



What's the Difference?

Paid Sick Leave, FMLA, and Paid Family and Medical Leave

Paid sick leave, FMLA leave, and paid family and medical leave are all types of paid or unpaid time off from work, but they are distinct policies and, where enacted, laws. Below are descriptions of each type of leave, making clear the key differences between them.

	Paid Sick Leave, Executive Order 13706 (EO)	Paid Sick Leave, State and Municipal Laws	Family and Medical Leave Act (FMLA)	Paid Family and Medical Leave (PFML)
Background and availability	President Obama signed the EO in September 2015. It requires companies with certain types of contracts with the federal government ("covered contracts") to provide paid sick leave, which is available for short-term health needs and preventive care. It will apply to new covered contracts starting January 1, 2017.	Five states (California, Connecticut, Massachusetts, Oregon, and Vermont) and more than two dozen cities, counties, and towns have paid sick time laws, which require employers in those states and cities to allow leave for short-term health needs and preventive care.	The FMLA is a federal law that provides job-protected, unpaid leave from work for certain family and serious medical reasons. It applies to many employers across the country. It was signed by President Bill Clinton on February 5, 1993.	Paid family leave means longer-term leave to care for ill family members, as well as when a parent has a new child. It exists or soon will in four states: California, New Jersey, Rhode Island, and New York. New York's program will start paying benefits in 2018. Paid medical leave means leave for self-care of your own serious illness has been available for decades in five states: those with paid family leave as well as Hawaii.
What else is this policy known as?	Paid sick leave is also known as "earned sick time," "earned sick leave," "paid sick time," and "paid sick days."		This law is commonly known as the FMLA.	Paid family leave is also known as "family caregiver leave" or "family leave insurance." Paid medical leave is also known as "temporary disability insurance" (TDI) or "short-term disability." Paid family and medical leave together are also referred to as "family and medical leave insurance" (FMLI).
How does the policy typically work?	Employees will earn paid sick leave hours during the time they work on or in connection with a covered federal contract. They will earn one hour of leave for every 30 hours worked. Employers have the option to provide a year's worth of leave up front, rather than requiring workers to accrue it one hour at a time.	Typically, employees earn or accrue paid sick leave based on how many hours they have worked. For instance, a paid sick leave policy could allow a worker to earn one hour of paid sick leave for every 30 or 40 hours worked. Employers are required to allow employees to take leave for certain purposes and to pay employees while they are using leave.	The FMLA entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected leave from work for certain medical and family reasons, including your own or a spouse's, parent's or child's serious health condition, or for qualifying exigencies while the employee's spouse, son, daughter, or parent is on covered active duty or call to covered active duty status. The FMLA also allows eligible employees of covered employers to take up to 26 workweeks of FMLA leave in a "single 12-month period" to care for a covered service member with a serious injury or illness. During leave, employers are not required to pay workers, but they must maintain workers' group health insurance under the same terms and conditions as if the employee had not taken leave and they are required to give employees their jobs back when they return from leave.	PFML typically operates as an insurance program, in which workers and/or employers pay in and workers who need to provide caregiving are able to draw on the policy's benefits that provide partial wage replacement while a worker is on leave. TDI is funded in a similar way.

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Which employers have to comply with this law?	The EO applies to contractors that have any of four types of federal contracts: contracts covered by the Service Contract Act, contracts covered by the Davis-Bacon Act, concessions contracts, and service contracts in connection with Federal property or lands. It also applies to subcontractors of covered contractors if the subcontract is also one of these types of contracts.	While there are variations in existing paid sick time laws, they usually apply to employers with 15 or more employees.	The FMLA covers private sector employers with 50 or more employees; public agencies, including a local, state or federal government agency, regardless of the number of employees they employ; and public or private elementary or secondary schools, regardless of the number of employees they employ.	Because PFML programs act as insurance and workers typically pay into a fund that provides wage replacement to leave-takers, there are no employer coverage rules and no carve-outs or exemptions for small employers.
Who can workers take leave time to care for?	Workers can take paid sick leave to care for oneself or the employee's child, parent, spouse, domestic partner, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship (which includes a grandparent, grandchild, brother or sister-in-law, fiancé or fiancée, cousin, aunt, or uncle, as well as other people with whom the employee has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship).	Details vary under different paid sick time laws, but generally workers can care for oneself as well as parents, children, grandparents, and grandchildren. Some states or towns may allow leave for more family relationships or the equivalent of family relationships.	Workers can take leave for the birth of a child and to bond with the newborn child, for the placement of a child for adoption or foster care and to bond with that child; to care for a spouse, child or parent who has a serious health condition; and if the employee is unable to work because of a serious health condition. Leave may only be used for the care of an adult child with a serious health condition if the son or daughter is also incapable of self-care due to disability. Under FMLA military family leave provisions, workers may also take leave to care for a covered servicemember with a serious illness or injury if the worker is the spouse, parent, child, or next of kin of the servicemember or for certain qualifying exigencies while the employee's spouse, son, daughter, or parent is on covered active duty or call to covered active duty status.	Generally, under a paid family leave program, workers can care for a spouse, domestic partner, parent, or child. Some states will provide benefits for caregiving for grandparents, grandchildren, siblings, or parents-in-law. Under TDI programs, a worker can receive benefits only for their serious medical problem.
Can workers go back to their jobs after their leave time?	Yes, workers can go back to their jobs: the EO provides "job protection," meaning workers cannot be fired, retaliated against, or discriminated against for asking to use or using their paid sick leave.	Yes, workers can go back to their jobs: the laws usually provide "job protection," meaning workers cannot be fired, retaliated against, or discriminated against for using their paid sick leave time.	Yes, upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee under a "no-fault" attendance policy or used as a negative factor in an employment action, such as hiring, promotions, or discipline. It is unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise any right provided by the FMLA.	Under TDI programs, no, there is no job protection (however, the FMLA job protection may apply). Under paid family leave programs, sometimes. Rhode Island requires (and New York will require) that leave-takers be able to return to their jobs. In California and New Jersey, the laws don't provide job protection, so whether workers can return is up to their employer (or the FMLA's job protection may apply).

