



Beyond the Ballot: Colorado's Revolutionary Paid Family & Medical Leave



On Jan. 1, 2024, this new benefit began providing paid time off to Colorado workers for certain life events, such as caring for a loved one with a serious health condition or growing a family.

THE EVOLUTION OF COLORADO'S PFML

The journey to establishing PFML in Colorado began well before the 2020 vote. Advocacy groups and policymakers had been pushing for years to create a transformative program that would allow workers to take paid leave for family or medical reasons without risking their financial stability or employment. Proposition 118's success led to a state-run insurance program funded through a payroll tax split between employers and employees, with employees able to take advantage of the leave itself as of January 1, 2024.

BENEFITS OF COLORADO'S PFML

First, let's examine the pros of the program. Colorado's PFML program stands out for its comprehensive benefits, designed to support a diverse workforce during critical life stages and health-related events. Here's an expanded look at these benefits:

1. Inclusivity: A cornerstone of Colorado's PFML is its inclusivity. The program covers nearly all employees, irrespective of business size. This is particularly beneficial for workers in small businesses who historically may have lacked access to paid leave benefits. By including part-time, hourly, and salaried employees, the program ensures that more Coloradans can take necessary leave without fear of losing income.

- 2. Comprehensive Coverage:** The program allows employees to take up to 12 weeks of paid leave in a 12-month period for a variety of reasons, including personal health issues, caring for a family member with a serious health condition, or bonding with a new child. Moreover, an additional four weeks are available for complications related to pregnancy or childbirth.
- 3. Replacement Wages:** PFML offers partial wage replacement, calculated as a percentage of the employee's average weekly wage, capped at a maximum weekly benefit amount. This structure is designed to ensure affordability, especially for lower-income workers, and help them maintain economic stability during periods of leave. The tiered wage replacement model is progressive, offering higher percentage benefits to lower-wage earners.
- 4. Job Protection:** Similar to protections under the federal Family and Medical Leave Act (FMLA), Colorado's PFML also safeguards employees' jobs upon their return from leave. This provision means that employees can take necessary leave without fear of losing employment.

According to the Bureau of Labor Statistics (BLS), eight in ten workers (79%) had access to paid sick leave through their employer in 2021; however, workers in certain occupations, part-time workers, and lower-wage workers were less likely to have paid sick leave.¹



CHALLENGES FACING COLORADO'S PFML

While the PFML program brings significant benefits, it also faces several implementation challenges that require careful management:

- 1. Financial Sustainability:** The sustainability of the PFML program hinges on maintaining a balanced fund, where premiums collected are sufficient to cover the benefits paid out. This financial balance must be monitored and managed to avoid deficits that could necessitate increased premium rates or decreased benefits, potentially undermining the program's effectiveness and public support.
- 2. Awareness and Utilization:** Despite its benefits, the success of the PFML depends significantly on awareness among employees and employers. Ensuring all parties understand how to access and apply for benefits is crucial. Small businesses, in particular, may face challenges due to limited HR capabilities. Ongoing education and outreach are essential to maximize the program's utilization and effectiveness.
- 3. Compliance and Enforcement:** Implementing a new statewide program requires robust systems to handle claims processing, monitor compliance, and prevent fraud. The state must ensure that these systems are efficient and user-friendly to facilitate easy access to benefits while maintaining rigorous checks to uphold program integrity.

INTEGRATION WITH SHORT-TERM DISABILITY (STD) AND FAMILY AND MEDICAL LEAVE ACT (FMLA)

Colorado's Paid Family and Medical Leave (PFML) program is designed to work in conjunction with other existing programs, such as Short-Term Disability (STD) and the Family and Medical Leave Act (FMLA), creating a more robust support system for employees facing personal or family health issues.

For example, STD typically offers income replacement for employees who are temporarily unable to work due to personal health conditions. While STD focuses on the financial aspect, PFML extends Colorado's existing leave options beyond personal to also caring for family members or bonding with a new child.

Unlike FMLA, which provides unpaid leave, Colorado's PFML offers paid leave, thus broadening the support for workers during critical times. While FMLA covers certain family and medical conditions, offering job protection for up to 12 weeks, PFML enhances this by providing financial compensation during the leave period.

