



Senate Bill 1515 Report

Programmatic Changes Report

September 2024

A future Oregon where individuals,
employers, and families

— of every kind —

have the time and support they need
to care for themselves and

their loved ones

during life's most
important moments.



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Executive summary

During the 2024 Oregon Legislative Session, the Oregon Legislature passed [Senate Bill \(SB\) 1515](#) (2024), which requires the Oregon Employment Department (OED) to write a report for the Legislature by Sept. 15, 2024, that considers the implementation of potential programmatic changes to Paid Leave Oregon.

OED chose five topics and the three 2025 legislative concepts to address while considering implementing programmatic changes. OED chose the five topics because they were most often discussed by employers, employees, legislators, and advocates. While most of the recommendations require a process change, not a statutory change, they need to be considered in the context of OED's existing program priorities, priorities for Paid Leave Oregon, and the overarching priority of improving customer service.


The five topics are:

1. Concurrency requirements for Paid Leave Oregon benefits when a person takes federal Family and Medical Leave Act (FMLA) leave at the same time and approaches to address “stacking” of benefits
2. Daily versus hourly leave increments for Paid Leave Oregon
3. What claim information OED gives to employers and employer response requirements,
4. Allowable time frame for applying for Paid Leave Oregon
5. Employment identification for the purpose of Paid Leave Oregon

The report describes the current Paid Leave Oregon statutes¹ and other relevant statutes, administrative rules, and standard operating procedures for staff as they relate to each topic. It then outlines the laws, regulations and practices in other states with paid family and medical leave programs, to the extent that this information is available. Also, the report discusses the advantages and disadvantages of implementing programmatic changes around each topic, with a focus on if a statutory or administrative rule change is needed. Finally, this report includes recommendations for each topic.

¹ [ORS chapter 657B](#)





Our analysis and recommendations consider both the administrative effort as well as the potential positive and negative impacts that changes would have on Oregon employers and employees. When considering these impacts, the report pays particular attention to how a change may affect historically under-resourced populations in Oregon. Each recommendation also carefully considers the program's current needs for adjustments to improve customer service and how the recommendation would fit into the current workload. Paid Leave Oregon is a new, large program - it will take several years to refine the current programming needs. This report does not address the many operational improvements already done, planned, and likely to be discovered as we continue listening to the public about how the program is serving them and how it can improve; instead, it focuses more on higher level policy changes.

Because Paid Leave Oregon is new, there are changes that can improve administration, processes, and customer service related to benefits and contributions. Paid Leave Oregon is a comprehensive, complex, and rapidly evolving program. Employers, employees, legislators, and OED staff continue to identify needed changes and possibilities for improvement, allowing us to make Paid Leave Oregon the best program in the nation. Even though it may not be feasible to make all desired changes in the short term, Paid Leave Oregon staff welcome all feedback and will continue to learn from other states with paid family and medical leave programs and to make improvements.

Below is a list of the three Paid Leave Oregon legislative concepts (LC) OED for 2025, which can be found in the appendix section of this report.

1. LC 483 – Other agency data gathering and sharing
2. LC 486 – Various changes and technical corrections
3. LC 488 – Waiver of penalty and interest

Key findings and recommendations

- **Paid Leave Oregon benefits and the federal Family and Medical Leave Act (FMLA):** The statute states that Paid Leave Oregon benefits must be taken concurrently with FMLA leave when employees take leave for the same qualifying purpose. Stacking of FMLA leave and Paid Leave Oregon benefits is possible if an eligible employee first takes FMLA and subsequently receives Paid Leave Oregon benefits, resulting in the employee potentially receiving 12 weeks of unpaid leave and an additional 12 weeks of paid leave. However, we do not know how often






stacking occurs, as employers administer FMLA. OED recommends not changing the statute.

A change would take significant administrative effort from employers, employees, and OED staff as well as major reprogramming of Frances Online. The potential for stacking has been significantly reduced thanks to past actions of the Oregon Legislature around OFLA.

- **Daily versus hourly leave increments:** The statute stipulates that employees must claim Paid Leave Oregon benefits in full-day increments. Consequently, employees cannot claim Paid Leave Oregon benefits in partial-day or hourly increments. This requirement restricts the flexibility of employees who are taking intermittent leave, as they cannot take hourly leave, for example, to miss just part of a workday to attend medical appointments. Changing the statute to allow hourly increments may help employers and employees; however, OED does not recommend a statutory change in the short-or medium future as daily and weekly leave increments are the basis for Paid Leave Oregon in its current form as a benefits program. Introducing hourly leave increments would be a change to a core part of the Paid Leave Oregon structure. It would require significant reprogramming of the Frances technology system, and be a major effort, detracting from OED's ability to continue stabilizing and refining program operations. Making such a significant change at this point would likely adversely impact staff's ability to help customers.
- **Claim information OED gives to employers and employer response requirements:** When an employee applies for Paid Leave Oregon benefits, OED shares with the employer the employee's name, date of birth, requested leave start and end date, if the employee requested an intermittent or consecutive leave schedule, and if the employee indicated that they gave notice to the employer. If OED approves the employee's benefits, the program also shares the leave duration in approved workdays. OED does not currently share the leave type or benefit amount with the employer. Following changes made by SB 1515 that allow employees to top off Paid Leave Oregon benefits by using employer-provided benefits up to their full wage replacement, the program is considering a change to our administrative rule² that would allow sharing the weekly benefit amount with the employer. OED does not recommend sharing the leave type with the employer, because the employer can already request this information

² OAR [471-070-1320](#) *Benefits: Communication to Employers and Employee Application for Benefits*





from the employee as part of the required written notice, and OED doesn't wish to preemptively share potentially sensitive information, for example, in the case of safe leave claims.

Another issue is that the employer has 10 days to respond to the notice OED sends, to tell OED if the employee gave the required notice to the employer about taking paid leave and to provide additional information on the claim.³ OED only processes an employee's claim after the employer has responded or when the 10-day time frame has passed.

OED is considering shortening the employer response time to five to seven days to help with processing times. This would be an administrative rule and doesn't need a statutory change; however, we will consider this change in relation to other priorities that OED must address and will implement it after some other changes that will have a greater impact on getting people their benefits more quickly.

- **Allowable time frame for applying for Paid Leave Oregon**

An employee may apply for Paid Leave Oregon benefits up to 30 days before or after starting the leave.⁴ OED denies applications employees send outside of this period, unless the employee can show good cause for sending a late application. If the program finds a good cause was present, it may accept an application up to one year after the start of leave. OED has considered whether to allow people, in at least some circumstances, to file more than 30 days before the anticipated start of their leave. This can be done by administrative rule. Staff are analyzing this in a thoughtful way to avoid causing problems for employers and employees or delaying other changes and work that will have a large impact on improving how OED serves the public.

- **Employment identification for purposes of Paid Leave Oregon:** When an employee applies for Paid Leave Oregon, the employee must provide information about their employment for which they are requesting leave from work. If an employer doesn't automatically appear in the employee's employment history, based on the employer's quarterly payroll report filing, the employee must add the missing employer(s). This requires the Business Identification Number (BIN) or Federal Employer Identification Number (FEIN). This can present a challenge, as

³ OAR [471-070-1310](#)(8) *Benefits: Employee Notice to Employers Prior to Commencing Leave*

⁴ OAR [471-070-1100](#)(4) *Benefits: Application for Benefits*





employees may not always have the BIN or FEIN to correctly identify the employer, which can delay processing their application. This is most common if:

- An employee works for an entity that is part of a larger employer or group of related business entities, but the employee may not be aware of this
- The employer did not report the employees' wages
- An employee has certain types of employment, such as homecare workers, who work for a consumer employer but are paid by a government entity

While aware of this issue, OED doesn't recommend making a statutory change, but instead recommends continuing ongoing outreach efforts to large employers throughout Oregon as well as affected employee populations. This will help employees applying for benefits know the BIN or FEIN to enter when applying for benefits.

Introduction

During the 2024 Oregon Legislative Session, the Oregon Legislature passed Senate Bill (SB) 1515 (2024), which requires OED to write a report for the Legislature by Sept. 15, 2024, that considers the implementation of potential programmatic changes to Paid Leave Oregon.

OED chose five topics and our three 2025 Paid Leave Oregon legislative concepts to address while considering implementing programmatic changes. OED chose the five topics because they were the most often discussed by employers, employees, legislators, and advocates. While most of the recommendations require a process change, not a statutory change, they need to be considered in the context of OED's existing program priorities, priorities for Paid Leave Oregon, the overarching priority of improving customer service.

