FMLASource® Compliance Update: Q2 2025

July 2025

Federal Leave Law Developments

Federal Legislators Weigh Leave Law Changes

On April 30, a bipartisan bill addressing state paid family leave programs was introduced in the House. The bill aims to encourage more states to adopt paid family leave programs by providing federal grant funds. It also creates a body to help increase information-sharing amongst states, including the development of best-practices for administration. While 14 states currently have mandatory paid family leave programs either in place or set to be implemented in the coming years, these programs are all different and lack any interstate coordination. This can often cause challenges for private carriers, administrators, and employers who have employees spread among these states. This bill could play a role in easing this administrative burden.

A second bipartisan bill was introduced that would repeal the FMLA's requirement that spouses working for the same employer share FMLA entitlement for certain leave reasons. Under current law, spouses share their FMLA entitlement when taking leave for the birth or placement of a child, to care for a parent with a serious health condition, or to care for a military family member with a serious injury or illness. This part of the FMLA has long been scrutinized, as it penalizes couples working for the same employer for being married while allowing unmarried partners to maintain their own entitlements. Attempts to repeal this provision in the past have failed.

While both bills have bipartisan sponsorship, neither has passed the House and the prospects of progress are currently unclear.

FMLASource Comment

To be clear, no legislation has passed; the law has not changed. Still, these bills demonstrate a

Congressional interest in addressing two difficult elements in absence management (state paid FMLAs and the FMLA "marriage penalty"). We will continue to monitor this legislation and keep our clients informed on any federal leave changes that make it through Congress.

DOL Relaunches Opinion Letter Program

In June, the U.S. Department of Labor (DOL) Wage and Hour Division (WHD) announced that it was "relaunching" it's opinion letter program for the 13 statutes it enforces. This includes the FMLA. While the Division had still been releasing guidance clarifying the interpretation of these laws, it had no longer been responding to specific prompts from employers and administrators regarding real-life scenarios. With this change, the Division will have new opportunities to comment on open questions regarding FMLA administration. We should expect to see the first of these new opinion letters in the coming months.

FMLASource Comment

The relaunch of the opinion letter program is a welcome development from the WHD. We will monitor these opinion letters for new guidance on FMLA administration and will incorporate any new insights into our solution. These developments may be included in future compliance updates.

Supreme Court Rules in ADA Case

On June 20, the Supreme Court issued a rare ADA decision concerning the law's application to employee/retiree benefits. In *Stanley v. City of Sanford*, the Court ruled that a retiree was not a "qualified individual" under the ADA and therefore could not use the law to bring a suit alleging discrimination in the administration of their retirement benefits. However, the court did not completely rule out the possibility that a retiree could sue under the ADA if they could prove that they were both qualified and disabled at the time that the employer practice was adopted. Although this caveat was in the majority opinion, only a minority of the justices signed on to this portion of the ruling. Whether an employee can bring an ADA claim once they are a retiree remains an open question.

FMLASource Comment

While a Supreme Court case on the ADA is always noteworthy, the actual impact of this case is relatively small and generally outside the ambit of our absence and accommodation services. *Stanley* is a discrimination (as opposed to an accommodation) case holding that the employee must show that that she held or desired a job and could perform its essential functions with or without reasonable accommodation at the time of an employer's alleged act of disability-based discrimination. That said, it underscores that the law around the ADA is continually evolving. We will continue to monitor the latest litigation trends regarding these laws. Our ADA Coaches continue to be a vital resource in accommodations administration among this ever-changing landscape; if you'd like to connect with your ADA Coach on the impact of the *Stanley* case, please feel free to reach out to your account manager.

State Leave Law Developments

Colorado Expands PFML Coverage to Parents with Newborns in NICU (Effective January 2026)

In early June, Colorado enacted a new law which grants 12 weeks of additional paid family leave to parents with newborns in neonatal intensive care units (NICUs). Colorado is the first state in the nation to provide paid leave for this reason. This leave is *in addition* to leave for other covered reasons under CO FAMLI. In practice, this means that parents with children in NICUs could take 24 weeks of paid, job-protected FAMLI leave in a single leave year if: 1) their newborn spends 12 weeks in a NICU, and 2) they have their full FAMLI entitlement remaining to take 12 weeks of bonding leave. This additional "bucket" of leave works in the same manner as the additional four weeks already available under FAMLI for serious health conditions related to pregnancy.

This new paid leave will become available to eligible employees beginning January 2026. The law also reduced employee premiums for FAMLI by 0.02 percent and gave the Colorado DOL's FAMLI division more flexibility to adjust premiums in the future.

FMLASource Comment

We are prepared to add this new leave reason to our CO FAMLI tracking starting in January 2026. Our customers will not need to take any action for these changes to take effect.

Colorado Updates FAMLI Regulations

Colorado issued revisions to its PFML regulations effective July 1, 2025. The most significant of these updates was a change to how job protection attaches to a continuous leave. While job protection still applies to a CO FAMLI leave when an employee attains 180 days of tenure, it can no longer attach in the middle of a continuous leave. Under the old rule, an employee could start a continuous leave under FAMLI without job protection, meet the 180-day threshold during the leave, and have all leave protected after that point. With the new rule, the employee will need to have the 180 days of tenure at the outset of their continuous leave for any of it to be job protected. The previous rules are unchanged for intermittent leaves, meaning that an employee can still start an intermittent leave without job protection and have future absences protected if they meet the 180-day threshold midway through their leave.