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For what reasons can workers use this policy?	Paid sick leave under the EO is designed for absences due to short-term illness or injury and to support preventive health care for the employee and the employee’s children or other family members. The EO also allows “safe time” for the employee to address the impact of domestic violence, sexual assault, or stalking of the employee and/or a family member of the employee, such as the need to attend court proceedings.	Paid sick leave is designed for absences due to short-term illness or injury and to support preventive health care for the employee and the employee’s children or other family members. Some laws also allow “safe days” for the employee to address the impact of domestic violence, sexual assault, or stalking of the employee and/or a family member of the employee, such as the need to attend court proceedings.	Permissible reasons for leave include leave related to pregnancy, birth, fostering, or adoption of a child and time to bond with the child; self-care for a serious health condition; or caregiving for a qualifying family member (parent, spouse, son or daughter) with a serious health condition. Workers may also take leave to care for a covered servicemember with a serious injury or illness or for qualifying exigencies while the employee’s spouse, son, daughter, or parent is on covered active duty or call to covered active duty status.	PFML generally follows Family and Medical Leave Act (FMLA) permissible reasons for leave: leave related to birth, fostering, or adoption of a child; self-care for a serious health condition; or caregiving for an immediate family member with a serious health condition. Paid parental – or maternity or paternity – leave is for new parents, whereas paid family and medical leave is intended for a greater range of events (e.g., recovery from surgery or caregiving for an elderly parent).
How much time off is allowed?	Workers can accrue up to 56 hours (the equivalent of seven 8-hour days) of leave per year or at a time and can carry over unused paid sick leave from the previous year (which does not count toward the current year’s 56-hour accrual limit).	Workers can generally accrue between 24 and 72 hours of paid sick time per year. In some locations, the amount of time that may be accrued depends upon the size of the employer.	An eligible employee may take up to 12 workweeks of leave in a 12-month period for the birth or placement of a child for adoption or foster care, and for bonding; to care for a spouse, child or parent who has a serious health condition; for the employee’s own serious health condition; and for qualifying exigencies while the employee’s spouse, son, daughter, or parent is on covered active duty or call to covered active duty status. A worker may take up to 26 workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness.	The details vary by state, but paid family leave programs provide 6 to 12 weeks of partially paid leave per year, while TDI programs provide 26 to 52 weeks of partial wage replacement.
Are workers paid? How is this time off funded?	When employees use their paid sick leave, contractors must provide workers with their regular pay and benefits.	When eligible employees use their paid sick time, employers are required to pay workers their usual rate of pay.	FMLA leave is unpaid leave. However, workers may choose to, or employers may require them to, substitute accrued paid sick, vacation, or personal time for FMLA leave. Substitute means that the paid leave provided by the employer will run concurrently with the unpaid FMLA leave. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the employer’s normal leave policies. Employers are also required to continue paying the employer’s share of workers’ group health insurance premiums on the same terms as if they were not on leave.	When eligible workers take leave, they receive partial wage reimbursement from the fund equal to a set percentage of their pay, often capped on a weekly or monthly basis. Workers and/or employers contribute a very small percentage of pay to a designated fund that pays for the benefits.
Where can I get more information on the laws that apply to me?	The Department of Labor’s Wage and Hour Division (WHD) is responsible for enforcing the EO. More information is available at: http://www.dol.gov/whd/govcontracts/eo13706/ .	Check with your state, county, or municipal government.	The Department of Labor’s Wage and Hour Division (WHD) is responsible for enforcing the FMLA. You may contact WHD at 1-866-487-9243 or visit the FMLA website at: https://www.dol.gov/whd/fmla/	If you live in CA, NJ, RI, or NY, check with your state department of labor.