1. Concurrency requirements for Paid Leave Oregon benefits when a person takes leave under the Family and Medical Leave Act (FMLA) and approaches to address "stacking" of benefits
2. Daily versus hourly leave increments for Paid Leave Oregon
3. What claim information OED gives to employers and employer response requirements
4. Allowable time frame for applying for Paid Leave Oregon



5. Employment identification for the purpose of Paid Leave Oregon

Each topic will have a section that describes the current Paid Leave Oregon statutes⁵ and other relevant statutes, administrative rules, and standard operating procedures for staff. The report then outlines the laws, regulations and practices in other states with paid family and medical leave programs, to the extent that this information is available. Also, the report discusses the advantages and disadvantages of implementing programmatic changes around each topic, with a focus on whether a statutory or administrative rule change would be required. Finally, OED lists its recommendations for each topic.

Our analysis and recommendations consider both administrative efforts as well as potential positive and negative impacts that changes would have on Oregon employers and employees. When considering these impacts, the report pays particular attention to how a change may affect historically under-resourced populations in Oregon. The recommendations also carefully consider the program's current needs for adjustments to improve customer service and how each recommendation would fit into the current workload. Paid Leave Oregon is a new, large program – it will take several years to refine the current programming needs. This report doesn't address the many operational improvements done, planned, and likely to be discovered as we continue listening to the public about how the program is serving them and how it can improve; instead, it focuses more on higher level policy changes.

Because Paid Leave Oregon is new, there are changes that can improve administration, processes, and customer service related to benefits and contributions. Paid Leave Oregon is a comprehensive, complex, and rapidly evolving program. Employers, employees, legislators, and OED staff continue to identify needed changes and possibilities for improvement, allowing us to make Paid Leave Oregon the best program in the nation. Even though it may not be feasible to make all desired changes in the short term, Paid Leave Oregon staff welcome all feedback and will continue to learn from other states with paid family and medical leave programs and to make improvements.

⁵ [ORS chapter 657B](#)





Paid Leave Oregon benefits and the federal Family and Medical Leave Act (FMLA)

Current Paid Leave Oregon law and standard operating procedures

Paid Leave Oregon is governed by [ORS chapter 657B](#), which requires that employees must take any Paid Leave Oregon benefits concurrently with any leave they take under the federal Family and Medical Leave Act (FMLA) if the leave is for the same qualifying purpose.⁶ To aid employers and employees, OED and the Oregon Bureau of Labor & Industries (BOLI) have created materials that compare the eligibility requirements under Paid Leave Oregon, FMLA, Oregon Family Leave Act (OFLA), and Oregon Sick Leave and advise employers about concurrency requirements.⁷

In most cases, FMLA allows eligible employees to take 12 weeks of unpaid, job-protected bonding, family, medical, and military leave in a one-year period. While on leave, eligible employees can keep their employer-provided health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Generally speaking, employees are eligible for FMLA if they work for an employer with 50 or more employees and have worked for their employer for at least 12 months. Paid Leave Oregon generally covers more employees and employers than FMLA.

While the statute specifies that leave employees take under Paid Leave Oregon must run concurrently with leave under FMLA if taken for the same qualifying purpose, it doesn't address all potential stacking of leave. Stacking of leave may happen if an eligible employee chooses to first take leave under FMLA, without applying for Paid Leave Oregon, and then takes leave under Paid Leave Oregon for the same qualifying purpose, thereby creating a situation where the employee could be out on protected leave for up to 24 weeks.


An employee may qualify for up to 12 weeks of leave in a benefit year for the purposes covered under Paid Leave Oregon (or 14 if the employee qualifies for two additional weeks of benefits for limitations related to pregnancy or childbirth⁸), with a benefit year starting on the Sunday before the employee's Paid Leave Oregon benefits begin. OED

⁶ ORS [657B.025](#) *Coordination of leave*. Paid Leave Oregon and FMLA both cover bonding leave after the birth, adoption or foster care placement of a child, family leave to care for a family member with a serious health condition, and medical leave for an employee's own serious health condition. In addition, Paid Leave Oregon covers safe leave if an employee or their child are the survivor of domestic violence, sexual assault, bias crimes, harassment or stalking, which is not covered by FMLA. FMLA further provides military family leave, which is not covered by Paid Leave Oregon.

⁷ <https://d1o0i0v5q5lp8h.cloudfront.net/paidleave/live/assets/resources/Paid-Leave-OFLA-FMLA-Chart-EN.pdf>

⁸ ORS [657B.020](#) *Qualifying purposes for benefits; duration of benefits*





doesn't consider any leave the employee takes under FMLA before the start of Paid Leave Oregon benefits as part of the Paid Leave Oregon benefit year. The program doesn't currently have a systematic mechanism in place that would allow staff to receive information from employers or employees about FMLA leave the employee may have taken before filing a Paid Leave Oregon claim. Also, no statute or administrative rule requires a reduction of available Paid Leave Oregon benefits for FMLA leave that the employee took before the beginning of a Paid Leave Oregon benefit year. Employees can take FMLA in hourly increments, while they must take Paid Leave Oregon benefits in full-day increments.

Concurrency requirements in other states with paid family and medical leave (PFML) programs


In addition to Oregon, 12 other U.S. states as well as Washington D.C. have passed PFML laws. Programs in the following nine states and districts besides Oregon are currently active: California, Colorado, Connecticut, Massachusetts, New York, New Jersey, Rhode Island, Washington, and Washington D.C. Benefits in Delaware and Minnesota will go into effect on Jan. 1, 2026, while benefits in Maine and Maryland will become available on May 1, 2026, and July 1, 2026, respectively.

All states listed above, except for Connecticut, have provisions in their statutes or their administrative rules that address concurrency of benefits under FMLA and their respective PFML program. Sixty-seven percent⁹ of states with PFML programs that speak to concurrency in their law and rules require FMLA and paid leave to run concurrently in some form, while 33%¹⁰ of states allow the employer to either require concurrency or to allow stacking of leave.

However, there are nuances regarding the circumstances under which concurrency applies. Almost all states require concurrency of paid leave benefits and FMLA, or allow the employer to require concurrency, when the employee's qualifying purpose is eligible under both programs at the time they use paid leave. Maine is the only state that doesn't specify this requirement in their statute. Regarding a reduction of available paid leave benefits, California and Colorado specifically don't monitor for previous FMLA use and FMLA eligibility doesn't impact eligibility for paid leave benefits. Maine, Maryland, and Minnesota are three programs that haven't yet begun but intend to reduce an employee's available paid leave allotment for FMLA usage during the past

⁹ California, Colorado, Delaware, Washington D.C., Maine, Massachusetts, Maryland and New Jersey.





year if the employee's leave was also eligible for paid leave, even if the employee chose not to apply for paid leave at the time they used FMLA leave. Similarly, Massachusetts law reduces an employee's available paid leave balance for any leave the employee takes for a covered qualifying purpose during the past year, even when it was taken before the beginning of a paid leave period. In this case the start date of the other leave becomes the beginning of the employee's paid leave benefit year. In addition, if an employee is not eligible for FMLA because they used it all, they may only take FMLA later during the benefit year to the extent that they remain eligible for concurrent leave under FMLA and the Massachusetts paid leave program. However, Massachusetts allows 26 weeks of paid leave in a benefit year.

Please refer to Table 1 for more detail on concurrency requirements and standard operating procedures in each state.

Table 1: FMLA and paid leave concurrency requirements in states with PFML programs

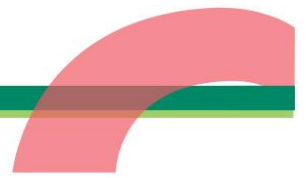
State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
California	Yes	No	Concurrency required if leave qualifies under FMLA and California Family Rights Act (CFRA)	<ul style="list-style-type: none"> • Offers employees a form so they can go from one program to another. • Doesn't monitor for FMLA stacking and doesn't ask about previous FMLA use on application. • Eligibility for FMLA does not impact benefit amount.
Colorado	Yes	No	<ul style="list-style-type: none"> • Concurrency required if leave qualifies under FMLA and Colorado PFML Insurance Act. 	<ul style="list-style-type: none"> • Doesn't monitor for FMLA stacking and doesn't ask about previous FMLA use on application. • Eligibility for FMLA doesn't impact





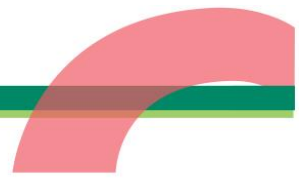
State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
			<ul style="list-style-type: none">One-way concurrency: Colorado PFML benefits run concurrently with FMLA, but FMLA doesn't run concurrently with Colorado PFML benefits.	eligibility for paid leave benefits.
Connecticut	No	N/A	N/A	N/A
Delaware	Yes	No	Concurrency required if leave qualifies under FMLA and Delaware PFML program.	No information available as program hasn't started.
District of Columbia (D.C.)	Yes	No	Concurrency required if leave qualifies under FMLA and D.C. PFML program.	<ul style="list-style-type: none">Doesn't monitor for FMLA stacking and doesn't ask about previous FMLA use on application.Eligibility for FMLA doesn't impact benefit amount.However, if an employee takes FMLA leave first, they may not have job protection when taking PFML as PFML doesn't offer job protection.





