

Attachment B

Massachusetts Paid Family and Medical Leave Self-Insurance Declaration Document

The employer has submitted a Request for Exemption for a:

☐ Family and Medical Leave Plan ☐ Medical Leave Plan ☐ Family Leave Plan

The purpose of this declaration is to provide documentation of self-insured coverage, to support a request for private plan exemption from the Massachusetts Department of Family and Medical Leave (DFML) for the provision of paid leave benefits under M.G.L. c. 175M.

1. Employer's Name, Address, and Contact

Name of Employer

Street

City

State

Zip Code

Contact:

Name of Contact Person

Email Address

Phone Number

2. The Employer intends to self-insure to comply with M.G.L. c. 175M, the applicable regulations at 458 CMR 2.00 and guidelines promulgated and published by the DFML to clarify procedures, practices, and policies related to the M.G.L. c. 175M and 458 CMR 2.00 (collectively referred to as "MA PFML Law").

3. Effective Date of Insurance Coverage:

- a. No later than the exemption effective date, for the following paid leaves:
- i. Leave for covered individuals who are unable to work due to their own serious health condition
 - ii. Leave for covered individuals to bond with a child during the first 12 months after the child's birth, adoption, or foster care placement
 - iii. Leave for covered individuals for qualifying exigency arising out of the fact that the covered individual's family member is a current member of the Armed Forces

- iv. Leave for covered individuals to care for a family member who is or was a member of the Armed Forces and who require medical care as a result of an illness or injury related to family members active service.
- b. No later than the exemption effective date, for the following paid leave:
 - i. Leave for covered individuals to care for a family member with a serious health condition

4. Certification of Employer: Plan Requirements

The Employer agrees that it will provide self-insured coverage to the Employer's covered individuals for benefits under MA PFML Law. For any employer requesting approval of a private plan exemption, a plan must be filed with the DFML to comply with the MA PFML Law.

The Employer agrees that the self-insured plan that is issued will comply with all requirements of the MA PFML Law including but not limited to the self-insured plan requirements listed below.

The Employer agrees that it will furnish a surety bond to the DFML in an amount and form required by DFML at <https://www.mass.gov/info-details/bond-requirements-for-approved-self-insured-plans>.

5. Acknowledgement by Employer

The Employer acknowledges and understands if this plan is not in force on exemption effective date, the Employer will be responsible for PFML contributions retroactive to the effective date of the exemption, and furthermore, the Employer may not collect retroactive contributions from employees to satisfy this requirement.

The Employer acknowledges and understands that if it is approved for a medical leave only exemption, it does not alleviate it of its obligation to remit family leave contributions to the Family and Employment Security Trust Fund ("Trust Fund"). If it is approved for a family leave only exemption, it does not alleviate it of its obligation to remit medical leave contributions to the Trust Fund.

Name of Employer

By its duly authorized representative,

Signature

Date

Name

Title

Self-Insured Private Plan Requirements

	Self-Insured Private Plan Requirements (M.G.L c. 175M, 458 CMR 2.00)	MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE DESCRIPTION
1.	ELIGIBILITY/COVERED INDIVIDUAL	<p>Covered Individuals under the plan will include the following individuals who meet the eligibility requirements of the MA PFML Law:</p> <ul style="list-style-type: none"> • All employees providing services in Massachusetts, including full-time, part-time, permanent, temporary, on call, per diem or seasonal employees who meet the eligibility requirements under the MA PFML Law; • former employees for 26 weeks after separation or until re-employed, whichever comes first; • Massachusetts 1099-MISC contract workers, if applicable.
2.	WAITING PERIOD (No benefits payable during the Waiting Period.)	<p>No more than 7 consecutive calendar days</p> <p>No Waiting Period will apply to Family Leave which immediately follows Medical Leave during pregnancy or childbirth.</p>
3.	QUALIFYING REASON AND MINIMUM DURATION: Medical Leave	In a Benefit Year, at least 20 weeks of paid leave for Covered Individuals if they are unable to work due to a serious health condition.
4.	QUALIFYING REASONS AND MINIMUM DURATIONS: Family Leave	<ul style="list-style-type: none"> • In a Benefit Year, at least 12 weeks of paid leave for Covered Individuals: <ul style="list-style-type: none"> *To provide care to a family member with a serious health condition; *To bond with a child during the first 12 months after the child's birth, adoption, or foster care placement; and *For a qualifying exigency arises out of the fact that a family member is a current member of the Armed Forces • In a Benefit Year, at least 26 weeks of paid leave for Covered Individuals to care for a family member who is or was a covered service member of the Armed Forces and who requires medical care as a result of an illness or injury related to the family member's active service.
5.	MINIMUM COMBINED DURATION FOR MEDICAL AND FAMILY LEAVE	In a Benefit Year, at least 26 weeks in the aggregate of Paid Family and Medical Leave.
6.	DEFINITION OF FAMILY MEMBER	Family member is defined as the spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the covered individual; a person who stood <i>in loco parentis</i> to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual.

