

MICHIGAN

PAID MEDICAL LEAVE ACT

Employees NOT Covered

EEs NOT Covered	Description
Exempt (Salaried) Employees	Exempt from FLSA overtime requirements
Employees Whose Primary Work Location is not in Michigan	
Certain Temporary Employees	<ul style="list-style-type: none">• Those hired to work 25 weeks or less• Employees who average fewer than 25 hours per week in the prior year
Variable Hour Employees	As defined by the Affordable Care Act Variable Hour: It cannot be determined whether the employee is reasonably expected to be employed on average at least 30 hours of service per week during the initial measurement period because the employee's hours are variable or otherwise uncertain.

Benefit Year: January 1 to December 31

An eligible employee can accrue **one hour of paid sick time for every 35 hours worked, for a maximum of one hour per calendar week and up to 40 hours in a benefit year** beginning March 29, 2019, or the first day of employment, whichever is later.

Eligible employee is **limited to 40 hours of paid medical leave time being taken in one calendar year, and employee will not carry over more than 40 hours of unused accrued paid medical leave from one benefit year to another benefit year.**

All eligible employees will have to **wait until the 90th calendar day after commencing employment before using accrued medical leave.**



EFFECTIVE: 3/29/2019

An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, or gratuities in the calculation of an eligible employee's normal hourly wage or base wage.

"Hours worked" does not include, hours taken off from work by an eligible employee for paid leave (e.g., vacation days, paid personal days, and paid time off).

Use of – Paid Medical Leave Must be Used in One-Hour Increments

- The mental or physical illness, injury, or health condition, medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition of, or preventive medical care of an employee or an employee's family member;
- Specified reasons related to the employee or the employee's family member who is a victim of domestic violence or sexual assault;
- The closure of the employee's primary workplace or their child's school or place of care due to a public health emergency, or when health authorities determine that the employee or the employee's family members presence would jeopardize others' health because of exposure to communicable disease, whether or not the eligible employee or family member has actually contracted the communicable disease.

Family Member

- Child (biological, adopted, or foster child, stepchild, legal ward, or a child of a person who as assumed the responsibilities of parenthood (a child of an employee standing in loco parentis);
- Parent (biological, adoptive, foster, step-parent or a legal guardian of an employee or of an employee's spouse; or other person who assumed the responsibilities of parenthood when the employee or employee's spouse was a child (an individual who stood in loco parentis when the eligible employee was a minor child);
- Spouse (An individual to whom the eligible employee is legally married under the laws of any state);
- A grandparent;
- A grandchild;
- A biological, foster, or adopted sibling.

Employee Notice Requirement

- Employee must be eligible and accumulate paid medical leave time before requesting use of paid medical leave.
- An employee may request medical leave time in writing or verbally.
- If the need for paid medical leave is foreseeable or pre-scheduled, the employee shall make a good faith effort to provide notice of this need to the customer **and** the company branch representative by providing up to seven days' notice, except where the employee learns of the need to use earned sick time within a shorter period.
- If the need for paid medical leave is unforeseeable, the employee shall provide notice of the need for paid sick leave to the customer **and** the company branch representative as soon as practicable.
- For multi-day absences, the employer requires notification to the customer **and** the company branch representative of the expected duration of the leave or, if unknown, then on a daily basis from the employee or the employee's surrogate (e.g., spouse, adult family member or other responsible party), unless the circumstances make such notice unreasonable.
- It is company policy that an employee may not use any accrued, but unused, paid medical leave if the employee is not scheduled to be at work during the period of use.

Documentation of Proof of the Need to Use Medical Leave Time May be Requested.

An employer shall give an eligible employee at least three (3) days to provide the employer with documentation.

This act **does not prohibit an employer from disciplining or discharging an eligible employee for failing to comply with the employer's usual and customary notice, procedural, and documentation requirement** for requesting leave.

An employer may require an eligible employee who is using paid medical leave because of domestic violence or sexual assault to provide documentation that the paid medical leave has been used for that purpose. An employer shall not require that the documentation explain the details of the violence.

Employee Notice Requirement (Cont.)

