the premium and benefit calculator on famli.colorado.gov.



FAML Benefits

Eligibility

Starting in 2024, paid family and medical leave benefits will be available to most Colorado workers who have earned \$2,500 over the previous year for work performed in Colorado. You don't have to work for your employer a minimum amount of time in order to qualify for paid family and medical leave benefits.

Covered employees are entitled to up to 12 weeks of paid family and medical leave per year. Individuals with serious health conditions caused by pregnancy complications or childbirth complications may be entitled to up to 4 more weeks of paid leave per year for a total of 16 weeks. FAML leave may be taken continuously, intermittently, or in the form of a reduced work schedule.

FAML leave benefits will become available to workers starting in January 2024.

Benefit Amounts

FAML wage replacement benefits will be paid at a rate of up to 90% of the employee's average weekly wage with lower wage earners receiving a higher percentage. Benefits are calculated on a sliding scale using the individual's average weekly wage from the previous five calendar quarters in relation to the average weekly wage for the state of Colorado and may increase over time. Benefits are capped at \$1,100 per week. You can estimate your potential benefits by using the calculator available at famli.colorado.gov.

Applying for FAML I Benefits

Individuals or their designated representatives will apply for FAML I benefits by submitting an application, along with other required documents that support the need for leave. You will submit the application directly to the FAML I Division.

Applications may be submitted in advance when the need for qualified leave is foreseeable. When the need for leave is foreseeable, individuals must provide 30 days notice prior to the start of their planned leave to their employer when practicable. When the need for leave is unforeseeable, individuals have up to 30 days after the leave has begun to apply for FAML I benefits.

Approved applications will be paid by the FAML I Division within two weeks after the claim is properly filed, and

Employees will be able to apply for benefits beginning in the last quarter of 2023. The first benefit payment will become available in January 2024.

Instructions on how to apply for benefits will be available on famli.colorado.gov in the last quarter of 2023.

every two weeks thereafter for the extent of the approved leave.

Employees can appeal claim determinations to the FAML I Division. Individuals who attempt to defraud the FAML I program may be disqualified from receiving benefits.

How much will employees receive when using FAML I benefits?

| Weekly wage | Weekly deduction | Weekly benefit | Maximum annual benefit | Percent of weekly wage |
|-------------|------------------|----------------|------------------------|------------------------|
| \$500 | -\$2.25 | \$450 | \$5,400 | 90% |
| \$1,500 | -\$6.75 | \$1,020 | \$12,240 | 68% |
| \$2,000 | -\$9.00 | \$1,100 | \$13,200 | 55% |
| \$2,500 | -\$11.25 | \$1,100 | \$13,200 | 44% |
| \$3,000 | -\$13.50 | \$1,100 | \$13,200 | 37% |

Employee Rights and Protections

Eligible Colorado workers have the right to take FAMILI leave for covered circumstances at any point in their employment.

Once you have worked for the same employer for at least 180 days (about six months), your job is protected under the law. That means you're entitled to return to the same position, or an equivalent position, when your leave ends. You can still take FAMILI leave before you meet that 180 day threshold, but your employer is not required to keep your job for you when your leave is over. As long as you are eligible and qualify to use paid leave, your employer cannot prevent you from taking leave, and cannot penalize you for taking paid leave.

You are also entitled to the same healthcare benefits while you are on FAMILI leave, but you also remain responsible for paying for those benefits in the same amounts as before the leave began.

Additional Information

FAMILI leave is designed to run concurrently with the federal FMLA. If FAMILI leave is used for a reason that also qualifies as leave under FMLA, then the leave may also count as FMLA leave used.

Employees may choose to use sick leave or other employer-provided paid time off before using FAMILI benefits, but they are not required to do so. As long as mutually agreed upon with your employer, you may supplement your FAMILI benefit payments with sick leave or other paid time off in order to receive full wage replacement.



Frequently Asked Questions:

Why am I paying now for a benefit I cannot use for a year?

The FAML program is funded by premiums made by both employers and employees. Contributions made in 2023 will establish the fund that will eventually pay out benefits to Colorado workers in 2024. The gap year is needed to build the funds before benefits can be paid.

I did not vote for this, why must I contribute part of my paycheck?

When Colorado voters passed Prop 118 in 2020, that established the FAML Act for all of Colorado. With the law now in effect, most businesses and most workers across the state are required to comply.

Can I opt out?

No. The FAML Act does not allow employees to opt out of the program.

I don't plan on ever using this benefit, do I still need to contribute?

