



FREQUENTLY ASKED QUESTIONS

REGARDING COLORADO FAML I 1/1/2024

Colorado – Family and Medical Leave Insurance Program (FAML I)

▪ What is this?

- FAML I is specific to the state of Colorado and is a paid family and medical leave insurance program, this ensures all Colorado workers have access to paid leave to take care of themselves or their family during life circumstances that pull them away from work.
- Employees working within the state of Colorado have been contributing .45% from their pay since January 2023, employers with a total of **ten or more** employees must also contribute an additional .45% of wages.

▪ What can employees use this time for?

- Qualifying conditions for paid family and medical leave are:
 - Caring for a new child during the first year after the birth, adoption, or foster care placement of that child.
 - Caring for a family member with a serious health condition.
 - Caring for your own serious health condition.
 - Planning for a family member’s military deployment.
 - Obtaining safe housing, care, and/or legal assistance in response to domestic violence, stalking, sexual assault, or sexual abuse.

▪ When can employees start claiming FAML I leave?

- January 1, 2024 – benefits will be available.

▪ What makes you eligible to take FAML I leave?

- Most Colorado employees become eligible to take paid leave after they have earned at least \$2,500 in wages within the State of Colorado within the last 4 calendar quarters.

▪ How long and how often can an employee take FAML I leave?

- Covered employees are entitled to up to 12 weeks of paid family and medical leave unless it is needed for pregnancy and childbirth complications, and it can then be extended to 16 weeks. FAML I leave can only be taken once a year across a rolling calendar year. A rolling annual calendar example is: an employee takes leave on February 11th, 2024, for

the full 12 weeks, they would not be eligible for any other FAMLII again until February 11th, 2025.

- **Am I responsible for paying my employees while on FAMLII leave?**
 - No, the program is a social insurance, and the State of Colorado pays your employee a portion of their weekly wages directly through a debit card or direct deposit.
- **How much will the employee receive while on FAMLII leave?**
 - Employees will only be receiving a portion of their paycheck dependent on their average weekly wage and not the full amount, the benefit pay for this leave is capped at \$1,100 a week.
- **How does an employee submit a claim for FAMLII?**
 - Employees will need to create an account online at famli.colorado.gov
 - Employees will be asked for documentation to provide to take FAMLII leave, the website or someone from the FAMLII division will be able to assist with those types of questions.



FREQUENTLY ASKED QUESTIONS

REGARDING PAID SICK LEAVE

Colorado – Healthy Families and Workplaces Act (HFWA)

▪ What is this?

- Colorado's sick leave Act, HFWA begins January 1, 2024. This new Act provides paid leave for the following reasons:
 - Mental or physical illness or injury, including diagnosis and treatment
 - Preventive medical care
 - Reasons related to domestic abuse, sexual assault, or harassment
 - Deal with a workplace closure or the closure of a child's school or place of care during a public health emergency
 - Take bereavement or deal with financial or legal needs after the death of a family member
 - Evacuate their residence or care for a family member whose school or place of care was closed in the event of inclement weather; power, heat, or water loss; or another unexpected event.

▪ What makes you eligible as an Employer?

- The Paid Sick Leave Act applies to all Colorado employers.

▪ Does the Act apply to part-time employees, or just full-time employees?

- The act doesn't distinguish between part-time, full-time, or seasonal employees. Both full-time and part-time employees are covered by this Act. Employees who work fewer hours may accrue less leave time compared to full-time employees.

▪ What can employees use this time for?

- Employees can use their paid leave for the above reasons without providing documentation. If an employee is out for 4 or more consecutive days, they can require reasonable documentation upon return.

▪ How does an employee earn time?

- The accrual rate is one hour of paid leave for every 30 hours worked. With a maximum of 48 hours accrued per year and can only use 48 hours in a year.

▪ Does time carry from one year to the next?

- Employees can carry over up to 48 hours from year to year, but the maximum they can have will remain 48 hours and they cannot earn over that or use over that in a year.
- **When does an employee start earning time?**
 - Current employees as of 1/1/2024, start earning time as of that date. New employees start earning as of their date of hire.
- **When can an employee use leave time?**
 - Employees can use leave time as soon as it has been earned (example: after working 30 hours, you can use the one hour you earned next payroll).
- **Who pays for leave time when used?**
 - Employees who use leave time are paid through the Veterans budget, due to this being an expense of being an employer within the State of Colorado.
 - Employees will submit a timesheet to ARIS when claiming time, it is not the standard timesheet for hours worked. Allowing it to stand out when processing.
- **Are employees required to sign anything agreeing to hours they will earn?**
 - Yes, current employees will be mailed a confirmation of receipt regarding the paid leave accrual which will be stored with their employee documents at ARIS.
 - New employees will sign this form when completing the employee enrollment forms for ARIS.
- **How would an employee know how many hours they have in leave time?**
 - Earned leave time will be included in the pay stub the employee receives from ARIS.
 - Or they can call ARIS and ask.
- **If an employee leaves employment or is terminated, do they receive pay for earned time?**
 - No, upon leaving employment an employee will not be paid for unused leave time.
- **What if an employee leaves and is rehired?**
 - If the employee is rehired within 6 months of separation by the same employer, any previously earned leave time that was not used is reinstated to the employee.