- If both the employer and employee agree the employee may work additional hours or shifts instead of using earned medical time. If, by taking on additional hours, the employee works more than 40 hours in a week, then he or she must be paid at the overtime rate (if applicable). **The employee will not be paid any accrued earned medical time, if the time is made up.**
- Employees must claim used, earned paid medical time when used, and must be paid medical time on the same schedule as regular wages are paid. Employers may not delay compensating employees for earned paid medical time, therefore, **employees must claim earned medical time no later than the week after it is used.**

Rate of Pay and Hours Worked

- The rate of pay for “paid medical leave” shall be the employee’s normal hourly wage or base rate or minimum wage rate. An employer is not required to include overtime pay, holiday pay, bonuses, commissions, supplemental pay, piece-rate pay, or gratuities in the calculation.
- “Hours worked” does not include, hours taken off from work by an eligible employee for paid leave. “Paid leave” includes, but is not limited to, paid vacation days, paid personal days, and paid time off.

There is a rebuttable presumption that an employer is in compliance with this act if the employer provides at least 40 hours of paid leave to an eligible employee each benefit year. Therefore, if you have a “paid leave” policy (e.g., includes, but is not limited to, paid vacation days, paid personal days, and paid time off that allows at least 40 hours off per year, the vacation, personal, and/or PTO policy will apply, and you will not be entitled to the Paid Medical Leave as well.

Transfers

Employees who are transferred to a separate division, entity, or location, but remain employed by the same employer, retain all previously accrued earned sick time.

No Rehire Rules

Employers are not required to allow eligible employees to retain any unused paid medical leave if the employee separated from employment and then is rehired by the same employer.

Not Paid Out Upon Termination or Cannot Get Reimbursed for Medical Leave That Was Not Used Before the End of a Benefit Year

The employer will not provide financial or other reimbursement to an eligible employee for accrued paid medical leave that was not used before the end of a benefit year or before the eligible employee’s termination, resignation, retirement, or other separation from employment.

Note: Only paid out if using a PTO or vacation policy to comply with the Ordinance

Michigan – In SAP if the employee is *working* in Michigan, mark as “**Michigan**”.



Michigan Department of Licensing and Regulatory Affairs

Wage and Hour Division

PO Box 30476

Lansing, MI 48909-7976

REQUIRED POSTER

GENERAL REQUIREMENTS – PAID MEDICAL LEAVE ACT*



GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Coverage

The Paid Medical Leave Act, 2018 Public Act 338, as amended by 2018 Public Act 369, effective March 29, 2019, covers employers who employ 50 or more individuals. The act covers individuals 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. An eligible employee does not include executive, administrative, and professional overtime exempt employees, employees covered by a private collective bargaining agreement that is in effect, employees of the United States government, another state, or a political subdivision of another state, individuals whose primary work location is not in this state, individuals 16-19 years of age being paid the youth training wage in accordance with the Improved Workforce Opportunity Wage Act, temporary employees as described in the Michigan Employment Security Act, variable hour employees as defined by 26 CFR 54.4980H-1, employees covered by the Railway Labor Act and Railroad Unemployment Insurance Act, individuals employed by an employer for 25 weeks or fewer in a calendar year for a job scheduled for 25 weeks or fewer, individuals who worked, on average, fewer than 25 hours per week during the immediately preceding calendar year. (See section 2 of The Paid Medical Leave Act, 2018 Public Act 338.)

Paid Medical Leave Accrual

Paid medical leave accrual begins on March 29, 2019, or upon commencement of the employee's employment, whichever is later. 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. A benefit year is any consecutive 12-month period used by an employer to calculate an eligible employee's benefits. 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. An employer may provide the total amount of paid medical leave all at once by providing at least 40 hours 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. (See section 3 of the Paid Medical Leave Act, 2018 Public Act 338).

Paid Medical Leave Usage

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. 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. Employees must follow the employer's usual and customary notice, procedural, and documentation requirements for requesting leave. The employee must be allowed at least 3 days to provide documentation. Employees may take paid medical leave for any of 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 any of the following:

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

Employee Rights

An employee may file a complaint with the Department of Licensing and Regulatory Affairs within 6 months of the alleged violation. LARA shall investigate a complaint and attempt mediation, where appropriate.

Penalties

If informal resolution is unsuccessful and a violation found, payment of paid medical leave improperly withheld will be requested and penalties may be imposed. An employer who fails to provide paid medical leave is subject to an administrative fine of not more than \$1,000.00. An employer who willingly violates the posting requirement is subject to an administrative fine of not more than \$100.00 for each separate violation.

***For precise language of the statute, see Public Act 338 of 2018, as amended**

LARA is an equal opportunity employer/program.

Auxiliary aids, services and other reasonable accommodations are available, upon request, to individuals with disabilities.

www.michigan.gov/wagehour • Toll Free 1-855-4MI-WAGE (1-855-464-9243)

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