

The Healthy Delaware Families Act: What You Should Know

MAY 2022

In April 2022, Delaware became the 12th state, including D.C., to pass a paid family and medical leave program.¹ It ensures that several hundred thousand Delaware workers will finally have access to paid leave so that they do not have to choose between their livelihood and caring for their loved ones. It means a stronger economy, healthier families and businesses, and greater equality for all women and families.

Who Is Eligible?

Employees who have worked for their employer for at least 12 months and for at least 1,250 hours during the last year. This is the same as in the federal Family and Medical Leave Act (FMLA).

Which Businesses Are Covered?

Most businesses will be covered and must allow their eligible employees to take paid leave.

- Some businesses do not have to participate, such as seasonal ones and those with fewer than ten employees.
- Employers with 10-24 employees only have to participate in parental leave.
- Some companies may not be in the program because they offer more generous paid leave benefits (including through a collective bargaining agreement with a union) or they provide a state-approved alternative paid leave insurance plan that meets certain minimum standards.

STARTING IN 2026:

- Most workers in Delaware can take off work, with pay, up to:
 - 12 weeks for parental leave
 - Six weeks for medical leave or to care for a family member
- Workers will receive about 80 percent of their usual weekly wages while on leave.
- Workers will continue to receive their health insurance benefits while on leave and can return to their usual job afterwards.
- Small and seasonal businesses do not have to participate, but they can choose to.
- Businesses are free to provide more generous paid leave benefits than are in the program.

How Long Is the Leave and What Can It Be Used For?

In a two-year period, workers can take up to six weeks of leave to:

- Care for a family member (parent, child, or spouse) with a serious medical condition
- Address their own serious medical condition
- Address the impact of a family member's military deployment.

In a one-year period, workers can take up to 12 weeks of leave to care for a new child within one year of the birth, adoption, or foster placement of that child.

- If both parents work for the same employer, they can only take up to 12 weeks combined (e.g., six weeks for the first parent and six weeks for the second parent).

In all cases, employees can use leave intermittently (rather than consecutively) if medically necessary, so long as they are taking leave at least one day a week.

How Much Are Workers Paid?

While out on leave, workers will receive 80 percent of their wages (up to a maximum of \$900 and down to a minimum of \$100) each week through the state program.

- The wages used for the calculation is the employee's average weekly wage for the last 12 months.
- For people with an average weekly wage less than \$100: they will receive their average weekly wage while out on leave.
- The maximum benefit amount will be adjusted annually based on inflation.

How Is It Funded?

Starting in 2025, businesses in the program will make contributions up to 0.8 percent of their payroll.

- Companies can choose to collect a portion (up to 0.4 percent) of their employees' wages (e.g., an employee making \$65,000 annually will pay between \$0 and \$260 over the course of a year).

What Protections Do Employees Have When They Take Leave?

Employees on leave should continue to receive their health insurance benefits and return to the same job they left.

- Employees who have been with their employer for at least 90 days are also protected from retaliation for requesting or using leave. They cannot be:
 - Fired, demoted, or faced with any adverse actions for requesting or taking leave.

Who Is Running the Program?

Delaware's Department of Labor will establish and administer the program.

- This includes: educating the public, developing procedures for filing a claim, accepting and processing claims, ensuring the financial stability of the program, investigating any violations and reporting on the program to the Governor and Legislature.

When Is This Happening?

The Department of Labor will begin planning for the program on July 1, 2022.

Employees can start taking paid leave on January 1, 2026.

¹ S.B. 1 § 3705(b) & § 3704(a)(3), 151st Leg. Reg. Sess. (Del. 2022)

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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