

# Highlights of Statutory Compliance

# State disability and paid family and medical leave benefit laws

## Jurisdictions

CA, HI, NJ, NY  
RI, PR, WA, DC,  
MA, CT, OR

## Effective

1/1/2020

(Updated as of February 2020)

## Executive Summary

Six jurisdictions have laws which require employers to provide disability benefits for non-occupational disabilities: California, Hawaii, New Jersey, New York, Rhode Island, and the Commonwealth of Puerto Rico.

Five additional jurisdictions have passed laws which require employers to provide medical leave and paid family leave benefits: Washington, Washington DC, Massachusetts, Connecticut, and Oregon.

MetLife has products that employers can utilize to help comply with the mandated disability requirements in Hawaii, New Jersey, New York, and Puerto Rico. And to comply with the mandatory Paid Family and Medical Leave (PFML) requirements in Washington and Massachusetts. At a minimum, MetLife will provide self-insured administrative services in Connecticut and Oregon which have start dates of 2022 and 2023 respectively.

The **Statutory Leave Benefit Guide** outlines certain features of the laws in the eleven jurisdictions including key dates for new states' implementations.



## Background

Rhode Island enacted the first mandatory employer non-occupational disability benefits law, called Temporary Disability Insurance (TDI) in 1942. This was followed by California’s State Disability Insurance (SDI) in 1946, New Jersey’s Temporary Disability Benefits (TDB) in 1948, New York’s Disability Benefit Law (DBL) in 1949, Puerto Rico’s Seguro por Incapacidad No Ocupacional Temporal (SINOT) in 1968, and Hawaii’s Temporary Disability Insurance (TDI) in 1969. Each jurisdiction provides for a different method by which employers can establish complying with plans, from Rhode Island’s state-administered plan (coverage is only available through the State), to Hawaii’s reliance on employer-provided plans only (no State coverage).

In 2004, California added Paid Family Leave to their benefit coverage, followed by Rhode Island’s Temporary Caregiver Insurance in 2014, and NY Paid Family Leave, effective January 1, 2018.

Starting in 2016, jurisdictions began utilizing the federal Family and Medical Leave Act (FMLA) program to define absence reasons which moves away from an employee’s disability, instead using a more liberal “medical leave” which applies for the employee’s own serious health condition. Washington DC passed a Universal Paid Leave (UPL) law in 2016, Washington passed a Paid Family and Medical Leave in 2017, Massachusetts passed their Paid Family and Medical Leave in 2018 and Connecticut and Oregon passed their Paid Family and Medical Leave insurance programs in 2019.

Trends for implementing the newer state programs reflect a separation for when employee contributions (or payroll deductions) begin and when benefits are payable. For example, Massachusetts payroll deductions started in October 2019, but benefits will not be payable until January 1, 2021.



## Future state implementation timeline:

District of Columbia	Massachusetts	Connecticut	Oregon
<ul style="list-style-type: none"> <li><b>July 1, 2020:</b> Benefits start</li> </ul>	<ul style="list-style-type: none"> <li><b>October 1, 2019:</b> Employee contribution (payroll deduction) assessment begins</li> <li><b>January 1, 2021:</b> Benefits start</li> </ul>	<ul style="list-style-type: none"> <li><b>January 1, 2021:</b> Employee contribution (payroll deduction) assessment begins</li> <li><b>January 1, 2022:</b> Benefits start</li> </ul>	<ul style="list-style-type: none"> <li><b>January 1, 2022:</b> Contributions start</li> <li><b>January 1, 2023:</b> Benefits start</li> </ul>



## Highlights for Compliance

Failure to comply with these laws generally results in fines and penalties being imposed against the employer. Virtually all non-governmental, non-religious and for-profit private employers are impacted.

Some jurisdictions assign unique identifying numbers to employers or employing units. Whenever any employing unit receives its own identifying number, that unit is also separately responsible for obtaining and filing a plan of disability benefits that complies with the state disability benefit law.

These mandatory disability benefit laws share two features that make them very important for employers with employees in those jurisdictions:

- Generally, employers may not claim ERISA preemption for plans providing statutory benefits in these jurisdictions. This is because ERISA does not apply to plans written to comply with applicable state disability benefit laws.
- Generally, these laws apply to employees working in these jurisdictions, regardless of the location of the employer's corporate headquarters or the situs of any of its group insurance policies or benefit plans.

Even if an employer's existing PTO, paid parental, sickness and accident plan provides greater dollar benefits than required by a state plan law, a separate plan written to comply with the law of each state plan jurisdiction in which an employer has employees is usually required. This is because traditional short-term disability or voluntary paid leave benefit plans are not specifically written to comply with state plan requirements and therefore will likely not meet minimum state plan requirements in one or more of the following areas: employee eligibility, probationary and waiting periods, use of intermittent and continuous leaves, practitioners from whom certification of serious health conditions must be accepted, and payment of benefits for disabilities or leaves that begin during a period after an employee's employment terminates (known as post-employment benefits). Such post-employment benefits are required under an employer's plan in Hawaii, New Jersey, New York, Massachusetts and Puerto Rico.

Even if an existing employer's plan meets the requirements of a state disability benefit law, there generally are filing and approval requirements with which employers must comply before the plan can be used.



