



“A NEW APPLICATION FOR PAID LEAVE HAS BEEN STARTED BY AN EMPLOYEE AT YOUR ORGANIZATION”

This is the second Members Only Bulletin for January 2021. The first Bulletin addressed Massachusetts' launch of its new Paid Family and Medical Leave (PFML) program, including an overview of the claims process and timeline for PFML under the so-called MA public option -- administered by the Massachusetts Department of Family and Medical Leave (DFML) when the employer of the claimant does not maintain an approved exempt private plan. The PFML program went live on January 1, 2021 and began accepting applications for PFML benefits as of that date.

DFML NOTIFICATION THAT AN APPLICATION HAS BEEN SUBMITTED

Within 5 business days after an application for benefits has been submitted under the MA public option, DFML will notify the employer by email and ask them to review it. **Here is an actual email recently received by an employer** (all identifying information has been changed/masked for purposes of this Bulletin).

Hello XYZ CONSTRUCTION COMPANY INC,

A new application for paid leave has been started by an employee at your organization.

Employee name: Jane Smith

Date of birth: 06/14/****

Application ID: NTN-*****-ABS-**

There's no action required by you at this time. We will let you know when the application is ready for your review. **Once we notify you that it is ready for your review, you will have 10 business days (excluding [holidays](#)) to review the application and respond to our information request.**

Please review all leave administrators who are copied on this email. If any of the recipients are no longer associated with or authorized to receive DFML notifications on behalf of your employer please notify the DFML by calling 833-344-7365 during regular business hours.

As explained in the above notice, the application for benefits has been started. This likely means the application itself was submitted online and DFML is awaiting required documentation to complete the application for benefits, such as proof of identity and/or Certification of a Serious Health Condition Form if the requested leave involves a serious health condition.

EMPLOYER REQUIREMENT TO PROVIDE RELEVANT INFORMATION

Once the DFML determines the application is ready for review, the employer will then have 10 business days to provide information or records relevant to an application for benefits made by an employee, including the following:

- Wages and/or earnings for the past 12 months.
- Description of the employee's position and number of weekly hours worked.
- Whether the employee works a full- or part-time schedule.
- Prior requests/approvals for leave based on a qualifying reason.
- Amount of paid leave already taken for a qualifying reason during the current benefit year.
- Description of the employer's own paid leave policies:
 - whether the employee has received paid leave during the current benefit year and
 - whether the employee will receive any paid leave benefits from the employer during the requested leave period at issue.
- Whether the individual has applied for concurrent FMLA or other leave and, if so, whether the application been approved.
- Any other relevant information or records related to the application for benefits, including evidence of a fraudulent claim.

If the employer does not respond to DFML's request, then DFML will make a determination on the claim using the information provided by the employee.

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The foregoing has been prepared for the general information of MassAHU members. It is not meant to provide tax, legal or plan design advice with respect to any specific matter and should not be acted upon without professional counsel. This material may be considered advertising under certain rules of professional conduct.

*Rick Szczebak, Esq. is an accomplished attorney and consultant with a strong background in regulatory and compliance matters regarding employee benefit plans, federal health care reform (ACA) and Massachusetts health care reform. He concentrates exclusively in employee benefits law. **Rick is the author of the 4th edition of the Bloomberg BNA Tax Management Portfolio on Code Section 125 Cafeteria Plans (cited as Szczebak, 397-4th T.M., Cafeteria Plans).***