



Washington Paid Family Medical Leave

Presented by:

Jean Shearer, Absence Management Consultant, The Partners Group

Daris Freeman, AVP and Legal Counsel, UNUM



THE
**PARTNERS
GROUP**

Total Absence Management

Today's Agenda

- Welcome and Introductions
- Summary of the WAPFML
- Timelines
- Financials of the Plan
- Who is Eligible / Qualifying Events / Key Provisions
- Overview of State/Voluntary and Comparison with FMLA
- Employer Requirements and Employee Reporting
- Vendor Response
- Next Steps

Your Presenters

Jean Shearer – Absence Management Consultant



- 30+ years experience in absence management and employee benefits
- Lead Consultant - TPG's Total Absence Management Practice
- DMEC Board Member for Greater Seattle
- B.S. from Oregon State University – College of Business/Finance

Total Absence Management Team

- Industry Leading Experts
- 100+ combined years of experience and insights
 - Total Cost of Absence Analysis and ROI models
 - Policy review, program design and process improvement
 - Integrated Absence Management and Population Health Strategies
 - Market Analysis, RFP Management, Vendor Selection
 - Project and Implementation Management for outsourced and insourced solutions
 - Data Analytics and Performance Benchmarking
 - Transitional Return to Work Programs
 - Leave and ADA training and communication strategies
 - Compliance updates and best practice recommendations



Patty Borst



Jean Shearer



John Hartz



Brycie Repphun



Andy Hanson

The Partners Group



The Partners Group (TPG) is the largest independent benefits broker in the Northwest with more than 175 employees serving clients from five offices in Washington, Oregon and Montana. TPG's culture puts people first. Whether it's our employees or our customers, we always put the interest of our people and those we serve above all else.

Your Presenters

Daris Freeman – AVP, Legal Counsel



- 20 years absence management experience
- Supports Unum's Leave Management Center which administers FMLA, ADA and over 200 complementary state laws
- Provides general employment law support for Unum HR
- BS in Organizational Management from Covenant College and JD from Nashville School of Law
- Certified trainer for SHRM and CE credit; frequent speaker on FMLA and ADA

UNUM

Expertise

- Disability, leave management and supplemental benefit programs
- Specialized legal resources

Leadership

- Market leader in Disability and Leave
- Large group specialists addressing the unique needs of large employers

Focus

- Employee benefits only – no distractions
- Solutions for employers' evolving needs

Unum is the leading provider of group and individual disability benefits in the U.S.¹

FORTUNE
100

We serve **53** of the
Fortune 100
companies.²

Washington PFML Summary

Washington passed legislation in July 2017 creating a Paid Family and Medical Leave (PFML) program

- Washington will become the fifth state to provide Paid Family and Medical Leave
- Repeals/replaces existing Washington Family Leave (unpaid)
- Premium payments begin January 1, 2019
- Benefits become payable January 1, 2020

Washington PFML Summary

- Applies to all private and public employers based in Washington except the U.S. Government
- Tribal entities or self employed individuals can opt in
- Applies to employers with employees working in Washington with base of operations outside of Washington, with a few exceptions
- Unionized workers with a CBA , existing on or prior to 10/19/17, are exempted until the CBA expires, is opened or renegotiated