## Impacted Employers

Generally, all private employers with one (1) or more employees working in a jurisdiction with a state disability or paid leave benefit law (generally referred to as a state plan jurisdiction) are affected by such law. An employer may provide the minimum benefits required (usually called statutory benefits) or greater benefits under the same or a supplemental plan.

- An employer that is subject to the state disability or PFML benefit law may never provide less than the statutory benefits.
- In Rhode Island, any additional benefits can only be provided by a supplemental plan.
- In California, if an employer chooses to use its own Voluntary Plan, the plan must exceed State Fund standards in at least one area.
- In Oregon, voluntary plans must have both paid family and medical leave benefits, where in other states like Washington, Massachusetts, and Connecticut, the medical leave benefits can be separate from the paid family leave benefits.



## Impacted Employees

Coverage of all full and regular part-time employees is usually required for disabilities caused by non-occupational injury or illness, including pregnancy. Whereas for PFML, all workers including temporary workers are typically eligible for coverage.

- Employers in Massachusetts may be required to cover 1099 Contracted workers if 50% or more of its workforce is comprised of contractors.

Generally, employees may not collect unemployment insurance benefits for the same period as they are claiming benefits for a disability or paid leave benefits. As shown in the **Statutory Leave Benefit Guide**, some jurisdictions exempt certain students and certain other classes of employees from the state leave benefits law. Eligibility for coverage varies from the first day of employment, with no probationary period, to probationary periods that are waived for employees who were previously covered employees under a prior employer's leave plan.



## Pregnancy

Disabilities or medical leaves caused by or related to pregnancy are generally treated the same as any other illness.

- In Washington, Connecticut, and Oregon, medical leaves can be extended an additional 2 weeks if the employee is incapacitated due to complications from pregnancy.
- In Puerto Rico, disability is presumed during the eight weeks a woman is entitled to maternity leave from her employer under Puerto Rico's Working Mothers Act. The Working Mothers Act requires the employer to pay pregnancy and child adoption leave at the worker's full salary. Therefore, SINOT disability payments are not required during that portion of a pregnancy leave where the mother is receiving Working Mothers Act benefits. However, if the woman is disabled beyond the time period of paid Working Mothers Act leave, she may be entitled to collect SINOT disability benefits. If the physician certified pregnancy-related disability continues beyond eight weeks, benefits under SINOT are the same as for any other disability.



## Important definitions for statutory leaves

With the changing landscape of statutory paid leave laws, we wanted to highlight some important definitions.

**Statutory Disability** is a State-mandated disability insurance program which provides monetary benefits to an eligible wage earner to replace, in part, wages lost when he/she is disabled by an off-the-job illness or injury, and for disabilities arising from pregnancy.

**Serious Health Condition:** the federal FMLA and most PFML laws divide serious health conditions for which leave may be taken into these six categories:

1. inpatient care
2. incapacity for more than three days with continuing treatment by a health care provider
3. incapacity relating to pregnancy or prenatal care
4. chronic serious health conditions, including episodic conditions such as asthma or epilepsy
5. permanent or long-term incapacity
6. certain conditions requiring multiple treatments

**Sick and Safe Leave** refers to a paid leave for usually less than 50 hours per year to allow employees to care for themselves or a family member during a temporary, short-term medical issue, such as illness; to attend a critical safety need, such as domestic violence or sexual assault recovery; and/or for preventative health care, such as an annual well visit or a prenatal doctor appointment.

## Important definitions for statutory leaves *(continued)*

**Paid Time Off (PTO)** is an employee benefit provided by the employer where the employee is compensated when absent from work. It is normally based on an accrual of time off based on time worked.

**Paid Family and Medical Leave (PFML)** is defined as wage replacement benefits received for time away from work due to the employee's incapacity to work due to a serious health condition or time absent for child bonding, to care for a family member with a serious health condition, or in some cases military exigency.

## Coverage at a Glance

Jurisdiction	Plan*	Statutory Plan	MetLife Solution
CA	SDI, PFL	State Primary, Voluntary self-insured available	Self-insured administration
CT	PFML	State Primary, Private plans can be insured or self-insured	Self-insured Admin, Fully-insured TBD
DC	PFML	District only	NA
HI	SDI	Private plan only	Fully-insured and Self-insured administration
MA	PFML	State Primary, Private plans can be insured or self-insured	Fully-insured and Self-insured administration
NJ	SDI, PFL	State Primary, Private plans can be insured or self-insured	Fully-insured and Self-insured administration
NY	DBL, PFL	Private Plans primary; state fund available	Fully-insured and Self-insured administration
OR	PFML	State Primary, Voluntary self-insured available	Self-insured administration
PR	DI	PR Primary, Voluntary self-insured available	Fully-insured and Self-insured administration
RI	TDI, TCI	State only	NA
WA	PFML	State Primary, Voluntary self-insured available	Self-insured administration

\*SDI/DI/TDI = State Disability Insurance/Disability Insurance/Temporary Disability Insurance

PFML = Paid Family and Medical Leave

PFL, TCI = Paid Family Leave/Temporary Caregiver Insurance

## Additional Tools

- Visit [www.metlife.com/PFML](http://www.metlife.com/PFML)
- Statutory Leave Benefit Guide

[metlife.com](https://www.metlife.com)

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