

§850-B. Paid family and medical leave benefits program established

The paid family and medical leave benefits program is established effective January 1, 2026. The program is administered by the department. In accordance with subsection 1, the department may, through contract after a competitive bidding process subject to the requirements of Title 5, section 1816-B, authorize a 3rd party to conduct claims administration. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

1. Competitive bidding process. Any competitive bidding process used by the department pursuant to this section is governed by this subsection.

A. [PL 2023, c. 643, Pt. ZZZ, §3 (RP).]

B. Any 3rd party that submits a proposal must have a meaningful physical presence in the State; have no adjudicated record of substantial or repeated willful noncompliance with any relevant federal, state or local law, statute or regulation, including payment of taxes or other payments owed to a public entity; attest to compliance with all applicable local, state and federal laws, regulations and statutes, including health and safety, labor and employment and licensing laws that affect the employees, worksite or performance of the contract; complete a signed pledge of compliance provided by the State to comply with all applicable laws, statutes and regulations; and attest that any projected cost savings may not derive from the 3rd party's failure to provide adequate wages. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

C. The requirements of Title 5, section 1825-B, subsection 7 do not apply. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

[PL 2023, c. 643, Pt. ZZZ, §3 (AMD).]

2. Family leave eligibility. A covered individual is eligible for family leave for any of the following reasons:

A. To bond with the covered individual's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption or foster care with the covered individual; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

B. To care for a family member with a serious health condition; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

C. To attend to a qualifying exigency; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

D. To care for a family member of the covered individual who is a covered service member; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

E. To take safe leave; or [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

F. Any other reason set forth in section 843, subsection 4. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

3. Medical leave eligibility. A covered individual with a serious health condition that makes the covered individual unable to work is eligible for medical leave.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

4. Maximum leave requirements. The following requirements apply.

A. A covered individual is not eligible for more than 12 weeks of family leave in a benefit year. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

B. A covered individual is not eligible for medical leave for more than 12 weeks in a benefit year. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

C. A covered individual may not take more than 12 weeks, in the aggregate, of family leave and medical leave under this subchapter in the same benefit year. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

This subsection does not prevent a covered individual from taking medical leave that is immediately followed by family leave when the medical leave is taken during pregnancy or recovery from childbirth and is supported by documentation from a health care provider.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

5. Intermittent leave requirements. Leave permitted by this section may be taken by an employee intermittently in increments equaling not less than one day, or on a reduced leave schedule otherwise agreed to by the employee and the employer, except that the employee and employer may not agree for leave to be taken in increments of less than one hour. The taking of leave intermittently or on a reduced leave schedule pursuant to this subsection may not result in a reduction in the total amount of leave to which the covered individual is entitled under this subchapter.

[PL 2023, c. 643, Pt. ZZZ, §4 (AMD).]

6. Weekly benefit. While on family leave or medical leave pursuant to this subchapter, a covered individual receives a weekly benefit amount as provided in section 850-C.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

7. Notice to employer. Absent an emergency, illness or other sudden necessity for taking leave, an employee shall give reasonable notice to the employee's supervisor of the employee's intent to use leave under this subchapter. Use of such leave must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer. If an employer fails to provide notice as required under section 850-I, the employee's obligation to provide notice under this subsection is waived.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

8. Right to benefits; accrual. The taking of family leave or medical leave may not affect an employee's right to accrue vacation time, sick time, bonuses, advancement, seniority, length of service credit or other employment benefits, plans or programs. During the duration of an employee's family leave or medical leave, the employer shall continue to provide for and contribute to the employee's employment-related health insurance benefits, if any, at the level and under the conditions coverage would have been provided if the employee had continued working continuously for the duration of leave.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

9. Treatment of self-employed individuals. Subsection 8 does not apply to a self-employed individual taking family leave or medical leave under this subchapter or to a person who is no longer an employee who was an employee when that person began taking family leave or medical leave under this subchapter.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

10. Collective bargaining; employer policy; greater or additional rights. This subchapter does not:

A. Obviate an employer's obligations to comply with any employer policy, law or collective bargaining agreement that provides for rights to leave greater than or additional to those provided by this subchapter; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

B. In any way curtail the rights, privileges or remedies of any employee under any collective bargaining agreement or employment contract; [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

C. Allow an employer to compel an employee to exhaust rights to any sick, vacation or personal time prior to or while taking leave under this subchapter; or [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

D. Require a public employer, as defined in section 962, subsection 7, or employee of a public employer that is a party to a collective bargaining agreement in existence on the effective date of this subchapter to apply any of the rights and responsibilities under this subchapter until the existing collective bargaining agreement expires. [PL 2023, c. 412, Pt. AAA, §7 (NEW).]

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

11. Concurrent with leave under state and federal law. Leave taken under this subchapter runs concurrently with leave taken under the federal Family and Medical Leave Act of 1993, 29 United States Code, Section 2611, et seq., and under subchapter 6-A. Employees may take leave under this subchapter while ineligible for leave under the federal Family and Medical Leave Act of 1993 in the same benefit year.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

12. Employer policy may not waive employee rights. An employer policy adopted or retained on or after the effective date of this subchapter may not diminish an employee's right to benefits under this subchapter. Any agreement by an employee to waive the employee's rights under this subchapter is against public policy and is void and unenforceable.

[PL 2023, c. 412, Pt. AAA, §7 (NEW).]

SECTION HISTORY

PL 2023, c. 412, Pt. AAA, §7 (NEW). PL 2023, c. 643, Pt. ZZZ, §§3, 4 (AMD).

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