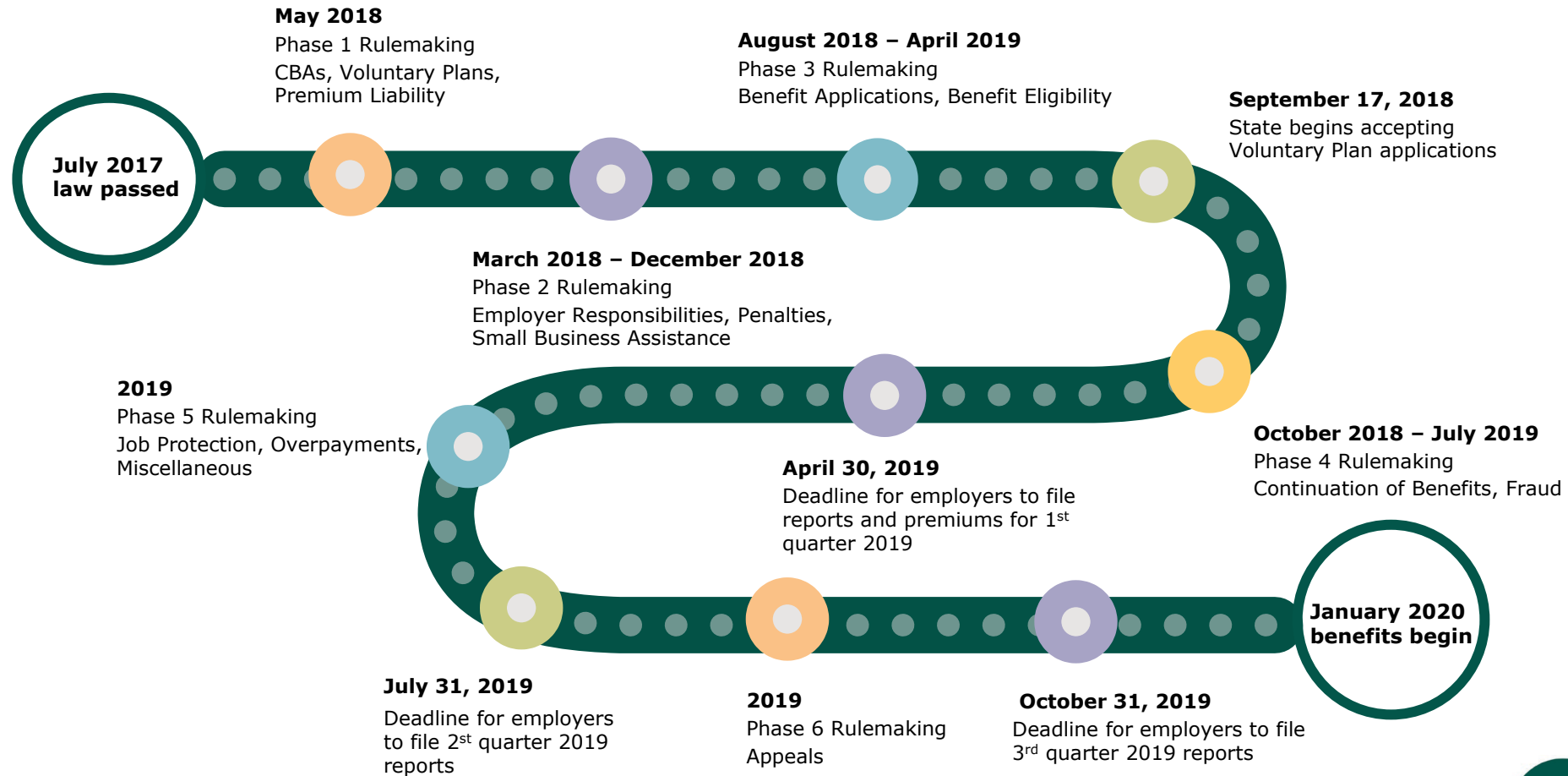
Washington PFML Summary

- Employers with less than 50 employees in the state do not have to pay their portion of the premium
- Grants are available from the ESD for businesses with 50 – 150 ees in WA
 - To hire temporary or replacement worker
 - Reimbursement for significant additional wage costs

Washington PFML Summary

- Provides up to 12 weeks of paid leave in a 52 week period for family or medical leave; maximum payable is 18 weeks for exceptional circumstances
- Taxability of benefits is yet to be determined
- Job protected if the employee meets certain eligibility requirements
- Employers may opt out of the State plan with approval from the ESD to use their own Voluntary Plan to administer PFML benefits

Timeline



Premium Contributions

.4% of wages

Capped at annual Social Security max
(2018 = \$128,400 = \$513.40/year max)