	Self-Insured Private Plan Requirements (M.G.L c. 175M, 458 CMR 2.00)	MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE DESCRIPTION
7.	DEFINITION OF CHILD	Child is defined as the biological child, adopted child, foster child, step child, a child to whom the covered individual stands <i>in loco parentis</i> , a person to whom the covered individual stood <i>in loco parentis</i> when the person was a minor child or a child of whom the covered individual had legal guardianship regardless of age or dependency status.
8.	INTERMITTENT AND REDUCED LEAVE SCHEDULE	<p>The plan allows for leave to be taken intermittently or on a reduced schedule leave in accordance with the requirements of the MA PFML Law. The plan must indicate that intermittent leave shall be taken in increments consistent with the established policy the Employer or Covered Business Entity uses to account for use of other forms of leave. As Employers' policies may vary, the language of the plan may include options to account for these variations. The plan should stipulate the increment(s) for intermittent leave and describe any limits on payments, including when payments may be made.</p> <p>Intermittent or reduced schedule leave may be taken, if medically necessary:</p> <ul style="list-style-type: none"> • To care for a family member's serious health condition; • To care for a family member who is a covered service member; and • For the Covered Individual's own serious health condition <p>The plan will allow leave to be taken intermittently or on a reduced schedule basis, if the employer and employee agree to it, for leave to bond with a child during the first twelve months after the child's birth, adoption, or foster care placement.</p> <p>The weekly benefit amount will be prorated.</p>
9.	BENEFITS	Benefits to be paid will be at least equal to the benefits under the MA PFML Law.
10.	COVERED INDIVIDUAL CONTRIBUTIONS	Covered Individuals' contributions to the cost of the insurance will no greater than the amount of covered individuals' contributions permitted under the MA PFML Law.
11.	PRESUMPTIONS IN FAVOR OF AVAILABILITY OF LEAVE AND PAYMENT OF LEAVE BENEFITS	The plan will specifically state that all presumptions shall be made in favor of the availability of leave and the payment of leave benefits.
12.	EMPLOYER OBLIGATIONS	The Employer will ensure that it complies with all employer requirements and obligations contained in the MAPFML Law, including but not limited to:

	Self-Insured Private Plan Requirements (M.G.L c. 175M, 458 CMR 2.00)	MASSACHUSETTS PAID FAMILY AND MEDICAL LEAVE DESCRIPTION
		<ul style="list-style-type: none"> • Obligation to continue employer-related health insurance benefits during leave at the level and under the conditions that coverage would have been provided if the covered individual had continued working continuously for the duration of the qualified leave; • Job protection and job restoration requirements; • Non-retaliation requirements; and • Posting and notice obligations.
13.	NOTICE OF AND CERTIFICATIONS FOR LEAVE	<p>The Employer agrees that it will not impose requirements related to notice of the need for leave or the filing of a claim for benefits that are inconsistent with notice provisions in the MA PFML Law.</p> <p>The Employer agrees that the plan will not include certification or other proof requirements that exceed those permitted under the MA PFML Law</p>
14.	PROCESSING AND PAYMENT OF CLAIMS	The Employer agrees that it will comply with the time periods and other requirements related to processing and payment of claims that are set forth in the PFML Law.
15.	AMENDMENT OR EXTENSION OF LEAVE PERIOD	The Employer agrees that they will comply with the requirements of the PFML Law with regard to amendments or extensions of claims for MA PFML benefits.
16.	FITNESS FOR DUTY	The Employer agrees that it will comply with the requirements of the MA PFML Law with regard to requiring certification of Fitness for Duty.
17.	OFFSETS TO LEAVE BENEFITS	The Employer agrees that it will not seek to offset any amount against benefits owed to a covered individual except as specifically authorized by the MA PFML Law.
18.	STANDARD OF PROOF	The Employer agrees that it will not require a greater standard of proof for eligibility for leave benefits than is permitted under the MA PFML Law.
19.	EXCLUSIONS	The Employer agrees that it will not establish exclusions from coverage except as specifically permitted by the MA PFML Law.
20.	DEFINITIONS	The Employer agrees that all definitions in the plan will be consistent with terms that are defined in the MA PFML Law and that any term that is used in the plan that is defined in M.G.L. c. 175M, 458 CMR 2.00, or both will have the same meaning as set forth in the MA PFML Law.

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21.	COVERED INDIVIDUAL APPEALS	The Employer agrees that it will comply with and follow all requirements related to covered individual appeals of claim decisions that are set forth in the MA PFML Law.
22.	REVISIONS OF PLAN TO COMPLY WITH AMENDMENTS OR OTHER CHANGES TO THE MA PFML LAW	The Employer agrees that if there are any changes, amendments, or regulatory clarifications of provisions of the MA PFML Law, the plan and all claims practices will be promptly updated to comply with such changes, amendments or clarifications.
23.	TERMINATION OR MODIFICATION OF PLAN	<p>The Employer agrees that if coverage under the plan is terminated for any reason, it must comply with the requirements for transferring coverage to another compliant MA PFML fully insured private plan or comply with requirements for beginning or resuming participation in the state plan. The Employer agrees and understands that the DFML may establish requirements for payment of retroactive contributions if the Employer begins or resumes in the state MA PFML plan.</p> <p>The Employer agrees to provide prompt written notice to the DFML and covered individuals if coverage under this plan is terminated or modified.</p> <p>The Employer agrees that if coverage under the plan is terminated for any reason, it will continue to pay benefits on any claims for leave that commenced prior to the effective date of the termination of the plan.</p> <p>The Employer also agrees that they will comply with other requirements associated with termination and modification of plans as established by the DFML.</p>