

D.C. Paid Leave Program Amended to Expand Benefits

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Significant changes have arrived for paid medical, parental, and family care leave in Washington, D.C following the recent enactment of the [Universal Paid Leave Emergency Amendment Act of 2021](#) (“PLEAA”). Effective October 1, 2021 (with a minor exception for expanded personal medical leave, discussed below), the PLEAA amends the D.C. Universal Paid Leave Amendment Act of 2016, as well as the D.C. Family and Medical Leave Act of 1990, and other provisions related to paid leave under the District’s Paid Family Leave (“PFL”) program, to expand benefits for covered individuals.

Prenatal Care and Pregnancy Loss Coverage

Previously under the PFL program, eligible individuals (including covered employees and certain self-employed individuals) could take up to 8 weeks of parental leave, 2 weeks of personal medical leave, and 6 weeks of family leave to care for a sick family member, up to a combined maximum of 8 workweeks of paid leave within a 52-workweek period. As of October 1, 2021, eligible individuals may now also take up to 2 workweeks of prenatal leave for newly added qualifying reasons, separate from and in addition to parental leave that had already been available under the program. The new qualifying reasons for prenatal care include:

- routine and specialty appointments, exams, and treatments associated with a pregnancy provided by a health care provider, including prenatal check-ups and ultrasounds;
- treatment for pregnancy complications;
- bedrest that is required or prescribed by a health care provider; and
- prenatal physical therapy.

The PLEAA also amends the definition of a “qualifying medical leave event” for which personal medical leave may be taken to include medical care related to miscarriage (defined as loss of a pregnancy before 20 weeks’ gestation), and stillbirth (defined as loss of a pregnancy after 20 weeks’ gestation).

Expanded Paid Leave Durations

With regard to leave for an individual's personal medical needs, for claims with approved leave dates that begin on or after September 26, 2021 through September 30, 2022, the PLEAA *increases* the maximum duration of qualifying paid leave to 6 workweeks, up from the previous 2 workweeks. Parental leave and family care leave remain at their previous 8 week and 6 week totals, respectively.

The combined maximum number of workweeks of all forms of paid leave within a 52-workweek period remains at 8 weeks, except when an individual takes both parental leave (up to 8 weeks) and prenatal leave (up to 2 weeks), in which case the individual can take up to 10 weeks of combined leave during the 52-workweek period.

Significantly, starting in 2022 and going forward, the maximum durations of paid leave available under the PFL program may be modified on an annual basis (either increased or potentially decreased, though not below the durations available prior to October 1, 2021) depending upon the projected balance of the Universal Paid Leave Fund, taking into account certain scheduled planned paid leave benefit expansions, assuming the balance of the Fund does not fall below the equivalent of nine months of benefits.

Expanded Period for Calculation of PFL Contribution Wages

The PLEAA also expands the wages that are subject to PFL calculation for claims filed after October 1, 2021 but before the 365th day after the end of the COVID-19 public health emergency that began on March 11, 2020. During this period, the calculation of an individual's average weekly wage subject to contribution for PFL benefits will be based on the four quarters with the highest wages from the preceding *10 quarters*, as opposed to the preceding 5 quarters in the normal course.

Waiver of Waiting Period and Retroactive Benefits

The PLEAA also includes a temporary suspension of the one-week waiting period before individuals are eligible for PFL benefits for a qualifying event for claims filed after October 1, 2021 but before the 365th day after the end of the COVID-19 public health emergency.

The PLEAA will also allow eligible individuals to receive PFL benefits retroactively if a claim for benefits is made within 30 calendar days after the qualifying leave event. The 30-day limitation may be waived, however, when “exigent circumstances” prevent the individual from submitting the claim in time. Such exigent circumstances may include physical or mental incapacity, a demonstrable inability to reasonably access the means by which a claim could have been filed following the qualifying leave event, or actual lack of knowledge by an eligible individual of their right to apply for PFL benefits due to the confirmed noncompliance by the individual’s employer(s) with PFL notice requirements.

Additional Rules and Updated Notice Requirements

The PLEAA requires the D.C. mayor to issue implementing rules regarding the new requirements by October 31, 2021, or after any expansion of benefits or change to the employer contribution rate. An updated PFL poster is also expected to be issued by late fall of 2021, which D.C. employers will be required to post in the workplace by February 1, 2022.

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Because it was passed as emergency legislation, the PLEAA will expire after 90 days (*i.e.*, November 21, 2021) unless it is renewed. However, the Fiscal Year 2022 Budget Support Act ([B24-0285](#)) contains amendments that mirror those under the emergency PLEAA and, if enacted, would make permanent many of the above-discussed PFL amendments. The Budget Support Act is currently pending Congressional review but is expected to take effect as drafted in January 2022.

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