Employee = 63% / Employer = 37%

2/3 medical

45% employee

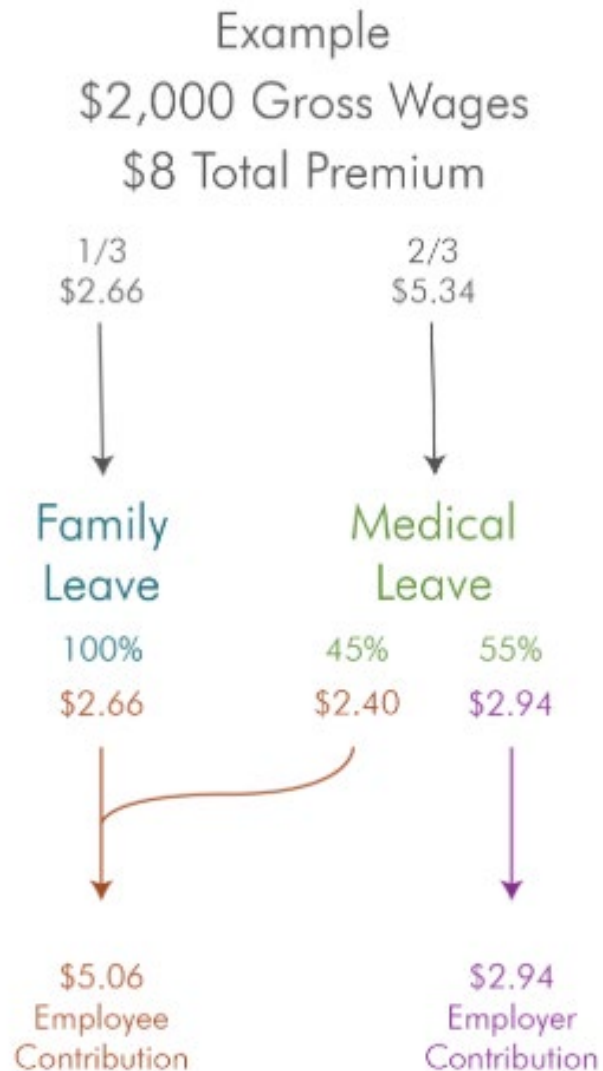
55% employer

1/3 family

100% employee

Employer can choose to pay all

Premium Contributions



Benefits

Average Weekly Wage (AWW)

The average weekly wage during the 2 quarters in the qualifying period with the highest earnings

AWW = 50%
SAWW or
less

- 90% AWW
- AWW = \$400; Benefit = \$360 (90% AWW)

AWW =
more than
50% SAWW

- 90% AWW (up to 50% SAWW max) + 50% of AWW that is above half SAWW
- AWW = \$950; Benefit = \$772.50 (81% AWW)

Thresholds

- Maximum = \$1,000 (reviewed annually)
- Minimum = \$100 or actual AWW if less
- \$73,060+ (\$1405 AWW) receive the maximum benefit (71% AWW)

***State Average
Weekly Wage
(SAWW) = \$1,190**

Benefits

Example:

AWW = \$950; Benefit = \$772

• $\$950 * 90\% = \855 (cap \$595); $(\$950 - \$595) * 50\% = \$177.50$; $\$595 + \$177.50 = \$772.50$

Additional provisions:

Rules have not been finalized on whether employees will be able to supplement their Paid Family or Medical Leave benefits with other forms of paid leave (i.e. Sick Leave, Vacation Pay, Paid Time Off)

Employees are not entitled to paid family and medical leave under the state program in any week where they receive:

- Unemployment Benefits
- Workers' Compensation

Who is eligible?

Employees who worked 820 hours in the qualifying period

Note: does not have to be with a single employer

Qualifying period –

First 4 of the last 5 completed calendar quarters

If eligibility is not established, the last 4 completed calendar quarters immediately preceding the application for leave

