



December 17, 2022

## Colorado Family and Medical Leave Insurance Program (FAMLI)

Colorado voters approved Proposition 118 in November of 2020, paving the way for state run Paid Family and Medical Leave Insurance (FAMLI) program. The FAMLI program will ensure Colorado workers have access to paid leave in order to take care of themselves or their family during life circumstances that pull them away from their jobs.

Employers are required to notify their employees about the FAMLI program by January 1, 2023. Employers and their employees are both responsible for funding the program and they split the cost 50/50. The premiums are set to .9% of the employee's wage, with .45% paid by the employer and .45% paid by the employee.

Businesses with nine or fewer employees do not have to contribute to the program but need to remit their employees' share (.45%) of the premium on behalf of the employees each quarter. This includes full-time, part-time, seasonal and owner-employees (i.e. S Corporations). This can be done through a payroll deduction. Employers are required to begin these premiums deductions on January 1, 2023. Employers cannot collect missed premiums from employees in later pay periods. All employers, regardless of size, will be required to register with the FAMLI Division before the first premium payment is due at the end of the first quarter of 2023.

Premiums are paid on wages up to the Federal Social Security Wage Cap (\$160,200 for earnings in 2023). The definition of wages mirrors the Colorado Unemployment definition of included and excluded wages.

Most Colorado workers will be eligible for FAMLI benefits, including self-employed individuals and independent contractors. Participation for self-employed workers is optional. If you do decide to opt into FAMLI as a self-employed worker, you must agree to participate by paying premiums and reporting your income for a minimum of three years as Colorado wants to eliminate the self-employed from opting in only when the need for leave is foreseeable. There is no enrollment period for self-employed workers. You can opt in any time and apply for leave any time once benefits become available in 2024.

Benefits will become available to workers starting in January 2024. 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 (1,350.55 as of July 2022) and may increase over time. Colorado workers become eligible to take paid leave after they have earned at least \$2,500 in wages within the State, over a period of a year.

Please refer to <https://famli.colorado.gov> for additional information. You may also email questions to [cdle\\_famli\\_info@state.co.us](mailto:cdle_famli_info@state.co.us).

Employers will need to register your business here – <https://famli.colorado.gov/employers/my-famli-employer>

Click on "Log In to My FAMLI+ Employer" to register.

The following page is the Employer poster that you will need to post at your place of business along with other Employee posters and notices.

## Deductions from Employee Wages start January 1, 2023

- The employee share of FAMLI premiums is set at 0.45% of employee wages through 2024. For 2025 and beyond, the director of the FAMLI Division sets the premium rate according to a formula based on the monetary value of the fund each year. Employers with ten or more employees must also contribute an additional 0.45% of wages for a total of 0.9%, but employers with nine or fewer employees are only responsible for the 0.45% employee share.
- Employers are not required to deduct FAMLI contributions from employees' wages. However, **starting in 2023, employers are allowed to deduct up to 0.45% from employees' wages for FAMLI contributions.** For every \$100.00 an employee makes, an employer may deduct up to \$0.45.

## Benefits start January 1, 2024

- Starting in 2024, paid family and medical leave benefits are available to most Colorado employees who have a qualifying condition and who earned \$2,500 over the previous year for work performed in Colorado.
- The qualifying conditions for paid family and medical leave are:
  - 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 domestic violence, stalking, sexual assault, or sexual abuse.
- 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 are entitled to up to 4 more weeks of paid family and medical leave per year for a total of 16 weeks.
- Leave may be taken continuously, intermittently, or in the form of a reduced schedule.
- Leave will be paid at a rate of up to 90% of the employee's average weekly wage, based on a sliding scale. Employees may estimate their benefits by using the benefits calculator available at [famli.colorado.gov](http://famli.colorado.gov).
- 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.
- If FAMLI leave is used for a reason that also qualifies as leave under the federal FMLA, then the leave will also count as FMLA leave used.
- Employees may choose to use sick leave or other paid time off before using FAMLI benefits, but they are not required to do so.
- Employers and employees may mutually agree to supplement FAMLI benefits with sick leave or other paid time off in order to provide full wage replacement.

## Filing Claims

- Employees will not be able to file for benefits until the last quarter of 2023. Benefits will be available starting January 2024. Instructions on how to apply for benefits will be available on [famli.colorado.gov](http://famli.colorado.gov) in the last quarter of 2023.
- Employees or their designated representatives apply for FAMLI benefits by submitting an application, along with required documentation, directly to the FAMLI Division. Employers cannot make employees apply for FAMLI benefits.
- Applications may be submitted in advance of the absence from work, and in some circumstances, they may be submitted after the absence has begun.
- Approved applications will be paid by the FAMLI Division within two weeks after the claim is properly filed, and every two weeks thereafter for the duration of the approved leave.
- Employees can appeal claim determinations to the FAMLI Division.
- Individuals who attempt to defraud the FAMLI program may be disqualified from receiving benefits.

## Job protection and continued benefits

- Employers must maintain health care benefits for employees while they are on FAMLI leave, and both the employer and the employee remain responsible for paying for those benefits in the same amounts as before the leave began.
- An employee who has worked for the employer for at least 180 days is entitled to return to the same position, or an equivalent position, upon their return from FAMLI leave.

## Retaliation, Discrimination, and Interference Prohibited

- Employers may not interfere with employees' rights under FAMLI, and may not discriminate or retaliate against them for exercising those rights.
- Employees who suffer retaliation, discrimination, or interference may file suit in court, or may file a complaint with the FAMLI Division.

## Other Important Information

- An employer may offer a private plan that provides the same benefits as the state FAMLI plan, and imposes no additional costs or restrictions. Private plans must be approved by the FAMLI Division.
- Employees and employers are encouraged to report FAMLI violations to the FAMLI Division.