State	Con-currency requirement	Employer may require con-currency	Other requirements	Standard operating procedures
Maine	Yes	No	Employees may use Maine's PFML program while ineligible for FMLA in the same benefit year.	<ul style="list-style-type: none">• Proposal in draft administrative rules (as program hasn't started) to reduce PFML time for days of FMLA used in the past year.• Information would be received through a claimant report or employer review.
Maryland (MD)	Yes	No	If an employee takes leave under FMLA and is eligible for MD PFML program and informed about right to take paid leave, but chooses not to apply, FMLA leave may be counted against maximum PFML duration if employee applies for PFML later in the same year.	Plan to rely on claimant self-report and employer report of this information at the time of application to enforce requirements (as program hasn't started).
Massachusetts (MA)	Yes	No	<ul style="list-style-type: none">• Employees who take PFML while ineligible for leave under FMLA may take leave under FMLA in	<ul style="list-style-type: none">• Ask on application if the employee used leave of any sort for a qualifying reason covered under the MA PFML program during the past 12 months.





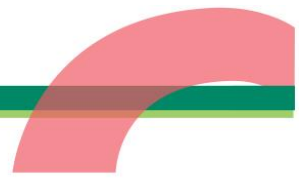
State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
			<p>the same benefit year only to the extent they remain eligible for concurrent leave under the MA PFML program.</p> <ul style="list-style-type: none">• An employee's PFML leave allotment is reduced by the amount of any earlier leave taken for a qualifying reason during the benefit year.	<ul style="list-style-type: none">• If an employee has used another leave for a qualifying reason but did not file a PFML claim, their benefit year starts when they took the other leave.• Their allowable PFML leave is reduced by the amount of job protected leave taken in the benefit year.
Minnesota (MN)	Yes	Yes	Employer may require concurrency if leave qualifies under FMLA and MN PFML program.	<ul style="list-style-type: none">• Intend to ask about previous leaves as part of application and to ask employers to confirm information provided by the employee (as program hasn't started).• If an employee took paid or unpaid leave for a reason that qualifies under both





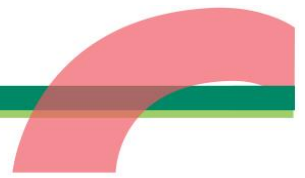
State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
				FMLA and MN PFML before an application with the division, the available leave balance will be offset.
New Jersey (NJ)	Yes	No	Concurrency required if the employee used leave for the same qualifying purpose under FMLA and NJ Family Leave Act (FLA).	Employees can take FMLA and paid leave consecutively (stacked) if employee first takes FMLA for pregnancy disability or recovery and then bonding leave, as pregnancy disability or recovery leave is not covered by NJ FLA program.
New York (NY)	Yes	Yes	<ul style="list-style-type: none">• Employers must provide employees with a notice that leave was designated as leave under FMLA and NY PFML to require concurrency.• Employers may track hours taken for FMLA if the employee	<ul style="list-style-type: none">• Employers can check a box on the application if the employee is taking FMLA concurrently.• NY PFML is administered by insurance companies and not a state agency.





State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
			takes a partial day. Partial days are not eligible under the PFML program, but the employer may track the total hours of FMLA and when that amount reaches the number of hours in employee's usual workday, the employer may deduct a day of PFML benefits from their annual paid leave allotment.	
Rhode Island	Yes	Yes	<ul style="list-style-type: none">• Employers may require concurrency if leave qualifies under FMLA and the Rhode Island PFML Act.• Employees	<ul style="list-style-type: none">• Doesn't monitor for FMLA stacking and doesn't ask about previous FMLA use on application.• Eligibility for FMLA doesn't impact benefit





State	Con-currency require-ment	Employer may require con-currency	Other requirements	Standard operating procedures
			must exercise their right to use the PFML program for the employer to be able to require concurrency.	amount.
Washington (WA)	Yes	Yes	Concurrency required if leave qualifies under FMLA and WA's PFML program.	<ul style="list-style-type: none">• Doesn't monitor for FMLA stacking and does not ask about previous FMLA use on application.• Eligibility for FMLA doesn't impact benefit amount.

Source: Oregon Employment Department


Advantages and drawbacks of concurrency programmatic change

While Paid Leave Oregon statute requires concurrency with FMLA, Oregon state law can't change federal law which doesn't address concurrency between FMLA and state PFML programs. Oregon has the authority only to structure its state programs (OFLA and Paid Leave Oregon) and how they interact with FMLA.

It can't dictate how FMLA itself applies to Oregon employees or employers. Concurrency and stacking with OFLA and Paid Leave Oregon was the biggest issue. However, during the 2023 and 2024 legislative sessions, the Oregon Legislature further aligned the two programs, and the stacking concern Oregon has authority over was drastically eliminated.

Like most other states with PFML programs, Oregon requires leave under Paid Leave Oregon and FMLA to be taken concurrently, if the leave is covered under both programs and the employee takes Paid Leave Oregon benefits. However, there are currently no statutory requirements or administrative rules that require OED to get





information about an employee's use of FMLA before the beginning of a Paid Leave Oregon benefit year with the aim of reducing available Paid Leave Oregon benefits. Consequently, OED doesn't have a mechanism in place to request this information from employers and employees when someone applies for Paid Leave Oregon benefits. As a result, it is theoretically possible for employees that work for employers with 50 or more employees and have worked for the employer for more than 12 months to stack leave, by first using 12 weeks of FMLA and then 12 weeks of Paid Leave Oregon for the same qualifying purpose. However, we don't know the extent to which stacking occurs, as employers administer FMLA.

The possibility of stacking can negatively impact employers, in particular smaller employers (but employers who still have at least 50 employees), who may experience a prolonged employee absence that affects their business operations. In addition, the possibility of stacking disproportionately benefits higher-wage earners, who can afford to combine a lengthy period of unpaid leave with a period of paid leave, while lower-wage earners are unlikely to take a prolonged period of unpaid leave. If Oregon were to make a programmatic change, employers would have to manage employees' extended leave periods less frequently, and it would also address a disparity in accessing leave between higher- and lower-wage earners.

Requiring OED to get information about FMLA leave taken before the beginning of a benefit year with the aim of reducing available Paid Leave Oregon benefits would put a significant administrative burden on employers, employees, and Paid Leave Oregon. It would also take a statutory change to reduce Paid Leave Oregon benefits when an employee has already taken FMLA.


From a statutory perspective, the 12 (14)-week maximum leave duration only applies to the current Paid Leave Oregon benefit year, not to leave the employee took before the beginning of the benefit year or leave they took for other purposes.

If OED reduced paid leave benefits for FMLA leave taken before the beginning of a Paid Leave Oregon benefit year, this would require a statutory change to the benefit year definition¹¹ and to reduce the weeks of Paid Leave Oregon available in these circumstances.

Furthermore, to correctly offset benefits, OED would not only have to ask the employee and employer if the employee took FMLA leave in the past 12 months, but also collect detailed information on the amount of FMLA leave that the employee used, likely in the

¹¹ [ORS 657B.010\(5\)\(a\)](#) Definitions





form of FMLA hours taken every week during the FMLA leave. This would create additional work for employers as well as employees. In addition, if there are discrepancies between employee and employer accounts regarding the amount of FMLA leave an employee took, it would require additional investigation by OED staff, potentially delaying the employee's application for Paid Leave Oregon benefits. Given that employees can take FMLA in hourly increments, while they can only take Paid Leave Oregon benefits in increments of a full workday, OED would also have to develop a mechanism to convert hourly leave into workdays. Converting leave amounts and correctly reducing available leave weeks and remaining benefit amounts would likely create confusion for employees and employers, require significant programming changes to the Frances Online system, create administrative costs, and potentially reduce staff resources available to address other critical issues within the Frances Online system.

While some other states with PFML programs intend to reduce available benefits amounts for FMLA leave the employees takes before taking paid leave, it is noteworthy that most of these programs haven't started yet, meaning that there are limited data points on how often stacking occurs and how effective such an approach is.