WA EE



820 hours
in QP

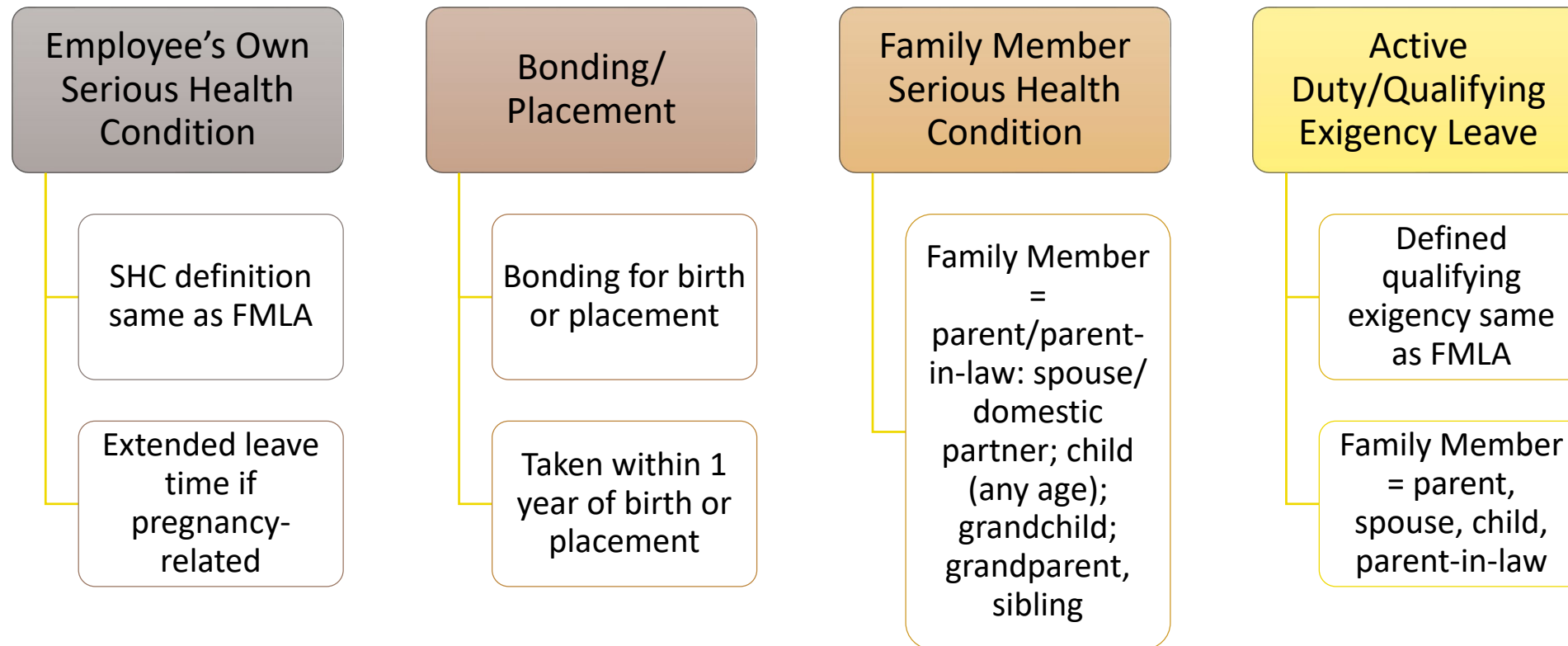


PFML



Qualifying
Event

Qualifying Events



Key Provisions - Entitlement

Entitlement

- Medical leave – 12 weeks for Employee's own Serious Health Condition
- Family leave – 12 weeks for Paid Family Leave
 - Bonding with new child within 12 months of birth or placement
 - Care for family member with Serious Health Condition
 - Qualifying military exigency
- Combined max – 16 weeks for Medical and Family in 52 weeks
- Extra 2 weeks paid medical leave for complications due to pregnancy

Key Provisions - Employment

Employment

- 820 hours worked in Qualifying Period
- Work is localized in the state, OR not localized in any single state but some work performed in WA and
 - Base of operations in WA, or
 - if no base of ops, work is directed or controlled from WA; OR
 - Base of operations or direction/control of work is not in any state in which some of the work is performed AND individual lives in WA

Key Provisions - Other

Other Provisions

- Concurrent with FMLA when applicable
- Minimum duration = 8 consecutive hours of leave
- 7 day waiting except for birth or placement of child
- Notice – 30 days if foreseeable or as soon as practicable
- Certification will be required

Voluntary Plans

- Employer can apply for medical, family, or both
- Plan provisions must meet or exceed the state plan
- Employer cannot charge an employee more than they would pay for state plan
 - Employee contributions must be held in trust
- Plans are effective the first of the quarter following approval

Voluntary Plans

- Plans are effective for a minimum of one year once approved – must be approved annually for the first three years of the plan
- Employers will have access to employee's eligibility, weekly benefit amount and typical workweek hours online
- Employers must report weekly benefit and leave duration to the state

State vs Voluntary Plans

	State	Voluntary
Eligibility	<ul style="list-style-type: none"> • 820 hours in qualifying period <p>QP = First 4 of the last 5 completed calendar quarters, or if eligibility is not established, the last 4 completed calendar quarters immediately preceding the application for leave</p>	<ul style="list-style-type: none"> • 820 hours in qualifying period, plus • 340 hours in the last 12 months <i>(must notify state when this requirement)</i> <p>An employee who was eligible under a prior employer's VP is immediately eligible under a new employer's VP</p>
Job protection	<ul style="list-style-type: none"> • 12 months tenure • 1250 hours worked in the 12 months immediately preceding leave • Employer must have 50+ employees 	<ul style="list-style-type: none"> • 9 months tenure • 965 hours worked in the 12 months immediately preceding leave

Note: An employee can still claim benefits under the state plan if not yet eligible under the employer's voluntary plan or if employment terminates

State vs Voluntary Plans

	State	Voluntary
Costs	<p>Premiums: .4% wages submitted to the state; No employer contribution if <50 employees localized in Washington</p> <p>Benefits: Paid by state</p> <p>Total: Approximately 37% of .4% of wages (unless employer has <50 employees in state)</p>	<p>Premiums: Retain employee contributions in trust; may also be making a payment to vendor to administer voluntary plan</p> <p>Benefits: Paid by employer</p> <p>Total: Unable to determine –cost of benefits and administrative fees</p>
Reporting	<p>Quarterly: demographics on WA employees including hours worked and premium taken; premiums remitted with reporting</p>	<p>Quarterly: demographics on WA employees including hours worked</p> <p>Additional: weekly benefits paid and duration of leave provided</p>
Decisions	<p>State: Eligibility, Average Weekly Wage and Benefit Duration (including certification review)</p>	<p>State: Eligibility, AWW, entitlement</p> <p>Employer: Benefit Duration (including certification review)</p>