STATE PROGRAM VS. PRIVATE INSURANCE COMPANIES

Colorado employers can opt out of the state-run program if they choose to provide an equivalent or better plan through a private insurer. This decision requires careful consideration of cost-effectiveness, customization, and administrative responsibility. BenefitMall has established relationships with a variety of private insurers in Colorado, all of whom offer greater autonomy in tailoring their plans to the unique needs of the workforce. In most cases, private plan options are proving highly competitive compared to state plans. While individual carrier underwriting may vary, our consistent findings suggest that opting for private plans is often cost advantageous. Therefore, we generally advise clients to quote a private plan option to see how it stacks up with the state. Employers must still carefully evaluate each option's costs, benefits, and administrative requirements to determine the best course of action for their particular circumstances.



**"Support for paid family leave is at historic levels across the nation and across both chambers of Congress."
US Representative Chrissy Houlahan.²**

POTENTIAL FOR NATIONAL REFORM AND ADOPTION

The adoption of PFML in Colorado reflects a growing trend toward national reform. A federally mandated PFML program could provide consistency across states, ensuring all workers have access to essential benefits. By pooling resources at the federal level, this could also address challenges like financial sustainability and administrative burdens.

At the time of Colorado's adoption of PFML, several states had established their own PFML programs, which served as precedents or models in various capacities. These states include:

California: California was a pioneer, introducing its Paid Family Leave (PFL) in 2002. Like Colorado, this leave provides paid time to care for a seriously ill family member or bond with a new child.

New Jersey: In 2009, New Jersey implemented a Family Leave Insurance program offering wage replacement benefits to employees taking leave for similar family or medical reasons.

Rhode Island: In 2014, Rhode Island launched a Temporary Caregiver Insurance program, which provides benefits for those caring for a new child or a seriously ill family member.

New York: Starting in 2018, New York's Paid Family and Medical Leave program offers extensive paid leave that progressively scales up to provide more substantial benefits over a few years.

Washington: Washington passed its Paid Family and Medical Leave legislation in 2017, with benefits beginning in 2020. This legislation offers comprehensive leave benefits for various family and medical reasons.

Massachusetts, Connecticut, and Oregon also passed laws establishing PFML programs with their own unique features, slated to begin after Colorado's PFML provision was approved.

As of 2018, 31 states and the District of Columbia opted to expand job-protected leave benefits beyond FMLA's minimum standards.³



Together, PFML, STD, and FMLA form a comprehensive framework that supports Colorado workers through various challenges, ensuring they do not have to choose between their health (or their family's health) and their economic well-being. This alignment between programs strengthens the overall safety net available to employees, enabling them to navigate personal and family health crises with greater security.

BOTTOM LINE

As Colorado nears the 6-month mark of its Paid Family and Medical Leave (PFML) program implementation, it serves as a significant case study for other states considering similar legislation. The program's design addresses crucial life events, providing financial and employment stability for workers during times of need. Employer engagement is crucial for the success of PFML programs. Employers must educate employees about their rights, facilitate the claims process and ensure compliance. Support can include clear communication about PFML benefits, developing internal policies that complement PFML, and allocating resources for administrative adjustments.

The experiences from Colorado's PFML, both its successes and the challenges it faces, provide practical insights into the complexities of such policies. This could inform future debates and decisions about adopting similar measures nationwide. With various states already showing interest in or enacting their own PFML programs, Colorado's journey adds a valuable perspective to the ongoing national conversation about work-life balance and employee welfare. For questions about Colorado or specifics about your state's leave program, contact your local BenefitMall sales team.

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END NOTES

¹Bureau of Labor Statistics Dec 2021
<https://www.kff.org/womens-health-policy/fact-sheet/paid-leave-in-u-s/>

²The Washington Post December 13, 2023
<https://www.washingtonpost.com/politics/2023/12/13/paid-family-leave-congress/>

³Kaiser Family Foundation Dec 2021
<https://www.kff.org/womens-health-policy/fact-sheet/paid-leave-in-u-s/#:~:text=According%20to%20the%20Bureau%20of,have%20access%20paid%20sick%20leave>