Yes. The FAML program is a social insurance program, and does not operate like a personal health savings account. Your individual contributions are not tied to when you apply for benefits. Contributions made by both employees and employers will fund the social insurance pool that will eventually pay out benefits in 2024.

Can I file a claim now?

No. FAML benefits will not be available until 2024. We are in the process of building the technology and corresponding processes to accept claims. Expect to see more guidance from the FAML Division in the second half of 2023.

I am an employee of a local government that has voted to opt out of FAML. How do I self-select coverage?

Local government employees may voluntarily participate in the FAML program even if their local government employer has voted to opt out. These employees do not need to take any action to self-select coverage until benefits become available in 2024. At that time, they will need to register with the FAML Division in order to pay their employee share of the premium and submit wage data every quarter. Local government employers may choose to help facilitate this process for its employees, or may require their employees to register directly with the Division's employer services portal My FAML+ Employer. Registration instructions will be available on famli.colorado.gov by January 1, 2023, but local government employees don't need to register until 2024. If a local government employee voluntarily chooses to participate in FAML program, they must agree to do so for a minimum of three consecutive years, in order to prevent taking leave only when the leave is foreseeable.

Definitions

Covered Individual » A Colorado worker can be a Covered Individual once they have earned at least \$2,500 in wages subject to premiums within the State, over a period of roughly a year in either the employee’s base period or alternative base period. The FAML base period is the first four of the last five completed calendar quarters immediately preceding the first day of the individual’s benefit year, and the alternative base period is the last four completed calendar quarters immediately preceding the benefit year. Reference: §8-13.3-503 (3) C.R.S.

Caring for a new child » Caring, bonding, and providing the basic needs of a child that is under the age of 18 and sometimes up to the age of 21 if still under jurisdiction of the juvenile court. The FAML benefit can be used once during the fostering and adopting of the same child. When using leave to “care for a new child,” benefits are limited to parents and individuals standing in loco parentis to the child.

Employee » Any individual, including a migratory laborer, performing labor or services for the benefit of another, irrespective of whether the common-law relationship of master and servant exists. The FAML Act’s definition of

For legal definitions, please refer to the FAML Statute and all adopted FAML rules published at famli.colorado.gov/proposed/adopted-rules.

“employee” includes a two-prong exception. If a person is both primarily free from control in the performance of their work, and that work is part of their independent profession or trade, then that person is not an employee under the FAML Act, and payments to them would not be subject to premiums. Reference: §8-13.3-503 (7) C.R.S.

FAML » The Family and Medical Leave Insurance (FAML) program was voted in by the citizens of Colorado during the 2020 election. The vote was bi-partisan. Colorado law that covers this program is §8-13.3-501 et seq.

Family Member » A covered individual’s child, parent, spouse, domestic partner, grandparent, grandchild, sibling, or someone with whom they have a significant personal bond as described in detail in §8-13.3-503 (11) C.R.S. Understanding that families are not always traditional, the Division will determine familial

relationships by looking to the totality of the circumstances by weighing non-dispositive factors including but not limited to:

- » shared financial responsibilities
- » emergency contact designations
- » expectation of care created by the relationship
- » cohabitation and geographical proximity.

FMLA » The Family and Medical Leave Act (FMLA) is a federal program that provides certain qualifying employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave. Colorado's FMLI program is designed to run concurrently with FMLA. Reference: 29 U.S.C. Chapter 28. However, it is important to note that individual FMLA coverage may vary among employees based on hours worked in the prior year.

Qualifying Exigency Leave » Leave based on a need arising out of a covered individual's family member's active duty service or notice of an impending call or order to active duty in the armed forces. This type of leave includes things like providing for the care or other needs of the military member's child or other family member, making financial or legal arrangements for the military member, attending counseling, attending military events or ceremonies, spending time

with the military member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.

Serious Health Condition » An illness, injury, impairment, pregnancy, recovery from childbirth, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider. Reference: §8-13.3-503 (19) C.R.S.

Safe Leave » "Safe leave" means any leave needed because the covered individual or the covered individual's family member is the victim of domestic violence, the victim of stalking, or the victim of sexual assault or abuse as described in 16-11.7-102(3). Individuals applying for "safe leave" to address the needs in response to domestic violence, stalking, sexual assault, or sexual abuse do not need to initially prove that they are a victim of a violent circumstance. Benefits may be awarded based on the victim's good-faith attestation that the need for leave satisfies the elements of the offense. References: 16-11.7-102(3) C.R.S., §18-3-402 C.R.S. and §8-13.3-503 (20) C.R.S.



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