FMLA Comparison

	Federal FMLA	WA PFML
Covered employer	50+ employees in 20+ calendar weeks	All employers
Eligibility	<ul style="list-style-type: none"> 12 non-consecutive months tenure 1,250 hours in the 12 months preceding leave Location with 50 employees in a 75-mile radius 	<ul style="list-style-type: none"> 820 hours in qualifying period (QP) – hours can be for any employer Voluntary plan: must also work 340 hours in the last 12 months for current employer
Entitlement	<ul style="list-style-type: none"> 12 weeks in a 12-month period Calculation method: fixed year, rolling backward, measured forward 	<p>In 52 consecutive weeks (<i>measured forward*</i>):</p> <ul style="list-style-type: none"> Medical leave = 12 weeks (14 if disabled due to pregnancy) Family leave = 12 weeks <p>No more than 16 weeks total (18 if disabled due to pregnancy)</p>
Leave schedules	<ul style="list-style-type: none"> Continuous Reduced schedule Intermittent 	Minimum duration = 8 consecutive hours

FMLA Comparison

	Federal FMLA	WA PFML
Reasons for leave	<ul style="list-style-type: none"> Employee health Family member health Parental/bonding Qualifying exigency Military caregiver 	<ul style="list-style-type: none"> Employee health Family member health Parental/bonding Qualifying exigency
Qualifying family members	<ul style="list-style-type: none"> Spouse Parent Child (under 18, or 18+ and incapable of self-care due to a disability) 	<ul style="list-style-type: none"> Spouse/domestic partner Parent/parent-in-law Child (any age) Grandchild Grandparent Sibling
Job protection	Yes	Yes if: <ul style="list-style-type: none"> 12 non-consecutive months tenure 1250 hours in the preceding 12 months 50 employees (*more generous provisions if voluntary plan)

Employer Requirements

- If required by federal FMLA, employer must continue health insurance benefits during leave
- Employer must keep records relating to the collections of family and medical premiums for six years
- Post notice of WA PFML rights – example for posting RCW will be provided by ESD
- Employer must notify employee of his or her rights with a written statement:
 - Within 5 business days after the 7th consecutive day of an absence for family of medical leave, or
 - Within 5 business days after the employer has received notice of employee's absence due to family of medical leave

Employer Requirements

- Employer may not:
 - Interfere with an employee's right to exercise their WA PFML
 - Discharge or discriminate against employee for opposing any practice made unlawful by this chapter
 - Discharge or discriminate against an employee who has filed a complaint or given information in connection with an inquiry about a violation of WA PFML.

Employer Reporting Requirements

- Proposed regulations (expect final in December)
- Each calendar quarter, every employer must file a complete report with the department. The report must include each employee's:
 - Full name;
 - Social Security number;
 - ZIP code of primary work location;
 - Job title;
 - Start date;
 - Wages paid during that quarter; and
 - Total hours worked during that quarter (proposed regs include details on how to calculate).

Employer Reporting Requirements

- The report must include the total amount of premiums deducted from all employees' wages during the calendar quarter.
- Quarterly reports must be submitted by the last day of the month following the end of the calendar quarter being reported. If a reporting date falls on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day.

Vendor Response

**Access to employee data
is critical to success**

Administration
of voluntary
plans

Changes to
disability
plans

Changes to
paid leave
plans

Integration
with leave
management

Next Steps

Decision on State or Voluntary

- Voluntary Applications due ASAP
- Set up Trust for Voluntary premiums

Payroll Vendor

- Discuss with your payroll vendor process for collecting and remitting premiums

Plan for potential impacts to your organization

- Increased incidence of leaves
- Education for your employees
- Training for HR/Benefits

Next Steps

Look at current disability plan and other paid time off plans

- Any changes to be made prior to 1/1/2020 to align policies and processes?

Consider outsourcing or insourcing leave administration

- A solution to improve consistency and efficiency and mitigate risk?

For more information

Washington Employment Security Department
Website for WA PFML: paidleave.wa.gov

Follow on Twitter or Facebook
[@paidleaveWA](https://twitter.com/paidleaveWA)

Sign up for Newsletter
Bit.ly/PaidLeaveList

ESD WA PFML Customer Care Center
833-717-2273





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Thank You

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