Considering both the benefits and drawbacks of making a programmatic change to the coordination of Paid Leave Oregon and FMLA benefits, OED recommends keeping the statute as is and allow stacking for a few situations if an employee takes FMLA and then Paid Leave Oregon. A change could create disparities for how much Paid Leave Oregon employees can get based on whether their employer is covered by FMLA or not, or even between employees at the same employer if one employee is covered by FMLA and the other is not. A change would also take significant administrative effort from employers, employees, and OED staff as well as major reprogramming of Frances Online. The potential for stacking has been significantly reduced thanks to past actions of the Oregon Legislature around OFLA. This topic can be revisited in the future once OED can see how approaches being explored in other PFML states are working, and after Oregon has had a chance to fully stabilize its program.





Daily versus hourly leave increments for Paid Leave Oregon

Current Paid Leave Oregon law and standard operating procedures

The statute¹² stipulates that employees must claim Paid Leave Oregon benefits in full-day increments and that they can take leave consecutively or intermittently. Consequently, employees can't claim Paid Leave Oregon benefits in partial-day or hourly increments. OED has more closely defined the terms workday and workweek in administrative rule.¹³

Based on this statutory requirement, as well as the requirement that an employee can take a maximum of 12 weeks in a benefit year (14 weeks if they also experience limitations related to pregnancy), OED calculates an employee's available leave by multiplying the number of workdays they work on average in a workweek by 12. This calculation also considers other potential restrictions, such as the number of leave days required in a week due to a serious health condition as attested to by a health care provider. When OED approves an employee's leave, the employee receives a Paid Leave Oregon Benefits Decision letter, which lists their maximum available leave amount in workdays during their requested leave. To send benefit payments and to track an employee's remaining leave, the Frances Online system reduces an employee's remaining available leave benefits and leave weeks according to how many days of leave an employee took in each workweek.


Daily versus hourly leave increments in other states with PFML programs

Statutory requirements and administrative rules regarding daily versus hourly leave increments in other states with PFML programs vary, especially in the context of intermittent or reduced schedule leave. Like in Oregon, Delaware, Washington D.C., and New York employees can't claim paid leave benefits in less than full workdays. In Washington, employees must claim benefits in increments of at least eight consecutive hours, but the hours can be split into subsequent shifts (for example, a person can take four hours in the afternoon on Tuesday and four hours in the morning on Wednesday, which is eight consecutive hours). In New Jersey and Maine, employees must claim leave in daily increments unless the employer allows smaller increments. California, Colorado, and Massachusetts allow the employee to take leave in hourly increments;

¹² [ORS 657B.090\(3\)\(a\)](#) Claim for benefits; leave increment requirements.

¹³ [OAR 471-070-1000\(28\) & \(29\)](#) Benefits: Definitions






however, benefits in Colorado and Massachusetts are not payable until the employee has reported at least eight hours of leave.

Please refer to Table 2 for more details on daily versus hourly leave increments in other states with PFML programs.

Table 2: Daily vs hourly leave increments in states with PFML programs

State	Allowable leave increments
California	<ul style="list-style-type: none">• Employees may take intermittent leave if they have a wage loss due to disability or family care. Claimant must report wages earned during an intermittent leave week, and benefit payment is based on this information.• Employees may take intermittent leave in hourly, daily, or weekly increments, if allowed by the employer.
Colorado	<ul style="list-style-type: none">• Employees may take leave in increments of one hour or shorter periods if this is consistent with the leave increments the employer uses.• Benefits are not payable until the employee accumulates at least eight hours of leave.
Connecticut	Employees can take leave on a reduced leave schedule where the usual number of work hours per workday is reduced.
Delaware	Employees must take leave in increments of at least one workday.
District of Columbia (D.C.)	Employees must take leave in increments of at least one workday. Benefits are not payable for days that the employee performs any work for their employer.
Maine	Employees may take intermittent leave in increments of not less than eight hours unless the employer and employee agree to an intermittent or reduced leave schedule in smaller increments.
Maryland	<i>The program goes live in 2026. Rules are in draft format.</i> Employees may not take intermittent leave in increments of less than four hours, unless an employee's scheduled shift is less than four hours.





State	Allowable leave increments
Massachusetts	<ul style="list-style-type: none"> Employees may take leave on a reduced leave schedule where the usual number of work hours per workday is reduced. Benefits are not payable until the employee reports at least eight hours of leave.
Minnesota	<p><i>The program goes live in 2026. Administrative rules are under development. Proposing to write rule on intermittent leave requirement:</i></p> <ul style="list-style-type: none"> The employee's qualifying event, except for bonding leave, must be at least seven days in duration but leave can be taken intermittently in smaller increments. Hours of leave the employee takes will be deducted from leave balance.
New Jersey	<ul style="list-style-type: none"> Employees can claim leave on a reduced leave schedule in daily increments, unless the employer and employee agree on shorter increments. Employee may receive up to 56 individual days of leave in a 12-month period.
New York	Employees must take leave in increments of full workdays.
Rhode Island	<ul style="list-style-type: none"> Part-time leave, where the employee works reduced hours in a workweek, is allowable under the temporary disability program (for example, medical leave for a serious health condition). Part-time leave is not allowable under the temporary caregiving insurance program (for example, leave to care for a family member or to bond with a baby after birth).
Washington	<ul style="list-style-type: none"> Benefits are not payable until the employee misses at least eight consecutive hours of work in a week. This can mean a full eight-hour shift, the last four hours of a shift and first four hours of next shift, or two four-hour shifts in a row.

Source: Oregon Employment Department





Advantages and drawbacks of hourly programmatic change

With few exceptions,¹⁴ following the passing of SB 1515, employees can't take bonding, medical, or family leave in hourly increments, given the statutory requirement that Paid Leave Oregon must be taken in increments of at least one full workday.

This requirement restricts the flexibility of employees who are taking intermittent leave, as they can't take hourly leave. It may negatively impact employees who need leave for their own medical appointments or the appointments for a family member with a serious health condition but can then work the remainder of the workday. It also affects employees with chronic serious health conditions who begin their workday but whose condition then prevents them from working the entire workday. Furthermore, the requirement prevents employees who work for more than one employer on a given workday and who can't perform duties for one of their jobs, but can work in another, to take leave from only one employer.

While a statutory change allowing employees to use Paid Leave Oregon benefits in hourly increments would address the issues outlined above and may help employers and employees, OED doesn't recommend a statutory change in the short or medium future. Paid Leave Oregon, as a benefits program, is entirely structured around daily and weekly leave increments, as these are currently defined in Paid Leave Oregon statutes. Shifting this foundational approach to the program, from daily to hourly leave increments, would require significant work to change how the Frances Online system calculates and pays Paid Leave Oregon benefits. It would require extensive analysis and testing to make sure that these structural changes don't have adverse impacts on the public. In addition, such a change would require changing numerous administrative rules, most of the public material for employers and employees, and retraining OED staff. This would be a major change, and both significant planning and waiting until the program is stabilized would be necessary for a smooth implementation. For instance, there are many questions about how to implement such a policy change for individuals who have active Paid Leave Oregon claims. Also, such a significant change at this point would likely adversely impact OED's ability to provide timely customer service and would need careful consideration and longer-term planning.

¹⁴ Under OFLA, eligible employees may still take pregnancy disability leave, bereavement leave and leave to provide care for a child who requires homecare due to illness, injury, or a condition that is a serious health condition in hourly increments.





What claim information OED gives to employers and employer response requirements

Current Paid Leave Oregon law and standard operating procedures

The Paid Leave Oregon statute allows an employer to require an employee to give them a written notice at least 30 days before the start of their Paid Leave Oregon benefits, if the leave is expected. If their leave is unplanned, they must tell their employer within 24 hours of the start of leave, followed by written notice within three days.¹⁵ The employer must notify OED if the employee didn't provide the required notice.

For an employer to accurately inform OED about this, OED gives them information about the employee's Paid Leave Oregon application for benefits. The statute doesn't specify when OED must notify an employer and within what time frame the employer must respond. OED outlines in administrative rule¹⁶ that OED will notify the employer when an employee has applied for Paid Leave Oregon benefits and give them information about the employee's claim. OED provides this information in the Notice of Employee Filing a Paid Leave Claim letter that includes the employee's name, date of birth, requested leave start and end date, if the employee requested an intermittent or consecutive leave schedule, and if the employee indicated that they gave notice to the employer. The employer may respond to the notice from OED within 10 days to report if the employee gave the required notice and to provide additional information about the claim. OED only processes an employee's claim once the employer has responded or once the 10-day time frame has passed, whichever happens earlier.

