

AbsenceResources® Compliance Update: Q3 2025

October 2025

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Federal Leave Law Developments

DOL Issues New Opinion Letter on Calculating FMLA Entitlement with Irregular Work Schedules

On September 30, the U.S. Department of Labor (DOL) issued [a new opinion letter](#) regarding the calculation of FMLA entitlement for employees on so-called “Pitman schedules” where a set number of hours is scheduled over a two-week period. In the example provided to DOL, an employee was consistently scheduled 84 hours every two weeks but had an irregular amount of hours in each individual week. DOL confirmed that for this employee, the amount hours in a “workweek” under the FMLA would be 42—the average of the two-week period—because this value “equitably reflects the employee’s total normally scheduled hours.” The DOL also addressed using FMLA for voluntary and mandatory overtime, but did not add new guidance here. Instead, the DOL reaffirmed current law that says mandatory overtime both counts for entitlement and can be taken off using FMLA, while for voluntary overtime the opposite is true.

AbsenceResources Comment

DOL’s clarification on the calculation of leave for multi-week schedule fills an important gap in the FMLA law and regulations. However, in practice this guidance can create difficulties for employees. For example, if the employee in DOL’s example has “half of a workweek” or 21 hours

remaining, and then needs to take half of a week of leave in an individual week where they are scheduled to work more than 42 hours, the employee will not have sufficient FMLA remaining to be protected during that leave. In this situation, our tracking and communications are a vital tool in managing employee expectations and ensuring that leaves proceed as expected.

Legislators Propose Expanded FMLA Eligibility for Military Spouses and Education Support Staff

In July, a bipartisan group of House members [introduced a bill](#) to expand FMLA eligibility for spouses of servicemembers who are on covered active duty. Under the FMLA, “covered active duty” includes deployment to a foreign country as a member of the regular Armed Forces, National Guard, or reserves. Under the bill, the usual 12 months/1,250 hours requirement for these employees would be replaced with a flat 90-days of employment eligibility threshold. This would apply to all leave reasons, and not just the covered service-related leave reasons (qualifying exigency and caring for an injured servicemember).

In September, a second bill was introduced that would expand FMLA eligibility for education paraprofessionals and support staff. Under the bill, these employees would need to have worked sixty percent of their expected monthly hours for their previous school year instead of the FMLA’s usual 1,250 hours requirement. This calculation is similar to the methodology that the FMLA already uses to calculate hours worked for airline crew employees.

AbsenceResources Comment

Although unlikely to pass, these bills are illustrative of the continued attention on federal leave legislation from members of both parties. As seen later in this compliance update, the bill expanding eligibility for the spouses of servicemembers echoes a state-level trend of expanded leave rights for servicemembers and their families.

Litigants Seek Further Limitations on PWFA Accommodations for Abortions

In July, the U.S. Conference of Catholic Bishops filed a motion in *Louisiana v. EEOC* that asked the federal court to vacate the Pregnant Worker’s Fairness Act (PWFA) regulations with respect to all scenarios that would include an abortion, using various arguments related to religious freedom. This request is intended to build on a ruling issued this past May that partially vacated these regulations with respect to abortion. Under the EEOC’s final regulations for the PWFA, abortion is a “related medical condition” to pregnancy for which an employee could seek an accommodation. In its May ruling, the court opined that the EEOC went beyond its authority granted by Congress in the PWFA statute when promulgating the regulations, as the statute does not make any direct mention of abortion. The ruling was limited, however, to include only elective abortions. As a result, an employee could still seek an accommodation for another pregnancy-related condition for which abortion was part of the treatment, but was not the condition being accommodated itself. The new motion requests that the court reconsider this conditional permission.

AbsenceResources Comment

This case is still working its way through the court, and will likely be subject to an appeal regardless of the ruling on this new request. Even if the litigants are successful, it's not clear that abortion would be exempted from the scope of the law, although some nuanced limits based on religious objections could be more likely. We will continue to track PWFA-related litigation in future compliance updates. Likewise, our ADA Coaches are able to speak to the application of the PWFA, as well as the legal landscape.

State Leave Law Developments

Connecticut Expands Access to Leave for Certain School Employees

In September, Connecticut amended its state-level FMLA and PFML laws to cover school employees (public and private) whose positions do not require professional certification. These employees were previously exempt from these laws. This change is effective October 1.

AbsenceResources Comment

AbsenceResources has incorporated this change into our solution effective October 1.

Delaware Passes PFML Changes Ahead of 2026 Launch

In July, Delaware enacted a bill that made changes to its upcoming paid family leave law. Many of these changes are technical in nature; however, there were a few changes that are of note for employers. First, the state removed the requirement that employees exhaust most of their accrued time off before accessing paid family leave benefits. Second, the state has now designated DE PFML as the “primary payor” for claims, meaning that employer-provided benefits like short-term disability will now need to be adjusted based on the amount of PFML benefits received, and not vice versa. Finally, the state removed a requirement that claims made with approved private plans be also submitted to the state. Now, this claims information will only need to be submitted if there is an appeal—significantly reducing the reporting burden on employers and private carriers. One notable change was left on the cutting room floor: a provision that would put all leave reasons on a 12-month calendar. Under current law, parental leave is on a 12-month calendar and all other leave types are on a 24-month calendar.