- **What hourly rate are employees paid when using leave time?**
 - Employees must be paid at their current hourly rate when using leave time.
- **Do Employers need anything posted?**
 - Yes, employers must post the Colorado “PAID LEAVE, WHISTLEBLOWING, & PROTECTIVE EQUIPMENT” poster in a conspicuous place on site. (ARIS will mail this to all Colorado based employers, or they can be printed from <https://cdle.colorado.gov/sites/cdle/files>)
- **Can employers deny leave?**
 - No, an employer cannot deny leave time.
 - An employer can have a written policy that contains reasonable procedures for the employee to provide notice when the use of leave is a foreseeable circumstance.
 - Employers cannot retaliate against an employee for requesting or using paid leave and the employee has the right to file a complaint or bring civil action against an employer in the event this occurs.
- **Can an employer require an employee to find coverage during leave?**
 - No, employers cannot require employees to find coverage upon taking leave time.

FAMLI & Other Types of Leave

Employers: Here's what you need to know about how FAMLI works with other types of leave you may offer your staff:

- **Paid Time Off (PTO):** Employees can't be required to use PTO before FAMLI leave, but they may choose to do so. Employers and employees must have a mutual signed written agreement to use accrued PTO to top-off the FAMLI benefit. The total amount from PTO and FAMLI may not exceed the employee's average weekly wage.
- **FMLA:** FMLA is designed to run concurrently with FAMLI. If FAMLI leave is used for a reason that also qualifies as leave under FMLA, then the leave also counts as FMLA leave. An employer can't require an employee to exhaust available FAMLI leave as a condition to access FMLA leave.
- **Unemployment:** No one getting unemployment insurance payments can receive FAMLI benefits for the same job and same period of time.
- **Workers' comp:** No one getting workers' compensation indemnity benefits payments can receive FAMLI benefits to recover from the same workplace-related injury.
- **Healthy Families and Workplaces Act (HFWA):** HFWA and FAMLI are two separate Colorado laws that provide employees with paid leave for a range of health and safety needs. For more information and specifics on the differences and overlap of the two leave types, please see INFO #6C on cdle.colorado.gov/infos.
- **Other leave benefits:** Employers can require employees to use FAMLI leave as a condition for benefits that the employer is not legally required to provide, like short-term disability, long-term disability, or paid parental leave. Additionally, employers can require FAMLI leave to run concurrently with those employer-provided short-term disability, long-term disability or paid parental leave benefits. Otherwise, employers and benefit administrators can't require an employee to exhaust available FAMLI leave.

If an employee is improperly paid PTO or sick leave, employers may recoup the overpayment.

Life happens. FAMLI has you covered.
Learn more at famli.colorado.gov.



COLORADO
Family and Medical Leave
Insurance Program (FAMLI)
Department of Labor and Employment



THE HEALTHY FAMILIES & WORKPLACES ACT (“HFWA”): Paid Leave Rights

Coverage: All Colorado employers, of any size, must provide paid leave

- All employees earn 1 hour of paid leave per 30 hours worked (“accrued leave”), up to 48 hours a year.
- Employees are required to be paid their regular pay rate during leave, and the employer must continue their benefits.
- Up to 48 hours of unused accrued leave carries over for use during the next year.
- For details on specific situations (irregular hours, non-hourly pay, etc.), see Wage Protection Rule 3.5, 7 CCR 1103-7.
- Up to 80 hours of supplemental leave applies in a public health emergency (PHE), until 4 weeks after the PHE ends.*

Employees can use accrued leave for the following safety or health needs:

- (1) a mental or physical illness, injury, or health condition that prevents work, including diagnosis or preventive care;
- (2) domestic abuse, sexual assault, or criminal harassment leading to health, relocation, legal, or other services needs;
- (3) caring for a family member experiencing a condition described in category (1) or (2);
- (4) grieving, funeral/memorial attendance, or financial/legal needs after a death of a family member;
- (5) due to inclement weather, power/heat/water loss, or other unexpected occurrence, the employees needs to either (a) evacuate their residence, or (b) care for a family member whose school or place of care was closed; *or*
- (6) in a PHE, a public official closed the workplace, or the school or place of care of the employee’s child.