As per administrative rule,¹⁷ OED again notifies the employer when it has approved or denied a claim. OED issues the Notice of Paid Leave Claim Decision letter to the employer. If OED approves the claim, the letter includes the same information as above, but also includes the approved leave amount, specifically the number of workdays that the employee may take off. OED doesn't share the leave type (family, medical, or safe leave), the employee's average weekly wage, or the benefit amount with employers.

¹⁵ [ORS 657B.040](#) Notice to employers prior to commencing leave; exceptions

¹⁶ [OAR 471-070-1310](#)(8) Benefits: Employee Notice to Employers Prior to Commencing Leave, [OAR 471-070-1320](#)(1) Benefits: Communication to Employers and Employee Application for Benefits

¹⁷ [OAR 471-070-1320](#)(4)





Claim information provided by agencies to employers and employer response requirements in other states with PFML programs

The information shared with employers in the other 13 states (including Washington D.C) with PFML programs varies. Ten states (77%¹⁸) tell, or plan to tell, the employer when an employee files a claim for paid leave benefits and in most cases what they decide on the application. Paid leave benefits in Delaware are employer-administered, so the employer is already familiar with the employee's claim details. Rhode Island's program sends the employer a form asking them to confirm the employee's last day of work. This notification functions as an indication that the employee applied for leave, but this is not made explicit, and the program doesn't share any other claim information due to confidentiality restrictions. Insurance carriers administer benefits in New York and the employee must ask the employer to fill out part of their application for benefits, thereby indicating that they are applying. Insurance carriers don't have to share the claim outcome with the employer.

Based on the information available to OED, among the states telling employers about an employee's claim, the most commonly shared information is the leave dates (80%¹⁹), leave schedule (60%²⁰), the benefit amount (50%²¹), leave type (50%²²) and identifying information, such as last four digits of an applicant's Social Security Number (SSN), or Individual Taxpayer Identification Number (ITIN), or date of birth (40%²³). Regarding the benefit amount, it is relevant to note that information shared varies between states and may include the weekly benefit amount, the daily benefit amount, the maximum benefit amount, and the average weekly wage. There is a difference between sharing with the employer how much an employee may receive in a week versus how much an employee actually receives. The employee may have a reduced benefit payment due to taking a partial week of leave or not notifying their employer in the required time frame. Overall, Connecticut and Colorado stand out as states who share the most information with employers, including both the leave type and benefit amount. However, it is important to note that the programs in Maine and Maryland have thus far only specified that they will notify the employer but have not yet provided information on what they will share with the employer.

¹⁸ California, Colorado, Connecticut, Washington D.C., Maine, Maryland, Massachusetts, Minnesota, New Jersey, and Washington

¹⁹ California, Colorado, Connecticut, Washington D.C., Massachusetts, Minnesota, Washington, and Oregon.

²⁰ Colorado, Connecticut, Washington D.C., Massachusetts, Minnesota, and Oregon.

²¹ Colorado, Connecticut, New Jersey. If authorized by employee: California and Washington D.C.

²² Colorado, Connecticut, Massachusetts, New Jersey, and Washington

²³ California, Colorado, Massachusetts, and New Jersey



In addition to sharing information, the other 13 states (including Washington D.C) with PFML programs also vary regarding employer response requirements to a notice from the agency or as part of an employee's application for benefits. Colorado appears not to require a response to the program's notice within a certain time frame and benefits in Delaware are employer-administered. Out of the other 11 states, 73%²⁴ ask the employer to confirm specific employment information, either in response to a notice or as part of the application process. Washington gives the employer the opportunity to contest an employee's eligibility, and Maine and Maryland intend to provide a similar opportunity. Required time frames for a response range from two to 18 days, with a median of seven days.

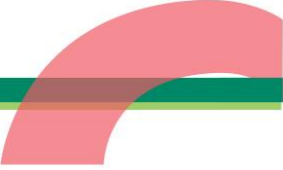
Please refer to Table 3 for detailed information on the specific information shared with the employer by each state and the employer's response requirements, if applicable.

Table 3: Claim information provided by other agencies to employers and employer response requirements in other states with PFML programs

State	Information shared with employer	Employer response requirement
California	<ul style="list-style-type: none"> Employee's name Social Security Number Reported last day worked PFML claim date Benefit amount if authorized by employee 	The employer must respond to the notice from the department within two working days to verify the information the employee provided.
Colorado	<p>The program notifies employers within five days of an application filing.</p> <p>Information shared via online employer portal:</p> <ul style="list-style-type: none"> Employee's name Date of birth Last four digits of SSN or ITIN Claim number Claim status Leave schedule 	No apparent response requirement.


²⁴ California, Connecticut, Washington D.C., Massachusetts, Minnesota, New Jersey, New York and Rhode Island.






State	Information shared with employer	Employer response requirement
	<ul style="list-style-type: none"> Employee's regular work schedule (hours or week) Leave start and end date <p>Employer must attest online to the need for receiving the following information:</p> <ul style="list-style-type: none"> Claim type (qualifying event) – family leave also shows care claimant relationship Average weekly wage Weekly wage replacement amount 	
Connecticut	<ul style="list-style-type: none"> PFML benefit case ID Leave type Leave schedule Date leave begins Requested leave dates Weekly benefit amount 	<ul style="list-style-type: none"> The employee must provide the employer with the employment verification form when applying for leave. The employer must complete the form within 10 days. If the employer doesn't respond, the employee may notify the department and the authority may contact the employer and at its discretion issue a subpoena.
Delaware (DE)	<p><i>The program goes live in 2026.</i></p> <p>Not applicable, as the employer is responsible for administering the PFML program with assistance from the Delaware paid leave administration system.</p>	n/a





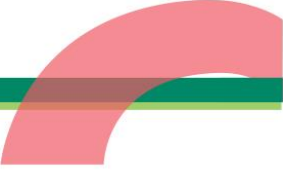
State	Information shared with employer	Employer response requirement
District of Columbia (D.C.)	<ul style="list-style-type: none"> • If the program has approved or denied the claim for PFML benefits • Start date for the payment of PFML benefits • Leave schedule - if intermittent, the scheduled days on which benefits will be payable • Expected leave end date • Weekly benefit amount, and the equivalent daily benefit amount, if authorized by employee 	<ul style="list-style-type: none"> • The department requests employment information from the employer and the employer has four business days to respond. • If the employer doesn't respond, the program processes the claim based on available information.
Maine	<p><i>The program goes live in 2026. Administrative rules are in draft form.</i></p> <p>The program will notify employers within five business days after an employee files a claim.</p>	<p>The employer must send any additional information regarding the claimant's eligibility within 10 days of the department's notification. The program doesn't process claims until 10 days have passed.</p>
Maryland	<p><i>The program goes live in 2026. Administrative rules are in draft form.</i></p> <p>The program will notify employers within five business day after:</p> <ul style="list-style-type: none"> • An employee files a claim • The program makes a claim decision • An employee files an appeal • The program makes a change to a decision. 	<ul style="list-style-type: none"> • The employer has three business days to respond to a notice from the department that an employee has filed a claim. • If the employer doesn't respond, the program considers the application complete.
Massachusetts	<p>The program will notify employers when an employee starts and sends</p>	<ul style="list-style-type: none"> • The program requests information from the






State	Information shared with employer	Employer response requirement
	<p>an application and again when the program completes its review. Information the program shares via online employer portal:</p> <ul style="list-style-type: none"> • Employee's name • Identifying information (last four digits of SSN, DOB) • Application ID • If the program approved or denied leave • Leave type • Expected duration of the leave • Leave schedule • Weekly hours worked • Reported employer-sponsored benefits • Date of application 	<p>employer regarding the employee's previous use of other leave (FMLA), wage or earnings for the past 12 months, full or part-time schedule, weekly hours worked, receipt of wage replacement benefits, and if on approved current FMLA leave.</p> <ul style="list-style-type: none"> • The employer has 10 days to respond. If they don't respond, the program processes the claim based on available information.
Minnesota	<p><i>The program goes live in 2026. Administrative rules are under development. They are proposing to write a rule on when to notify employers and what information to share.</i></p> <p>The program will notify the employer when an employee starts and sends an application, and again when the program makes a decision or if there is a change to the leave schedule.</p> <p>Information to be shared:</p> <ul style="list-style-type: none"> • Leave dates • Other qualifying leaves • Other payments employee will receive during leave 	<ul style="list-style-type: none"> • The program intends to request information from the employer regarding the employee's previous use of other leave (FMLA) or payments received during leave and the employee's work schedule. • The employer has up to seven days to respond. If they don't respond, the program processes the claim based on available information.





