



COMPLIANCE BULLETIN

HIGHLIGHTS

- Employers with fewer than 50 employees are not required to provide paid medical leave.
- Collectively bargained employees, part-time employees and employees who are exempt from federal overtime requirements are not eligible for paid medical leave.
- Employers may limit paid medical leave to 40 hours per year.

IMPORTANT DATE

March 29, 2019

Michigan's paid medical leave requirements go into effect.

Michigan's Paid Medical Leave Law Takes Effect on March 29, 2019

OVERVIEW

Effective March 29, 2019, Michigan's [Paid Medical Leave Act](#) (PMLA) requires covered employers to provide paid medical leave to their eligible employees. Key requirements under the PMLA include the following:

- ✓ The paid medical leave requirements only apply to employers with **50 or more employees**;
- ✓ Employees accrue one hour of paid medical leave for every **35 hours** worked;
- ✓ Employers may limit employees' use of paid medical leave to **40 hours** per year; and
- ✓ Employers must conspicuously display a **poster** in the workplace about the PMLA.

ACTION STEPS

Michigan employers with 50 or more employees should prepare to comply with the PMLA's requirements. The Michigan Department of Licensing and Regulatory Affairs (Department) has released a [model workplace poster](#) and [FAQs](#) to help employers comply with the PMLA.

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Covered Employers

Employers that have **50 or more employees** (including full-time and part-time employees) must provide paid medical leave under the PMLA. Employers with fewer than 50 employees are exempt.

Covered Employees

All employees are entitled to accrue and use paid medical leave, except for the following categories of employees:

- ✓ Employees who are exempt from federal overtime requirements as executive, administrative, professional or outside sales employees;
- ✓ Employees who are covered by a collective bargaining agreement;
- ✓ Employees whose primary work location is outside of Michigan; and
- ✓ Variable-hour employees, seasonal employees and part-time employees.

A part-time employee is an employee who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year.

Accrual of Paid Medical Leave

Eligible employees must accrue a minimum of **one hour of paid medical leave for every 35 hours worked**, up to **40 hours per year**. An employer may limit an employee's paid medical leave accruals to one hour per calendar week.

Employees begin to accrue paid medical leave on March 29, 2019, or upon hire, whichever date is later. Employees do not accrue paid medical leave for hours taken off work for paid leave—including paid vacation days, paid personal days and paid time off—unless otherwise permitted by the employer. Employees must be permitted to carry over unused, accrued paid medical time from year to year, up to a limit of 40 hours per year.

As an alternative to the paid medical leave accrual requirements, an employer may provide at least 40 hours of paid medical leave to an eligible employee at the beginning of a benefit year. An employer may prorate paid medical leave for eligible employees who are hired during the benefit year. If an employer provides at least 40 hours of paid medical leave at the start of each benefit year, it is not required to allow employees to carry over any unused paid medical leave to another benefit year.

Michigan's paid medical leave law will take effect on March 29, 2019. It applies to employers with 50 or more employees, although certain categories of employees are not eligible for paid medical leave, such as overtime

For paid medical leave purposes, a "benefit year" is any consecutive 12-month period used by an employer to calculate an eligible employee's benefits.

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Use of Paid Medical Leave

Employers may limit employees' use of paid medical leave to **40 hours** per year. Also, employers may require employees to wait **90 calendar days** after beginning employment to start using accrued paid medical leave.

Employers must permit employees to use accrued medical leave due to any of the following reasons:

1	An employee's own mental or physical illness, injury or health condition (including the need for medical diagnosis), care or treatment and preventive medical care
2	A family member's mental or physical illness, injury or health condition (including the family member's need for medical diagnosis), care or treatment and preventive care
3	Closure of the employee's primary workplace by order of a public official due to a public health emergency or closure of an employee's child's school or place of care by order of a public official due to a public health emergency, or when it has been determined by health authorities that the employee's or the employee's family member's presence in the community would jeopardize the health of others due to a communicable disease
4	<p>If an employee or an employee's family member is a victim of domestic violence or sexual assault, to obtain medical care, psychological or other counseling for physical or psychological injury or disability, or to:</p> <ul style="list-style-type: none">✓ Obtain services from a victim services organization✓ Relocate due to domestic violence or sexual assault✓ Obtain legal services or participate in any civil or criminal proceeding related to or resulting from the domestic violence or sexual assault

Paid medical leave must be used in one-hour increments, unless the employer has a different increment policy and the policy is in writing in an employee handbook or other employee benefits document.

Family Member

For purposes of paid medical leave use, an employee's "family member" includes the following individuals:

- ✓ A biological, adopted or foster child, stepchild or legal ward, or a child to whom the employee stands *in loco parentis*;
- ✓ A biological parent, foster parent, stepparent, adoptive parent or a legal guardian of an eligible employee, an eligible employee's spouse, or a person who stood *in loco parentis* when the eligible employee was a minor child;

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- ✓ A person to whom the eligible employee is legally married under the laws of any state;
- ✓ A grandparent or grandchild; and
- ✓ A biological, foster or adopted sibling.

Employee Notice and Documentation Requirements

When requesting paid medical leave, an eligible employee must comply with his or her employer's usual and customary notice, procedural and documentation requirements for requesting leave. An employer must give an employee at least three days to provide the employer with documentation.

Employers must maintain the confidentiality of health, domestic violence and sexual assault information about an employee or his or her family member and cannot disclose the information to others without the employee's permission.

Payment of Paid Medical Leave

Employees must be paid at a pay rate equal to the employee's normal hourly wage or, if greater, the minimum wage when the employee uses paid medical leave. An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay or gratuities in the calculation of an employee's normal hourly wage.

For employees who may earn varying hourly wage rates depending on the work performed, the "normal hourly wage" means the average hourly wage of the employee in the pay period immediately prior to the pay period that the employee uses paid medical leave.

Carryover, Termination and Rehire Rules

Carryover

Employees must be permitted to carry over unused, accrued paid medical time from year to year, up to a limit of 40 hours per year. This carryover requirement does not apply when an employer provides eligible employees with at least 40 hours of paid medical leave at the start of each benefit year.

Termination

Employers are not required to pay out an employee's accrued, but unused, paid medical leave upon termination, resignation, retirement or other separation of employment. However, other laws (such as the [Payment of Wages and Fringe Benefit Act](#)) may require payment upon termination pursuant to the employer's written policy or contract.

Rehire

An employee who is **rehired** is not entitled to have his or her paid medical leave reinstated.

Employer Poster and Recordkeeping Requirements

Employers must conspicuously **display a poster in the workplace** that contains all of the following information:

- ✓ The amount of paid medical leave that is required to be provided under the PMLA;
- ✓ The terms under which paid medical leave may be used; and
- ✓ Employees' rights to file a complaint with LARA for any violation of the PMLA.

The Department has provided a [model poster](#) for employers to use to comply with this requirement. Employers must retain records of the hours worked and medical leave taken by employees. Employers must retain these records for at least **one year**. However, there may be other laws (such as the [Payment of Wages and Fringe Benefits Act](#)) that may require hours worked and fringe benefit documentation to be maintained for at least three years.

Employer Paid Leave Policies

The PMLA includes a rebuttable presumption that employers that provide at least 40 hours of paid leave to eligible employees each benefit year are in compliance with paid medical leave requirements. Paid leave includes, but is not limited to, paid vacation days, paid personal days and paid time off.

Employer Penalties

An employer who fails to provide paid medical leave is subject to a \$1,000 administrative fine. An employer who willingly violates the posting requirement is subject to a \$100 administrative fine for each separate violation.