

Department of Family and Medical Leave Requirements

An employer is expressly defined: “ an individual employer shall be determined by the Federal Employer Identification Number.” Also, “any employing unit” subject to unemployment laws.

Employers with fewer than 25 employees need not pay employer’s contribution.

Employers with 25 plus employees must pay .63% of Eligible Employer Payroll. Contributions may be split between Employer and Employee and support both types of leave

Family Leave: taken to care for a family member with a serious health condition or to care for child during first 12 months of birth/adoption/foster care, or active military duty issues. A serious health condition involves illness, injury, impairment, or physical/ mental condition involving inpatient treatment or continuing treatment by health care provider. Up to 12 weeks off.

Medical Leave: leave taken by covered individual with a serious health condition. Up to 20 weeks off for employee’s own medical problem. Up to 12 weeks off to care for ill family member.

NB: Medical leave benefit is *wage replacement*

Who Counts as Covered Individuals

1. W2 employees always count;
2. 1099-Misc contractors count toward total number of covered persons but only if they make up more than 50% of total workforce – if not, you need not count/pay for them;
3. Former employees unemployed for less than 26 weeks and who meet certain financial requirements;
4. Certain self-employed individuals.

Required Funding via Payroll Deduction: .63% TOTAL PAYROLL DEDUCTION IS REQUIRED

Medical Leave Contribution

.52% [of .63% Total]
[Equates to 82.5% of Total]

Minimum Employer
Share = 60% of .52%

Max. Employee Share
40% of .52%

Family Leave Contribution

.11% [of .63% Total]
[Equates to 17.5% of Total]

Employee pays
all of .11% Due or employer
may pay some as well

Manchester

900 Elm Street
Manchester, NH 03101
(603) 625-6464

Woburn

300 TradeCenter
Woburn, MA 01801
(781) 904-2700

Concord

11 S. Main Street
Concord, NH 03301
(603) 226-0400

Portsmouth

100 Market Street
Portsmouth, NH 03801
(603) 436-2818

Boston

45 School Street
Boston, MA 02108
(617) 523-7935

Employers with 25 or fewer employees

Medical Leave Contribution

Employees pay 40% of the .52% deduction

Employers need not contribute any of the 60% Balance

Family Leave Portion

Employees pay 100% of the .11% deduction

NB: for 2019 the maximum taxable amount is \$132,900 on individual earnings.

Notice Requirements

By June 30, 2019

1. Employers must display required poster in work place;
2. Mass. W2 employees/1099 – Misc. contractors must be provided written notice of contributions, benefits, projections (see attached notice exemplar);
3. Employers must collect signed acknowledgements of receipt of notices from all W2/1099-Misc. workers

When payments are due

Beginning July 1, 2019 required payments must be made quarterly. This is the start date for the payroll deductions. **The First Quarter Payments are due to the agency on October 31, 2019.**

You must report all individuals working for you, but need not submit contributions for those not covered.

Quarterly Report Content Requirements

Quarterly Report Must Contain:

1. Qualified Individual's Name;
2. Social security number;
3. or Individual Tax I.D. Number
4. Wages paid or other earnings
 - Includes all 1099 employees

Contributions – payments made to Family & Employment Security Trust Fund by employer, covered biz entity, employee, etc.

Beginning July 1, 2019 – Contribution rate is .63% of all qualified earnings. Director will set new rate each year in October.

Claims Procedure: Notice to Department and Employer

Claimant must use prescribed forms and state THE FOLLOWING INFORMATION:

1. 30 days notice of start date
2. anticipated length of leave
3. type of leave requested
4. expected return date.

NB: Allowed claims are paid by the Department. If a claim is denied, the denial is appealable to the Department.

Allowed Leave Allotments

Will be paid by the Department. The Department will explain why leave is necessary, duration of leave benefits approved, and expiration date. Extensions may be requested by the employee.

Leave Amounts Granted by Department

Depends on individual's average weekly wages as reported to DOR. Max payments to employee are 80% and 50%, depending on comparisons with state weekly wage averages.

Job Protection

Restoration of employee to same position or equivalent is required. Same status, pay, benefits, service credit. Retaliation via discharge, firing, suspension, discipline, etc or threat, discrimination is unlawful. A lawsuit for same is allowed by employee up to three years after any violation.

Private Plan May be Allowed: Deadline to Apply is September 20, 2019

A Private Plan of insurance for family and medical leave benefits may be obtained by employer if it offers paid family and medical leave benefits. If such a private plan is approved by the Department, this exempts employer from requirement to make contributions.

A private plan must convey all the same or better benefits than the new law requires, and may not cost individuals more than the state plan requires. It must contain job/benefit protections and non-retaliation provisions as does the law itself.

Even under a private approved plan employees still have a right to appeal denials of leave and to have their jobs restored upon return.

Registration – Companies must register with the “Mass TaxConnect System”

Remit contributions through department computer system along with required Employment and Wage Detail Reports.

On a Quarterly basis - Each Employer, Covered Business Entity, self-employed person must file employment and wage detail report and make required payment at same time

Commencement of Benefits

Benefits under this program are not scheduled to begin until 2021.

About Andrew P. Botti

Andrew represents corporations, smaller businesses, and family owned and operated enterprises in complex business and employment-related issues. He advises management and business owners/operators on business disputes, shareholder issues, employee discrimination claims, and commercial litigation matters. He has tried numerous cases to verdict in both state and federal court, and has appeared before various administrative and legislative agencies such as the Massachusetts Commission Against Discrimination. Andrew has testified before the Joint Committee on Labor and Workforce Development of the Massachusetts legislature regarding the efficacy of “An Act Relative to Non-competition Agreements,” and has been actively involved in the debate over recent efforts to eliminate non-competes in their entirety.



Andrew was appointed to the Massachusetts Economic Development Planning Council by Governor Charlie Baker. The Council’s mission was to develop a written comprehensive economic development policy for Massachusetts, and construct a strategic plan for its implementation. The plan was eventually signed into law by the Governor.

In December 2014, Andrew was appointed by Governor-Elect Charlie Baker to the Baker-Polito Transition Team Subcommittee on Jobs and the Economy. In this capacity, Andrew helped prepare findings and recommendations for the new administration.

Andrew is currently a member of the Board of Directors of AIM, the Associated Industries of Massachusetts. Founded in 1915, AIM is the oldest and largest statewide association working to serve and foster the business interests of Massachusetts employers. He formerly served as Chairman of the Board of SBANE, the Smaller Business Association of New England, from 2009 - 2011. SBANE (now known as the New England Business Association) was founded in 1938 to promote and foster the interests of smaller businesses throughout the 6 state region.

Andrew received his J.D. from Northeastern University (1991) and B.A. from Columbia University (1983). Previously he was a Partner at Colucci Norman, LLP in Beverly, MA as well as a Partner, Donovan Hatem LLP in Boston, MA.

Andrew can be reached in McLane Middleton’s Woburn office at (781) 904-2692 or andrew.botti@mclane.com.