Two other significant changes were included in these updates. First, employees are now required to submit documentation to the state verifying an *in loco parentis* relationship for a family caregiver leave. Second, employers are required to provide their employees with the CO FAMLI workplace notice (distributed by the state) within five business days of when they learn an employee may have an FMLA or CO FAMLI-qualifying leave event.

FMLASource Comment

As of July 1, we modified our practices to 1) track CO FAMLI's job protection in accordance with the new rules for continuous leaves, and 2) attach the state's required workplace notice to all relevant leaves.

Maryland Paid Family Leave Delay from 2026 to 2028 Confirmed

In our Q1 Compliance Update, we noted that the Maryland General Assembly had passed a bill delaying MD FAMLI PFML claims until January 2028. This PFML program was previously slated to begin in January 2026. This bill was signed by Governor Wes Moore in early May, making the delay official.

FMLASource Comment

This change leaves three new paid family leave programs coming into effect in 2026: Delaware (January 1), Minnesota (January 1), and Maine (May 1). This is not the first state paid family and medical leave law to delay its implementation (Oregon delayed its effective date by nine months in 2023). The delay highlights the significant and complex enterprise undertaken by states in effectuating their programs. We expect that we will continue to see volatility in the implementation in these programs from delayed dates to revised regulations and guidance.

Maryland Clarifies Covered Employers Under its Unpaid Parental Leave

In addition to delaying Maryland FAMLI, the state also made a technical change to its unpaid parental leave law (the Parental Leave Act). The law, which covers employers with 1-49 employees in the state, was meant to apply FMLA-like parental leave to Maryland employers who didn't meet the FMLA's 50-employee threshold. However, because the FMLA uses a backward-looking method to count employees, there were some cases in which an employer could be considered to have more than 50 employees for the purposes of the FMLA but fewer than 50 employees under Maryland's parental leave law. The amendment to the Maryland law now clearly exempts employers who are covered under the FMLA, meaning that both laws will no longer apply at the same time.

FMLASource Comment

We have implemented this change into our administration. Many employers have been confused by the implications of this change for their leave administration. We expect the impact of this change to be minimal.

Minnesota PFML Final Rules Adopted

On June 16, the final Minnesota PFML rules were officially adopted and published in the state register. This last round of regulatory action saw some small, but not insignificant changes and clarifications to the rules. For instance, the final adopted regulations clarified that an employee is not required to accept "supplemental benefits payments" from their employer during a PFML leave. This means, for example, that an employer cannot unilaterally mandate that an employee "top off" their PFML benefit with accrued paid time off or vacation time. The state also added that employee notice for requesting extensions or making changes to their leave type can be made "as soon as practicable," mimicking the foreseeability language in the federal FMLA. They also clarified that while documentation may be needed to substantiate changes, this documentation does not necessarily need to be an entirely new certification. The full final adopted regulations can be found here.

FMLASource Comment

We will continue to monitor regulatory changes from Minnesota and other new PFML states as we approach the start of claims in 2026. Although these regulations are nominally "final," in our experience PFML states have continued to take regulatory action—and in some cases even enact clarifying legislation—up until the final weeks before claims begin.

Vermont Expands Access to its State Unpaid Leave Laws

In June, Vermont passed a law that expanded access to its state unpaid leave entitlements. The law makes a number of changes, most notably: the expansion of covered relationships to include domestic partners and *in loco parentis* relationships, the introduction of "safe leave" for victims of domestic violence, the expansion of qualifying exigency leave similar to the FMLA, and the introduction of a bereavement leave. These changes were effective on July 1, 2025.

FMLASource Comment

We incorporated these changes into our administration effective July 1. Our customers will not need to take any action to ensure that these changes take effect.

New Washington Law Will Expand PFML Job Protection and Limit Stacking with FMLA (Effective January 2026)

In May, the state of Washington passed a set of amendments that expands the covered employers for PFML job protection and better coordinates the law with the federal FMLA. Under current law, only Washington employers with 50 or more employees are subject to WA PFML's job protection provisions. The new amendments lower this threshold each year until 2028 to 25, 15, and then 8 or more employees.

In addition, starting in 2026, these amendments now provide a mechanism for employers to limit an employee's ability to stack job protection under the FMLA and WA PFML. Under the current law, employers could require the FMLA and WA PFML to run concurrently but could not actually require employees to apply for PFML job protection and wage benefits. As a result, employees could effectively stack an unpaid FMLA leave and a paid PFML leave back-to-back despite an employer's policy and maintain job protection through the entirety of the leave. After the new amendments, so long as an employer provides sufficient notice to an employee, they can reduce the amount of job protection available under WA PFML when an employee takes an unpaid FMLA leave—even if the employee does not actually apply for benefits.

FMLASource Comment

We will incorporate these changes into our tracking effective January 2026. The changes to stacking address a long-standing pain point for employers in the state. Moving forward, employers should have more certainty about the status of their employees' job protection when both FMLA and WA PFML apply.