State	Information shared with employer	Employer response requirement
	<ul style="list-style-type: none"> • Leave schedule for intermittent leave • Typical work week reported 	
New Jersey (NJ)	<p>The program sends a form to tell the employer that the program has approved their employee's PFML application. Information shared on form:</p> <ul style="list-style-type: none"> • Employee's SSN • Date of claim • Claim received • Mailing date • Employee's base year (start and end dates) • Employee's name and address • Employee's covered NJ earnings in the base year (wages and base weeks) • Claimant's entitlement (weekly benefit rate and maximum benefit amount) • Reason benefits have been reduced (for example, for benefits received under a temporary disability law of another state) 	<ul style="list-style-type: none"> • The department may request additional employment information from an employer. The employer must respond within 10 days of the mailing date. • The employer may request an appeal of the department's decision within seven days of the notice being delivered or within 10 days of mailing.
New York	<ul style="list-style-type: none"> • The employer fills out the employer section of the employee's application for benefits. • Insurance carriers are not legally obligated to share claim decisions with employer but can 	<ul style="list-style-type: none"> • The employer must complete and return the employer section to the employee's application within three business days.






State	Information shared with employer	Employer response requirement
	work with employer on the process.	
Rhode Island	<ul style="list-style-type: none"> The program sends the employer a form with employee's name, SSN, and stated last day of work to verify the last day the individual performed services. Due to confidentiality reasons, the program doesn't share any other information with the employer. 	<ul style="list-style-type: none"> The employer must respond to the form within five working days of mailing date.
Washington	<ul style="list-style-type: none"> Employee's name Benefit claim ID Application date If the program approved or denied the claim Requested and approved leave dates Leave type The date the employee provided notice to their employer, or if they didn't give notice Decision on weekly claims: <ul style="list-style-type: none"> Waiting week Yes = approved and paid week No = denied or unpaid week 	<ul style="list-style-type: none"> No apparent response requirement to notice. Employer may contest employee's application for benefits within 18 days if they don't think the employee is eligible

Source: Oregon Employment Department

Advantages and drawbacks of information provided by OED to employers programmatic change

OED provides employers with three out of the five most shared pieces of information (leave dates, leave schedule, and identifying information like the date of birth). OED





initially made the decision to not share the leave type or benefit amount with employers to protect potentially sensitive employee information. While the employer can require the employee to share the leave type as part of the written notice to the employer,²⁵ OED decided not to share this information preemptively to be mindful of employees who find themselves in a vulnerable situation. For example, an employee may not wish their employer to know that they are taking safe leave, especially in cases where the need for safe leave is connected to their employment situation. Sharing the average weekly wage or weekly benefit amount with an employer may reveal whether an employee has another job, or the amount of money made at previous jobs. The employee may not wish to share this information with their employer if they fear retaliation or discrimination.

Conversely, not sharing the leave type with the employer may create confusion for the employer. For example, if an employee files multiple Paid Leave Oregon claims, their employer could receive multiple notifications with different leave dates and potentially different leave schedules, but no other distinguishing features. Adding the leave type to the employer notification would help distinguish between different claims.

Regarding the benefit amount, SB 1515 amended ORS 657B.030²⁶ to allow an employee to use accrued employer-provided leave in addition to Paid Leave Oregon benefits to the extent that the combined amount is equal to the employee's full wage replacement. The employer may choose to allow an employee to use a combined amount greater than the full wage replacement. Without sharing the benefit amount, employers may not accurately calculate how much an employee can add using accrued leave without exceeding their full wage replacement.


OED doesn't recommend sharing the leave type with the employer because the employer can request the leave type from the employee as part of the employer notice and the program doesn't wish to preemptively share potentially sensitive information, for example, in the case of safe leave claims.

However, given the changes made by SB 1515, OED recommends clarifying that OED can share the benefit information with employers as needed for them to calculate the employee's full wage replacement. OED believes it has authority to do this, but clarity in statute could be helpful. OED is working on administrative rule changes, and technology and process changes, that would allow sharing the maximum allowable

²⁵ [OAR 470-070-1310\(4\)\(b\)](#) *Benefits: Employee Notice to Employers Prior to Commencing Leave*

²⁶ ORS 657B.030(2)(a) (section 5 of [SB 1515](#)) *Use of other paid leave benefits in addition to paid family and medical leave insurance benefits*





weekly benefit amount, or the actual weekly benefit amount paid with employers. OED is also considering different approaches to implementing this change. While more accurate, it is currently not feasible to share the actual weekly benefit amount paid with employers on a weekly basis without significant changes to the Frances Online system programming. OED could share the maximum allowable weekly benefit amount more easily as part of the existing notification letters to the employer. While sharing the maximum allowable weekly benefit amount may assist employers, they still may not find the information shared timely for their payroll needs as employees can apply up to 30 days after they take Paid Leave Oregon.

Advantages and drawbacks of employer response programmatic change


OED is aware of concerns regarding the 10-day employer response time frame, because waiting for the 10 days to pass before processing an employee's claim, if the employer has not responded, can delay processing. This presents an issue if a claimant didn't provide all required information on a claim, but OED only notifies them about missing or incomplete documentation in a delayed manner because of a non-responsive employer, as staff don't begin processing a claim until after the 10 days. Processing delays may disproportionately impact claimants who are concerned about their employer taking disciplinary action against them if they can't promptly provide an approval notice for their requested leave and may potentially discourage them from taking leave.

Conversely, a shorter time frame may burden employers with less administrative capacity and can potentially increase the risk of Paid Leave Oregon overpayments, if the program processes a claim without employer information. In addition, shortening the time frame is associated with an administrative burden as it would require a change to the Frances Online system programming as well as retraining staff. This would reduce staff capacity to address other known issues that are critical for OED.

OED is considering shortening the employer response time to five to seven days to help with processing times. This can be done by administrative rule²⁷ as statute doesn't require OED to provide an employer with a specific response time frame. Based on internal program data, 73% of employers who provide a response to OED did so within five days. When including non-responsive employers, 30% of employers respond within five days and 34% within seven days. This data indicates that a shorter response time frame of five to seven days may be feasible. OED believes this is a

²⁷ [OAR 471-070-1310\(8\)](#) Benefits: Employee Notice to Employers Prior to Commencing Leave





good programmatic change to make and will explore, through the required administrative rule changes, what time frame makes the most sense along with how quickly staff can implement the programming without causing undue risk or delay of other needed programmatic changes.

Allowable time frame for applying for Paid Leave Oregon

Current Paid Leave Oregon law and standard operating procedures

The statute doesn't specify details regarding the time frame for applying for Paid Leave Oregon benefits but defers to OED to develop a process by administrative rule. OED has outlined in administrative rule²⁸ that the earliest an employee may apply for benefits is up to 30 days before or after starting leave. OED denies applications employees send outside of this time frame, unless they can show good cause for applying late. If the program finds good cause, it may accept an application up to one year after the start of leave. Good cause for late applications can be established if a claimant's serious health condition results in unexpected incapacity or if the claimant can't apply due to a natural disaster or system outage.

Allowable application time frame in other states with PFML programs

Like previous topics discussed in this report, other states with PFML programs have varying requirements regarding the allowable time frame for applying for benefits.

Regarding advance filing, 23%²⁹ of states don't allow an employee to apply for benefits before the qualifying event has begun. New Jersey allows an employee to start a draft application up to 60 days in advance, but the employee can only send the final application on the first day of the requested leave. 54%³⁰ of states allow advance filing. The allowable time frame ranges from 30 days in advance to 60 days in advance, with a median of 60 days. It is notable that employees in Colorado may apply ahead of the start of leave but to receive benefits they must mark their leave as started in the program's online benefit system. New York leaves it up to the administering insurance carriers to allow pre-filed claims and OED didn't find any information about advanced filing in Delaware as the program hasn't started.

²⁸ [OAR 471-070-1100](#)(4) & (5) *Benefits: Application for Benefits*

²⁹ Rhode Island, Washington D.C., and Washington

³⁰ California, Colorado, Connecticut, Maine, Maryland, Massachusetts, and Minnesota




Eleven out of 13 states allow an employee to apply for benefits following the start of leave. No information on retroactive filing was available for New York and Minnesota. The time frame for retroactive filing ranges between 30 days and 90 days following the start of leave, with a median of 30 days. Most states will accept late applications beyond the allowable time frame if the employee can demonstrate good cause.

Please refer to Table 4 for detailed information on the allowable application time frames in each state.

