

The Paid Medical Leave Act
Public Act 338 of 2018, as amended by **Public Act 369 of 2018**
Frequently Asked Questions (FAQs)

1. When will Michigan's new Paid Medical Leave Act take effect?

The act will take effect on [March 29, 2019](#).

2. What employers are covered by the act?

The act applies to employers with 50 or more individuals regardless of full or part-time status or how many hours they work. It does not apply to the United States government, other states, or to political subdivisions of other states.

3. What employees are eligible to receive paid medical leave?

An eligible, nonexempt employee is an individual engaged in service to an employer in the business of the employer and from whom an employer is required to withhold for federal income tax purposes. See the Wage and Hour Division's website at www.michigan.gov/wagehour for a list of exempt employees.

4. Are there any employees who are not covered by the act?

The act has 12 specific employee exemptions, most notably employees who worked less than 25 hours per week on average in the preceding calendar year and, also overtime exempt employees. A full list of employee exemptions is available on the Wage and Hour Division's website at www.michigan.gov/wagehour.

5. When does an eligible employee begin to accrue paid medical leave?

Accrual begins on March 29, 2019, or upon commencement of the employee's employment, whichever is later.

6. How does an eligible employee accrue paid medical leave?

Paid medical leave is accrued at a rate of 1 hour for every 35 actual hours worked; however, an employer is not required to allow accrual of over 1 hour in a calendar week or more than 40 hours in a benefit year.

7. What is a benefit year?

A benefit year is any consecutive 12-month period used by an employer to calculate an eligible employee's benefits.

8. May an employee carry over unused paid medical leave from one benefit year to the next?

Yes. Employees can carry over up to 40 hours of unused accrued paid medical leave from one benefit year to the next; however, employers are not required to allow employees to use more than 40 hours in a single benefit year.

9. May an employer provide the total amount of paid medical leave all at once?

Yes. An employer may provide at least 40 hours of paid medical leave at the beginning of the benefit year or on the date that the individual becomes eligible during the benefit year on a prorated basis. If an employer adopts this practice, it does not have to permit employees to carry over unused leave to the next benefit year.

10. When is paid medical leave available for use by an eligible employee?

An employee may use paid medical leave as it is accrued except an employer may require an employee to wait until the 90th calendar day after commencing employment before using accrued paid medical leave.

11. Does paid medical leave have to be taken in 1-hour increments?

Yes. Paid medical leave must be used in 1-hour increments unless the employer has a different increment policy set forth in writing in an employee handbook or other employee benefit document.

12. When can an eligible employee use paid medical leave?

Employees may take paid medical leave for the following:

- Physical or mental illness, injury, or health condition of the employee or his or her family member
- Medical diagnosis, care, or treatment of the employee or employee's family member
- Preventative care of the employee or his or her family member
- Closure of the employee's primary workplace by order of a public official due to a public health emergency
- The care of his or her child whose school or place of care has been closed by order of a public official due to a public health emergency
- The employee's or his or her family member's exposure to a communicable disease that would jeopardize the health of others as determined by health authorities or a health care provider

For domestic violence and sexual assault situations, employees may use paid medical leave for the following:

- Medical care or psychological or other counseling
- Receiving services from a victim services organization
- Relocation
- Obtaining legal services
- Participation in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault

13. Who is considered a family member?

Family member includes:

- Biological, adopted or foster child, stepchild or legal ward, or a child to whom the employee stands in loco parentis
- Biological parent, foster parent, stepparent, adoptive parent, or legal guardian of an employee
- Spouse or individual to whom the employee is legally married under the laws of any state
- Person who stood in loco parentis when the employee was a minor child
- Grandparent
- Grandchild
- Biological, foster, and adopted siblings

14. Can an employer require an employee to use other employment benefits, such as vacation pay, prior to using paid medical leave?

Yes. There is a rebuttal presumption that an employer is compliant with the act if the employer provides at least 40 hours of paid leave to an eligible employee each benefit year. Paid leave includes, but is not limited to, paid vacation days, paid personal days, and paid time off.

15. What is the required wage rate for paid medical leave calculations?

Paid medical leave must be paid at a pay rate equal to the greater of either an employee's regular rate of pay or the Michigan minimum wage rate. The regular rate for a tipped employee is the applicable minimum wage rate.

16. Does accrued, unused paid medical leave need to be paid upon termination of employment?

No. Employees do not need to be paid for unused accrued paid medical leave at separation; however, there may be other laws, such as 1978 Public Act 390, the Payment of Wages and Fringe Benefit Act, that may require payment upon termination pursuant to the employer's written policy or contract.

17. Can an employer require an employee to provide notice of and documentation for the use of paid medical leave?

Yes. Employees must follow the employer's usual and customary notice, procedural, and documentation requirement for requesting leave. The employee must be allowed at least 3 days to provide documentation.

18. Does the employer have a duty to maintain the confidentiality of the information provided by the employee?

Yes. 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.

19. What recourse does an employer have for an employee failing to follow established notice and documentation policies?

The act does not prohibit an employer from disciplining or discharging an employee for failing to comply with the employer's established policies and procedures. Employers should consult with an attorney for guidance concerning the creation of notice and documentation requirements.

20. What are employer recordkeeping requirements under the act?

Employers must retain records that document the hours worked and paid medical leave taken by employees for not less than 1 year; however, there may be other laws, such as 1978 Public Act 390, the Payment of Wages and Fringe Benefit Act, that may require hours worked and fringe benefit documentation be maintained for not less than 3 years. These records shall be open to the Wage and Hour Division at any reasonable time.

21. Does the Paid Medical Leave Act contain a posting requirement?

Yes. The Paid Medical Leave Act poster may be downloaded from the Wage and Hour Division's website, www.michigan.gov/wagehour, or copies may be requested by calling 855-464-9243 (4MI-WAGE). Posters are available in English, Spanish, and Arabic.

22. What remedy is available to employees who believe his or her employer has violated the act?

A claim may be filed with the Wage and Hour Division within 6 months of the alleged violation date. An investigation will be completed, and mediation attempted if appropriate. If informal resolution is unsuccessful and a violation is found, payment of paid medical leave improperly withheld will be requested and penalties may be imposed.

23. What penalties are imposed against an employer for violating the act?

An employer who fails to provide paid medical leave is subject to a \$1,000.00 administrative fine. An employer who willingly violates the posting requirement is subject to a \$100.00 administrative fine for each separate violation.

24. How do I file a claim for violations of the Paid Medical Leave Act?

Claims may be filed online at www.michigan.gov/wageclaim; in person at a Wage and Hour Division office (see website for locations); or a form may be requested by calling 855-464-9243 (4MI-WAGE). Claim forms are available in English, Spanish, and Arabic.

25. What if I have additional questions?

Please visit www.michigan.gov/wagehour or call 855-464-9243 (4MI-WAGE).