AbsenceResources Comment

These changes should all improve the employer experience with Delaware PFML by lessening the administrative burden and aligning DE's program with the rules of other state's PFMLs. We will continue to look to Delaware for regulatory amendments and further guidance as we approach implementation in January 2026. While Delaware's PFML regulations are nominally “final,” we do expect some activity before launch.

Illinois NICU and Military Leaves

This summer, Illinois enacted two new job-protected leave laws.

First, the new Illinois paid military honors funeral detail leave provides eligible employees with up to eight

(8) hours per month and up to 40 hours per calendar year to participate in a military funeral honors detail. Employers are covered if they have 51 or more employees. Employees are eligible if they (1) have the 12 months/1,250 hours also required for FMLA, and (2) are either an active/retired member of the Armed Forces of the U.S. or Illinois National Guard, or are an “authorized provider” taking part in the funeral detail. Authorized providers are generally non-profit organizations recognized by the Armed Forces that assist in the honors detail, such as a veterans services organizations. Finally, the employee must be paid by their employer for the time used under this leave. This leave went into effect on August 1. The bill text can be [found here](#).

Second, Illinois [passed a law](#) providing unpaid, job-protected leave for employees who have a child in a neonatal intensive care unit (NICU). Employers with less than 15 employees are exempt. Employers with between 16 and 50 employees must provide 10 days of leave, while employers with more than 50 employees must provide 20 days of leave. Employers can request reasonable documentation to support this leave. This leave law is effective January 1, 2026.

AbsenceResources Comment

AbsenceResources has implemented tracking for the IL Paid Military Funeral Honors Leave under a leave plan of the same name, and will track the IL NICU leave starting January 1. We expect that the Paid Funeral Honors leave will be seldomly used. Employees utilizing this leave plan will be directed to coordinate pay with their employer.

New Montana Emergency Volunteer Leave Effective October 1st

Montana has a new leave for emergency volunteers going into effect on October 1. The law covers volunteer emergency services providers, such as volunteer firefighters, who have completed any probationary period with their employer. It provides job-protected, unpaid leave for employees who are absent or late to work to perform their duties during an emergency. The law provides that a covered employee shall inform their employer of their status as an emergency service provider, and that an employee shall provide their employer with verification from their supervisor that they were performing emergency duties.

AbsenceResources Comment

AbsenceResources has incorporated this change into our solution effective October 1.

New Nevada Civil Air Patrol Leave Effective October 1st

The state of Nevada has a new unpaid, protected leave going into effect on October 1. The law requires employers to allow employees who are members of the state Civil Air Patrol to take leave for trainings or when called to emergency duty. [The bill text for this leave can be found here](#).

AbsenceResources Comment

AbsenceResources has incorporated this change into our solution effective October 1.

New Hampshire Creates New Leave for Pre- and Post-Pregnancy Medical Appointments

In August, New Hampshire enacted [a new law](#) providing 25 hours of protected leave for medical appointments related to pregnancy, postpartum care, care for a child within the first 12 months of their birth, and fertility treatments. The law provides that employees must make reasonable efforts to schedule these appointments such that they do not unduly disrupt the operations of their employer, and also allows an employer to request documentation to verify the purpose of the leave. This law goes into effect on January 1, 2026.

AbsenceResources Comment

AbsenceResources will be prepared to administer this new leave beginning on January 1, 2026.

Oregon Expands Access to OFLA “Sick Child” Leave

Changes to the Oregon Family Leave Act (OFLA) that were [enacted in May](#) went into effect in late September. The most notable change is related to the “sick child” leave under this law, which now allows employees use leave to care for their child that has an illness or injury that requires home care or because of a school closure to a public health emergency. The definition of “child” now includes not only a child under 18, but also explicitly includes a child who is over 18 and substantially limited by a physical or mental impairment. The state’s Bureau of Labor and Industries had already included this definition in their regulations and guidance, despite it not previously being present in the law.

The other changes align OFLA more with the federal FMLA. The law now explicitly allows a return-to-work certification, which is substantially similar to the federal FMLA’s fitness-for-duty certification. In addition, the OFLA has now incorporated the FMLA’s special rules regarding flight crew employees.

AbsenceResources Comment

AbsenceResources has incorporated these changes effective September 29.

Rhode Island Enacts Accommodations for Menopause

In June, Rhode Island passed an amendment to its state pregnancy accommodations law. The amended law now provides for reasonable accommodations for conditions related to “pregnancy, childbirth, menopause, or a related medical condition.” The law further clarifies that “related conditions” can include, but is not limited to, “the need to manage the effects of vasomotor symptoms.” This law is the first in the nation to explicitly provide accommodations for menopause and related conditions.