Table 4: Allowable application timeframe in states with PFML programs


State	Allowable application time frame	Standard operating procedures
California	<ul style="list-style-type: none"> The Legislature passed a bill in the 2024 legislative session to allow filing an application for benefits up to 30 days before the first payable day of leave. The employee may file up to 41 days after the first payable day of leave. 	Employees don't have to send documentation when they apply, but the application may be delayed if not received.
Colorado	<ul style="list-style-type: none"> The employee may file an application for benefits up to 30 days before or after starting leave. If the program receives the application later than 30 days but less than 90 days after leave has started, good cause is considered. 	To receive benefits, the claimant must provide all required documentation and indicate in the program's online system that they have started their leave, otherwise the application is not considered filed.
Connecticut	<ul style="list-style-type: none"> The employee can apply for benefits up to 45 days before or after starting leave. If the employee sends an application later, good cause may be considered. 	<ul style="list-style-type: none"> Employees are encouraged to apply 30 days in advance, instead of 45. Employees don't have to send






State	Allowable application time frame	Standard operating procedures
		documentation at the time they apply, but they must do it before leave starts.
Delaware	<p><i>The program goes live in 2026. Administrative rules are in draft form.</i></p> <ul style="list-style-type: none"> • No information on if applying in advance is allowable as the employer is the one responsible for administering the program. • If the health care provider has not sent the required documentation 30 days after claim, the employer will deny. Claim will be automatically reinstated if documentation is received within 60 days of denial. 	Employer administers the benefits.
District of Columbia (D.C.)	<ul style="list-style-type: none"> • The employee can't apply for benefits in advance of the qualifying leave occurring. • The employee can apply retroactively if they send their application within 30 days after the requested leave dates and within 30 days after the qualifying event occurred. • If the employee sends an application later, the program may consider good cause. 	The program will deny applications that employees send before the qualifying event happens.
Maine	<p><i>The program goes live in 2026. Administrative rules are in draft format.</i></p>	





State	Allowable application time frame	Standard operating procedures
	<ul style="list-style-type: none"> The employee can apply for benefits 60 days in advance and up to 90 days after starting leave. The program can waive the 90-day requirement for good cause. 	
Maryland	<p><i>The program goes live in 2026. Administrative rules are in draft format.</i></p> <ul style="list-style-type: none"> The employee can apply for benefits up to 60 days before or after starting leave. The program can waive the 60-day requirement for good cause. 	
Massachusetts	<ul style="list-style-type: none"> The employee can apply for benefits up to 60 days before the first day of leave. They can file retroactively if needed for leave that is unexpected. The program may reduce benefits if employees apply more than 90 days after leave starts. 	
Minnesota	<ul style="list-style-type: none"> The employee can apply up to 60 days before their first day of leave. 	
New Jersey	<ul style="list-style-type: none"> The employee can start a draft application for benefits up to 60 days before the start of leave. The employee can file an application from the first day of leave up to 30 days after leave 	





State	Allowable application time frame	Standard operating procedures
	starts.	
New York	<ul style="list-style-type: none"> Insurance carriers administering benefits may accept pre-filed applications but aren't required to do so. 	Insurance carriers administer the program.
Rhode Island	<ul style="list-style-type: none"> The employee can't apply for benefits before starting leave. The employee must file Temporary Disability Insurance claims within 90 days of the first week out of work. They must file Temporary Caregiver Insurance claims within 30 days of the start of leave. 	
Washington	<ul style="list-style-type: none"> The employee can't apply for benefits in advance of the qualifying leave occurring. The employee may apply retroactively if they apply within 30 days of the qualifying event occurrence. 	


Source: Oregon Employment Department

Advantages and drawbacks of application time frame programmatic change

OED has heard from employee representatives that employees would like to apply for Paid Leave Oregon benefits more than 30 days in advance of the leave start date, given that it currently, on average, takes the program around 30 days to process an application and pay benefits.

If an employee needs to start leave without having received an approval notification from OED, it may put them in a vulnerable position. First, it may cause financial difficulty, especially for lower-wage earners who may not have access to employer-provided benefits. Unless the employee can take accrued paid leave through their employer, going on leave before receiving an approval notice means the employee initially doesn't receive any wage replacement until OED approves their application.





Secondly, employees may feel unsure about going on leave receiving any confirmation from OED that it has indeed approved the employee for a certain amount of leave. Similarly, employers have expressed uncertainty around how long they must keep an employee's position open, without knowing if the program has approved their Paid Leave Oregon benefits.

Conversely, extending the allowable advance application period to more than 30 days also presents some challenges. Health care providers may not be able to sign verification documentation further in advance, especially when the dates of a medical procedure are not known earlier. While an employee can apply for benefits without verification documentation, the program doesn't consider an application complete until it has received the documentation. Next, when an employee applies for benefits further in advance, it may increase the likelihood that an employee will then change their leave dates. This increases staff workload in processing claim amendments and may increase the risk of the employee receiving an overpayment if the employee received paid leave benefits, but they didn't start their leave when anticipated. A change in time frame would also require an administrative effort and additional staff capacity, as well as an administrative rule amendment and some changes to the Frances Online programming and additional training for staff.

OED has considered making changes to the time frame for applying by administrative rule³¹ and associated standard operating procedures. However, OED is analyzing the potential administrative rule change in a thoughtful way to avoid causing problems for employers and employees or delaying other changes and work that will have a large impact on improving how OED serves the public.

Employment identification for the purpose of Paid Leave Oregon


Current Oregon law and standard operating procedures

When an employee applies for Paid Leave Oregon, the administrative rule³² requires them to provide information about the employment they are requesting leave from work. When an employee applies via the Frances Online system, it typically shows them their employment history for the past 18 months. If an employer doesn't automatically appear in the employee's history, Frances Online asks the employee to add any employers that are missing. The employer history information is based on the

³¹ [OAR 471-070-1100\(4\)](#) Benefits: Application for Benefits

³² [OAR 471-070-1100\(1\)\(c\)](#) Benefits: Application for Benefits






employer's quarterly payroll report filing and if the employer didn't file or transposed the employee's identification number, then the employer may not automatically appear in the employee's history. To Add employers that are missing, the employee must enter the employer's Business Identification Number (BIN) or Federal Employer Identification Number (FEIN) to correctly identify the employer. This can present a challenge, as employees may not always have their employer's BIN or FEIN, which can delay application processing. It is very common for the employee not to know the correct BIN or FEIN if they work for an entity that is part of a larger employer or group of related business entities, as the employee may not be aware of this. This is especially true for certain types of employment such as home care workers, who work for a consumer employer, but are paid by a government entity.

For purposes of Paid Leave Oregon, individuals are generally considered employees if they receive a Form W-2 and are generally employed by the employer that withholds Paid Leave Oregon contributions from their paycheck and reports their wages on quarterly payroll reports. If an employee chooses the incorrect employer, OED has created standard operating procedures for staff, so they request additional information from the employee to identify their employer's correct BIN or FEIN.

Case study: Employment classification of home care workers in Oregon

The employment classification of home care workers in Oregon is particularly complex and has caused some confusion for those who apply for Paid Leave Oregon benefits. In most situations, there are three main categories of employees in Oregon that carry out work in the home care domain: personal care attendants (PCAs), personal support workers (PSWs) and home care workers (HCW). These employees have an employment relationship with one or more consumer-employers, meaning the individual or individuals they provide care for, or their representative. The consumer-employer selects the HCW they wish to hire and may also end the employment relationship. The HCW and consumer-employer also agree on the terms of employment. However, job applications, initial work authorization, and other administrative matters are handled through different Oregon state government agencies and consumer-employers have a case manager with the respective agency who acts as the consumer-employer's agent. PCAs apply through the Oregon Health Authority's (OHA) Office of Developmental Disabilities Services, PSWs apply through OHA's Health System Division, and HCWs apply through the Oregon Department of Human Services' (ODHS) local Aging & People with Disabilities (APD) offices. While all HCWs apply through different agencies, and consumer-employers verify their time entry for time worked, many of these HCWs receive pay and a Form W-2 through





ODHS. Even though the relationship between the HCW and consumer-employer is treated as an employment relationship as per ODHS' administrative rule,³³ most HCW receive their pay and Form W-2 through OHDS and ODHS is the employer on record for those HCW for purposes of Paid Leave Oregon (and for unemployment insurance).

Employment identification in other states with PFML programs

Concerning HCW, states vary regarding if they or other domestic employees are hired directly by the household, they provide services for or if they are hired through a government agency. California and Connecticut have a similar provision to Oregon, where HCWs work directly with a consumer-employer or their family. California pays them through In-Home Support Services (IHSS), a program within the California Department of Social Services. Connecticut pays HCWs through a 'fiscal intermediary,' a company that has a contract with the Connecticut Department of Social Services.


