

Compliance Update: First Quarter 2025

April 2025

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Federal Leave Law Developments

DOL Clarifies the Interaction of FMLA, State Paid Family Leave, and Employer-Provided Paid Leave

In January, the U.S. Department of Labor [issued an opinion letter](#) concerning the interaction between state paid family leave program payments and the applicability of the FMLA's substitution regulation. If the FMLA's substitution regulation applies, either an employer or employee may *unilaterally* require that employer-provided paid leave (such as PTO and vacation time) run concurrently with unpaid FMLA time. Per the federal regulations, FMLA leaves concurrent with workers' compensation and disability payments were already exempt from the substitution rule—meaning that, absent state law to the contrary, the employer and the employee would need to *mutually* agree to have employer-provided paid leave benefits supplement the leave. Per this new guidance, state paid family leave payments are to be treated in the same manner as workers' compensation and disability payments. Therefore, if an employee was on a concurrent FMLA and state paid family leave, absent state law to the contrary, the employer and employee would need to mutually agree to have employer-sponsored paid leaves run as well. Under many state paid family leave laws, these benefits may be used to “top off” an employee's paid family leave benefits to match their full pay.

FMLASource® Comment

The impact of this opinion letter has been confusing for some employers, who understood this as a change to how FMLA and state paid family leave ran together. The FMLA already unquestionably ran concurrently with state paid family leave laws when the leave was otherwise FMLA-qualifying. The change laid out in this guidance is far more narrow. It creates a default rule for the few states in which paid family leave programs do not have a preexisting regulation governing the concurrent use of employer-sponsored paid leave, FMLA, and PFML. We remain up-to-date on the nuanced interactions between state paid family leave programs in our administration of these laws.

Dole Act Strengthens Employee Protections Under USERRA

In January, President Biden signed the Senator Elizabeth Dole 21st Century Veterans Healthcare and Benefits Improvement Act (the “Dole Act”) into law. This legislation, among other things outside of the scope of our services, made several changes to the language of USERRA to increase protections for employees. The Act clarified that the same protections under the law apply to both career and noncareer servicemembers. It also extended USERRA's prohibitions to include “other retaliatory action,” not just adverse employment actions. Finally, it increased an employee's ability to seek injunctive relief, liquidated damages, and attorney's fees in litigation. [The text of the legislation can be found here.](#)

FMLASource® Comment

With these changes, employers will face a greater risk in litigation if they fail to comply with USERRA's protections and prohibitions. Two factors make USERRA particularly challenging for employers. First, compared to leaves under the FMLA and ADA, these leaves are far less common and employers are therefore less experienced in managing them. Second, the protections and prohibitions under USERRA are significantly different than what employers are used to under these other laws. Our experience administering USERRA leaves is a vital resource in avoiding the increased risks of noncompliance that come with this new law.

EEOC Continues Active Enforcement Activities Through Administration Change

The Trump administration's Department of Government Efficiency (DOGE) has garnered a great deal of attention concerning its cuts at various federal agencies.

Shortly following January's presidential inauguration, the Equal Employment Opportunity Commission (EEOC) saw several changes including the naming of a new Acting Chair (Andrea Lucas) and the removal of two other commissioners. This change leaves the agency without the numbers required (quorum) to perform such activities as adopting new regulations or issuing legal guidance.

Despite these leadership changes, enforcement activities related to the ADA and PWFA (Pregnant Workers Fairness Act) remained steady through the first few months of the new administration with significant and continued enforcement of these accommodation laws. This includes:

- [A suit against a health management company](#) that allegedly refused to grant leave as an accommodation to an employee who was recovering from a heart attack
- [A \\$20,000 settlement with an assisted living facility](#) that allegedly refused shifts to a pregnant temporary employee, whom they also eventually terminated
- [A suit against a legal services organization](#) that allegedly refused to grant an accommodation for remote work for an employee with a high-risk pregnancy
- [A \\$40,000 settlement with a plant nursery](#) that allegedly refused to reinstate an employee after their maternity leave, while adding new, non-pregnant employees to their staff

FMLASource® Comment

We expect to see continued vigorous enforcement throughout the year, particularly related to the PWFA. We will continue to monitor the EEOC's enforcement trends.

Federal Appeals Court Revives 17-State Lawsuit Challenging PWFA Regulations

As noted in previous compliance updates, 17 states sued in *State of Tennessee et al. v. EEOC* in order to nullify portions of the PWFA implementing regulations published in April 2024. Most notably, these states contest the EEOC's definition of "related medical conditions" that are covered under the law. This lawsuit hit a stumbling block late last year when a federal district court judge dismissed the case for a lack of standing. However, on appeal this February, the Eighth Circuit overturned the dismissal and sent the case back to the lower court for the challenge to proceed. The lower court will now decide the case on the merit of the states' claims. Meanwhile, Acting Chair Lucas [indicated that the agency may revise these regulations itself once it has a quorum](#).

FMLASource® Comment

Both the *Tennessee* case and the EEOC chair's statements indicate that changes may be coming to the regulatory framework implementing the PWFA. At the same time, the young law and regulations are being tested by claimants across the country. Many of these first cases will begin to yield

decisions in the coming year. We will continue to track these outcomes and inform our clients on new developments.

State Leave Law Developments

Delaware DOL Publishes PFML Final Regulations

In February, the Delaware Department of Labor published final regulations for the state's PFML program, which will have claims begin on 1/1/2026. Most changes in this revision were technical changes to clarify previous proposals. However, there were some helpful changes for employers. For example, the state simplified the waiver process for omitting employees who are temporary or part time, and they clarified the application process for private plans and the enrollment periods for newly eligible employers. [The full final regulations can be found here.](#)

FMLASource® Comment

We will continue to stay up to date on Delaware's regulatory actions and guidance as we approach the start of claims in January 2026.

Maryland Paid Family Leave Nears Delay from 2026 to 2028

On February 14, 2025, the Maryland Department of Labor announced that it would suggest a delay in the implementation of the state's upcoming paid family and medical leave program. When explaining the rationale for the delay, the agency cited "sweeping, unprecedented changes at the federal level" resulting in uncertainty amongst Maryland employers and workers. In early April, both houses of the Maryland legislature approved of the delay, which would see employer contributions begin on 1/1/2027 and benefits begin on 1/1/2028. The delay has not yet been enacted, but Maryland's governor is expected to sign the bill in the coming weeks.

FMLASource® Comment

Despite Maryland's likely delay, 2026 will still be a busy year for new paid family leave implementation. Maine, Minnesota, and Delaware are still slated to begin claims in the first half of next year. We will continue to track new developments around these laws as we approach the start of employee claims.