Employer Policies (Notice; Documentation; Incremental Use; Privacy; and Paid Leave Records)

- **Written notice and posters.** Employers must (1) provide notice to new employees no later than other onboarding documents/policies; and (2) display updated posters, and provide updated notices to current employees, by end of year.
- **Notice for “foreseeable” leave.** Employers may adopt “reasonable procedures” in writing as to how employees should provide notice if they require “foreseeable” leave, but **cannot deny paid leave** for noncompliance with such a policy.
- **An employer can require documentation to show that accrued leave was for a qualifying reason only if leave was for four or more consecutive work days** (*i.e.* days when an employee would have worked, not calendar days).
- **Documentation is not required to take accrued leave**, but can be required as soon as an employee returns to work or separates from work (whichever is sooner). **No documentation can be required for PHE leave.**
- **To document leave for an employee’s (or an employee’s family member’s) health-related need**, an employee may provide: (1) a document from a health or social services provider *if* services were received and a document can be obtained in reasonable time and without added expense; *otherwise* (2) the employee’s own writing.
- **Documentation as to domestic abuse, sexual assault, or criminal harassment** can be a document or writing under (1) above (*e.g.* legal or shelter services provider) or (2) above, or legal document (restraining order, police report, etc.).
- **If an employer reasonably deems an employee’s documentation deficient**, the employer must: (A) notify the employee within seven days of either receiving the documentation or the employee’s return to work or separation (whichever is sooner), and (B) give the employee at least seven days to cure the deficiency.
- **Incremental Use.** Depending on employer policy, employees can use leave in either hourly or six-minute increments.

- **Employee Privacy.** Employers cannot require employees to disclose “details” about an employee’s (or their family’s) HFWA-related health or safety information; such information must be treated as a confidential medical record.
- **Records must be retained and provided upon request.** Employers must provide documentation of the current amount of paid leave employees have (1) available for use, and (2) already used during the current benefit year, including any supplemental PHE leave. Information may be requested once per month or when the need for HFWA leave arises.

Retaliation or Interference with HFWA Rights

- **Paid leave cannot be counted as an “absence”** that may result in firing or another kind of adverse action.
- **An employee can’t be required to find a “replacement worker” or job coverage when taking paid leave.**
- **An employer cannot fire, threaten, or otherwise retaliate against, or interfere with use of leave by**, an employee who: (1) requests or takes HFWA leave; (2) informs or assists another person in exercising HFWA rights; (3) files a HFWA complaint; or (4) cooperates/assists in investigation of a HFWA violation.
- **If an employee’s reasonable, good-faith HFWA complaint, request, or other activity is incorrect**, an employer need not agree or grant it, but cannot *act against* the employee for it. Employees *can* face consequences for misusing leave.

PROTECTED HEALTH/SAFETY EXPRESSION & WHISTLEBLOWING (“PHEW”): Worker Rights to Express Workplace Health/Safety Concerns & Use Protective Equipment

Coverage: All Employers and Employees, Plus Certain Independent Contractors

- PHEW covers not just “employers” and “employees,” but all “principals” (an employer or a business with at least 5 independent contractors) and “workers” (employees or independent contractors working for a “principal”).

Worker Rights to Oppose Workplace Health/Safety Violations:

- It is unlawful to **retaliate against, or interfere with**, the following acts:
 - (1) **raising reasonable concerns**, including informally, to the principal, other workers, the government, or the public, about workplace violations of government health or safety rules, or a significant workplace health or safety threat;
 - (2) **opposing or testifying, assisting, or participating** in an investigation or proceeding about retaliation for, or interference with, the above-listed conduct.
- A principal need not address a worker’s PHEW-related concern, but it still cannot fire or take other *action against* the worker for raising such a concern, as long as the concern was reasonable and in good-faith.

Workers’ Rights to Use Their Own Personal Protective Equipment (“PPE”):

- A worker must be allowed to **voluntarily wear their own PPE** (mask, faceguard, gloves, etc.) if the PPE (1) provides **more protection** than equipment provided at the workplace, (2) is **recommended** by a government health agency (federal, state, or local), and (3) does not make the worker **unable to do the job**.

COMPLAINT RIGHTS (under both HFWA & PHEW)

- Report violations to the Division as complaints or anonymous tips, or file in court after exhausting pre-lawsuit remedies.

This Poster summarizes two Colorado workplace public health laws: C.R.S. § 8-13.3-401 et seq., (paid leave), and C.R.S. § 8-14.4-101 et seq. (healthy and safety whistleblowing) including amendments current as of the date of this poster. It does not cover other health or safety laws, rules, and orders, including under the federal Occupational Safety and Health Act (OSHA), from the Colorado Department of Public Health and Environment (CDPHE), or from local public health agencies. Contact those agencies for such health and safety information.

*In a PHE, employees gain additional hours of leave for inability to work, testing, quarantining, caring for family in such situations, and related needs. No PHE is now in effect; this poster will be updated if one is declared.

This poster must be displayed where easily accessible to workers, shared with remote workers, provided in other languages as needed, and replaced with any annually updated versions.

This Poster is a summary and cannot be relied on as complete labor law information. For all rules, fact sheets, translations, questions, or complaints, contact:

DIVISION OF LABOR STANDARDS & STATISTICS, ColoradoLaborLaw.gov, cdle_labor_standards@state.co.us, 303-318-8441 / 888-390-7936.