AbsenceResources Comment

AbsenceResources has incorporated this law into our ADA solution.

Upcoming State Paid Family and Medical Leaves

As we have previously reported, the Delaware and Minnesota paid family and medical leave programs will take effect for employees on **January 1, 2026**, (with Maine's program following in **May 2026**). Below, we highlight key features of these programs, with a focus on provisions that differ from other state PFMLAs. As the year end approaches and as noted below, we anticipate additional guidance and clarifications from the respective state agencies. We will continue to keep you updated on any substantive changes as they are released.

Delaware Paid Leave – Effective January 1, 2026

The Delaware Paid Family and Medical Leave (PFML) will become effective January 1, 2026 for eligible employees who take leave in order to bond with a new child, to address needs relating to a family member who is a covered service member of the armed forces, to address needs relating to a family member's serious health condition, and to address needs relating to an employee's own serious health condition. These different leave reasons are often referred to as "lines of coverage" by the state.

Delaware's PFML's takes a tiered approach to employer coverage, based on the number of employees working in Delaware:

- From 0-9 employees in Delaware – the employer is exempt from the law
- 10-24 employees in Delaware – an employer only need to offer parental leave
- 25 or more employees in Delaware – an employer must offer all types of leave

Employers with less than 25 employees in Delaware can still opt-in to offering all lines of coverage, even if fully exempt from the program

Highlights

- **Expect Changes:** In our experience with the implementation of new PFMLs, states tend to make last-minute changes. Please keep in mind that our suggested approaches are subject change if the state decides to act before January 1.
- **Coverage Tiers:** We suggest that employers opt-in to all lines of coverage if they have 10 or more employees in Delaware.
- **Counting DE Employees and Opting In/Out of Coverage:** We will rely on you to alert us of a coverage tier change, and whether you are adding or removing a line of coverage under DE PFML.
- **Remote Employees:** Employees who physically perform 60% of their work in Delaware are eligible for DE PFML Please consider whether any remote employees may be eligible and update your eligibility file accordingly.
- **Calendar Methods:** DE PFML allows you to select your calendar method for tracking leaves amongst those available for FMLA. We recommend that you use the same calendar method for FMLA and DE PFML, and will assume that is the case unless you tell us otherwise. If you are using the state plan, you must select your calendar method in the DE LaborFirst portal. The default calendar method is Calendar Year. Note: our understanding is that the state has not

yet effectively built the methods into their administrative system and may not have them effective for the January 1 start date. We are continuing to investigate.

- **DE's LaborFirst Portal and the State Plan:** If you choose to administer DE PFML using the state plan, you will be required to adjudicate claims on Delaware's LaborFirst portal. This is different than other PFML state plans, where the state itself would adjudicate these claims. We can incorporate these DE PFML decisions into our tracking and provide reporting on concurrent FMLA claims insofar as it is relevant for your DE PFML claim adjudication.

Minnesota Paid Leave – Effective January 1, 2026

Minnesota Paid Family and Medical Leave (PFML) will become effective January 1, 2026. Eligible employees will be able to take job-protected, paid leave for their own serious health condition, to care for a family member with a serious health condition, in order to bond with a new child, to address needs relating to a family member who is a covered service member of the armed forces, and for “safe leave” (domestic violence, sexual abuse, or stalking). Minnesota divides these leave reasons into two categories of coverage—family leave and medical leave. Each category is capped at 12 weeks, with an aggregate cap of 20 weeks in one leave year between the two. All employers with one or more employees in Minnesota must offer Minnesota PFML to their Minnesota employees

Highlights

- **Expect Changes:** In our experience with the implementation of new PFMLs, states tend to make last-minute changes. Please keep in mind that our suggested approaches are subject change if the state decides to act before January 1.
- **Remote Employees:** Employees who physically perform 50% of their work in Minnesota are eligible for MN PFML. Employees who do not work a majority of their time in any state but live in Minnesota may also be eligible. Please consider whether any remote employees may be eligible and update your eligibility file accordingly.
- **Calendar Methods – State Plan:** If you are using the MN PFML state plan for administration, the calendar method for this law will be measured forward. If the majority of your employees are MN PFML-eligible, you may want to consider aligning your FMLA calendar with this law. Please alert us to any potential FMLA calendar change.
- **Calendar Methods – Private Plans:** If you are using a private plan to administer MN PFML, the law allows you to choose amongst the calendar methods available for FMLA. In this case, we suggest that you align your MN PFML calendar with your current FMLA calendar.
- **MN PFML Portal:** It is our understanding that Minnesota intends to have a portal that will allow employers using the state plan to view the status of paid leave applications for their employees. ComPsych does not plan on directly accessing any customer PFML portals at this time.