Advantages and drawbacks of employment identification programmatic change

There has been some confusion among employees, in particular employees who work for large employers with multiple legal entities (with multiple BINs or FEINs), and in specific industries, like HCWs, about who their employer is for Paid Leave Oregon purposes. For example, HCWs who apply for Paid Leave Oregon benefits tend to give the required notice to their consumer-employer and enter information about their consumer-employer when applying for Paid Leave Oregon. Furthermore, even when the employee knows that their employer is an Oregon government agency and not the consumer-employer, they may not have the correct BIN or FEIN for that employing entity. When they enter the wrong employer or the wrong BIN or FEIN, OED staff must identify the correct employer. All of these can cause delays in application processing.

Employment for Paid Leave Oregon purposes is generally based on the employer who pays the employee, withholds Paid Leave Oregon contributions, and reports employee wages on quarterly payroll reporting. It would create an inconsistency to make a change to this process for only certain employers, for example to recognize the consumer-employer as the employer for the HCW population, as they don't administer pay or withhold Paid Leave Oregon contributions. It also creates an additional administrative burden on the consumer who needs in-home care assistance with daily activities of living.

³³ [OAR 411-031-0040](#) Consumer-Employed Provider Program





OED doesn't recommend making a programmatic change, but instead recommends continuing ongoing outreach efforts to large employers throughout Oregon, including ODHS, as well as affected populations of employees. This will help employees applying for benefits learn the correct BIN or FEIN to enter. OED's Paid Leave Oregon leadership and outreach unit have already started this work and have seen positive results. With HCWs, OED has already had some initial conversations with ODHS and has, for example, discussed the possibility of ODHS providing HCWs with a letter that includes the correct BIN or FEIN. The letter could also explain that the HCW must provide notice to both the consumer-employer and ODHS. Similar outreach efforts are happening with other employers and groups of related employers where OED has seen challenges; however, due to confidentiality, we aren't sharing the names of the entities in this report. The program will continue this effort, so employees know who their employer is for purposes of Paid Leave Oregon.

Conclusion


Paid Leave Oregon is a large program that has just completed its first year of paying benefits. It takes several years to implement and refine a program this large. While OED recognizes that there is potential refinements needed in statute and policy, the agency balances that work with working on changes needed to increase customer satisfaction. OED wants to work with various groups to refine the Paid Leave Oregon program; however, OED needs to concentrate on stabilizing and implementing the original (and already changed) program policy in the next biennium and not have many other new changes.

The vendor that helped program the Frances Online system will be moving from the development phase for Paid Leave Oregon and Unemployment Insurance to a maintenance phase in March 2025.

Transferring to the maintenance phase means that some vendor developers will be leaving the project and OED's IT staff will be making more of the changes needed in the system going forward. During this transition, the improvements needed in the system may take a little longer than in the past due to OED IT staff learning.

During the 2023 and 2024 Legislative sessions, the overarching stacking issue with OFLA and Paid Leave Oregon was drastically reduced. Oregon doesn't have jurisdiction to change FMLA but has authority to make additional changes to OFLA and Paid Leave Oregon. Since the changes to OFLA are recent, OED recommends waiting to see how the changes play out before making additional changes.





While the Paid Leave Oregon Trust Fund is holding steady around 5.8 months of reserve expenditures and since the trust fund isn't quite at six months of reserve, making additional changes to Paid Leave Oregon may impact the trust fund; therefore, solvency of the Trust Fund should be kept in mind when considering programmatic changes.

Appendix

2025 OED legislative concepts related to Paid Leave Oregon

LC 483 – Other agency data gathering and sharing

OED is proposing a legislative concept (LC) to allow the Department of Revenue (DOR), Department of Corrections, and Division of Child Support at the Department of Justice to share information with OED to help administer Paid Leave Oregon and Unemployment Insurance (UI). This concept will allow OED to conduct joint audits, receive self-employed income information, receive employer related Form W-2 and Form 1099 income information, receive information on adults in custody, and receive newly hired employee information.

This concept will help OED decide if an individual is eligible for Paid Leave Oregon benefits as well as assess compliance with program administrative rules. It will also allow OED to decide if an employee has started a job with a new employer while on Paid Leave Oregon benefits as the employee can't work on the days they are receiving benefits. The proposed changes will help prevent OED from overpaying benefits to customers and enhance the integrity of the respective trust funds.

LC 483 is similar to a bill introduced on behalf of OED during the 2023 Legislative Session ([HB 2290](#)) that didn't pass due to concerns about a potential fiscal impact. OED and DOR have worked closely together to refine the concept and address those issues. The concept has a proposed retroactive start date of Jan. 1, 2023, when Paid Leave Oregon contributions began.

This concept is supported by OED, DOR, Department of Corrections, the Oregon State Sheriff's Association, and the Department of Justice. OED has shared LC 483 with the Paid Leave Oregon Advisory Committee, which includes employers and employee representatives, and no members raised concerns or objections.






LC 486 – Various changes and technical corrections

OED is recommending several statutory changes to Paid Leave Oregon to provide clarification. Below is a high-level summary of the five clarifying changes suggested.

- **Federal unemployment insurance benefits** - Clarifies that an individual doesn't qualify for Paid Leave Oregon benefits if they are receiving Unemployment Insurance under any state or federal law that provides wage-replacing unemployment compensation. This will treat individuals the same when receiving different types of unemployment benefits.
- **Paid leave benefits if the trust fund is low** - Clarifies what OED must do if the Paid Leave Oregon Trust Fund runs low on funds. This LC outlines that OED will:
 1. Regularly assess solvency of the Trust Fund
 2. Pause the payment of Paid Leave Oregon benefits and grants if the amount in the fund drops below a threshold necessary to cover all program expenses (benefit payments, grant payments, and operating costs)
 3. Notify the public prior to pausing payments
 4. Pay certain amounts first if some money, but not necessarily the full amount needed to cover all liabilities, is added back into the trust fund
- **Application for benefits when the covered individual is incapacitated or deceased** - Clarifies that if a covered individual dies before applying for Paid Leave Oregon benefits, but would have qualified otherwise, another person can file the application or provide other information. It also adds language allowing OED to provide information about a claim, as necessary, to pay benefits to a person it has found represents the claimant when that claimant is incapacitated or has died.
- **Lay representation** – Clarifies that non-attorneys can represent the department, employers, and employees at Office of Administrative Hearings when participating in appeals of Paid Leave Oregon decisions.
- **Equivalent plan contributions** – Clarifies that employers must pay contributions for any quarters before the equivalent plan's approval date. The employer can still collect contributions from employees after the approval, but the employer can keep the contribution amount collected to use towards the cost of the plan's administration.





OED has shared LC 486 with the Paid Leave Oregon Advisory Committee and members raised concerns or objections.

LC 488 – Waiver of penalty and interest

OED is recommending a statutory change that allows it to waive penalties and interest for Paid Leave Oregon contributions and grant repayments. Also allow the director to write off contributions, grant repayments, penalties, or interest if the amount is uncollectible.

During the 2023 Legislative Session, [SB 912](#) (section 5) added language in the Paid Leave Oregon statute³⁴ that allows the director, when in the best interest of OED to help settle accounts, to waive, reduce, or compromise any part of the interest of penalties charged for benefit overpayments, aligning how these amounts are handled in Paid Leave Oregon with how they are handled for the Unemployment Insurance (UI) program.

While this language aligned how Paid Leave Oregon and UI treat benefit overpayment issues, there remain differences between how OED handles contributions or taxes and interest and penalties on those between UI and Paid Leave Oregon programs. UI allows a settlement like Paid Leave Oregon;³⁵ however, it also allows a write off of any tax, interest, or penalties if it is in the best interest of OED.³⁶ Because UI taxes and Paid Leave Oregon contributions are reported and paid on the same quarterly payroll report and collected from one section of the agency, it would be beneficial for agency administration, and less confusing for the employers we serve, if both programs are treated the same for collection purposes.

The proposal gives the same type of discretion for Paid Leave Oregon contributions, and their associated interest and penalties, as already exists for UI taxes, and as exists for both Paid Leave Oregon and UI benefit overpayments.

OED has shared LC 488 with the Paid Leave Oregon Advisory Committee and no members raised concerns or objections.

³⁴ ORS [657B.337 Cancellation of unrecoverable benefit payments and amounts of interest or penalties due and unpaid](#)

³⁵ ORS [657.515 Delinquent taxes; interest; civil penalties; collection by civil action; settlement](#)

³⁶ ORS [657.517 Authority of director to compromise or adjust debts or overpayments; determination of uncollectible amounts](#)

