

MARYLAND: EMPLOYEE BENEFIT CONSIDERATIONS

Employers doing business in Maryland should be aware of the state's laws regarding continuation of benefits, domestic partner health insurance coverage, dependent coverage, paid family and medical leave, the MarylandSaves retirement program, and other notable requirements related to employee benefits.

Employers doing business in Maryland (including those that have one or more employees working or living in Maryland) should be aware of the state's laws regarding continuation of health benefits, domestic partner health insurance coverage, dependent coverage, paid family and medical leave, the MarylandSaves retirement program, and other notable components of employee benefits.

This publication focuses on the benefits compliance obligations that fall on employers. There are numerous state insurance laws that apply to carriers sponsoring fully insured plans. To the extent a state insurance law does not impose a compliance obligation on an employer (i.e., the law applies solely to the insurer from which an employer purchases a group policy), it may not be covered in this publication. In addition, this publication is limited to employee benefit considerations and does not cover state tax laws, privacy laws, cybersecurity laws, or other employment law topics such as workers' compensation, employment discrimination, payroll practices, wage and hour laws, or short-term leave laws that provide job and/or benefit protections for one month or less.

GROUP HEALTH PLAN REQUIREMENTS

Maryland law requires that group health insurance policies issued in the state or that cover Maryland residents comply with certain mandates. This publication covers several of the most important health benefit mandates. If Maryland licensed the insurer that issued the policy and the insurer delivers the policy to Maryland residents, then the policy is likely subject to Maryland insurance regulations, including state-mandated health benefits. Self-insured plans are typically exempt from state mandates. Insurers are generally aware of state insurance regulations, so employers should consult with their insurer or attorney to determine whether state requirements apply to their plan(s).

State Continuation of Health Benefits ("Mini-COBRA") (Fully Insured Plans)

The Maryland Continuation Coverage law (also known as "mini-COBRA") applies to fully insured group health plans issued in the state, regardless of employer size. Under the law, insurers must offer continuation coverage to certain individuals who lose group coverage due to termination of employment, death of a covered employee, or divorce. Employees who are terminated for cause do not have rights under the Maryland Continuation Coverage law. The law does not apply to self-insured plans or to stand-alone dental, vision, accident, or disease-specific policies.

To be eligible for continuation coverage, the covered employee must be a Maryland resident. For employment termination or death of an employee, the employee must have been covered under the group health plan for at least three months prior to the qualifying event. Although termination for cause makes an employee ineligible for

Maryland Continuation Coverage rights, employers should generally seek legal counsel regarding the termination of health benefits in connection with an adverse employment action.

Insurance certificates for group health plans issued in Maryland must include an explanation of state continuation rights. Employers must provide election notification forms to the insured or surviving spouse or dependent(s) within 14 days of a request. The covered employee must submit an election form within 45 days of an employment termination or 60 days following a divorce. Covered surviving spouses and dependents must submit an election form within 45 days of the employee's death.

Model explanations of continuation rights and election forms are available at: [Continuation Coverage Resources | Maryland Insurance Administration](#).

Individuals on Maryland Continuation Coverage following employment termination or death of an employee may be charged the full premium (i.e., the combined total of any employee and employer contributions) plus an administrative fee of up to 2%. Individuals on continuation coverage following divorce may only be charged the full premium.

The maximum length of continuation coverage is 18 months for employment termination or death of an employee qualifying events. Continuation coverage following these events may be terminated earlier for any of the following reasons:

- Nonpayment of premium
- Entitlement to Medicare
- Eligibility for other group coverage
- Coverage under an individual health plan
- When the employer ceases to offer group coverage
- When a dependent ceases to be eligible under the group plan

In addition, continuation coverage for a former spouse following a divorce may be terminated for any of the above reasons as well as when the former spouse remarries.

Because Maryland Continuation Coverage applies to fully insured group health plans issued in the state, regardless of employer size, a qualified beneficiary may have rights under both Maryland law and federal COBRA. In that case, the qualified beneficiary is entitled to continuation coverage rights under both laws, and any differences in benefits must be resolved in favor of the qualified beneficiary. For example, under federal COBRA, a qualified beneficiary in the event of a divorce may be charged up to 102% of the premium. However, under Maryland's Continuation Coverage law, a qualified beneficiary in the event of a divorce may only be charged up to 100% of the premium. For more information about federal COBRA, see the PPI publication [COBRA: A Guide for Employers](#).

For information on other key aspects of Maryland Continuation Coverage, Maryland's Insurance Administration maintains a chart comparing each qualifying event's specific requirements, maximum duration of continuation coverage, and permissible reasons to terminate an individual's continuation coverage, available at:

[Continuation Coverage Comparison | Maryland Insurance Administration](#)

[Continuation Coverage Bulletin | Maryland Insurance Administration](#)

Health Benefit Coverage Mandates (Fully Insured Plans)

Each state prescribes a list of health benefits that must be covered under policies issued in that state. For a list of Maryland's health benefit mandates, see: [Maryland EHB Benchmark Plan](#).

As noted above, insurers are generally aware of state insurance regulations, so employers should contact their insurer for more information on health benefit coverage mandates that apply to their group policy.

Domestic Partner/Civil Union Health Coverage Laws (Fully Insured Plans)

Maryland does not require employers to extend group health insurance coverage to domestic partners, but Maryland insurers are required to provide domestic partner coverage (including coverage to domestic partner children) at the request of an employer. For this purpose, Maryland insurers may require employers to obtain proof of the domestic partnership, including an

Affidavit of Domestic Partnership provided by the Commissioner of Insurance that substantiates minimally six months of a shared primary residence and financial interdependence, among other things. Those eligibility requirements and Affidavit of Domestic Partnership are available here: [Domestic Partnership Requirements | Maryland Division of State Documents](#).

The cost of coverage for a domestic partner is subject to Maryland state taxation. In addition, the federal government does not recognize domestic partnerships. Thus, if the domestic partner is not the employee's tax dependent, the cost of coverage is also subject to federal taxation.

Apart from any carrier requirements, employers should ensure that their domestic partner certification practices are reasonably consistent with those for other family members (such as spouses and children). For example, employers that do not request relationship documentation (e.g., a marriage certificate) from married employees should not make domestic partner coverage conditional upon submission of evidence of the domestic partnership. For further information about domestic partner benefits considerations, including best practices for establishing eligibility, certifying domestic partnerships, calculating and processing domestic partner cost of coverage imputed income, and considering discretionary COBRA-like coverage continuation policies, see the PPI publication [Domestic Partner Benefits: A Guide for Employers](#).

Dependent Health Coverage Laws (Fully Insured)

Group health plans issued in Maryland that allow spouses and dependents to enroll in the medical plan are required to extend eligibility to dependent grandchildren, children under guardianship, disabled children of any age that are chiefly dependent on the employee for support, and dependent children of domestic partners (if the plan covers domestic partners).

State Individual Mandate Reporting Requirements

Largely in response to Congress reducing the federal ACA individual mandate penalty to \$0 (effective beginning 2019), several states passed their own individual mandates that include employer reporting requirements. Maryland does not have a state individual mandate. For more information on the states with individual mandates and employer reporting requirements, see the PPI publication [State Individual Mandate Reporting Requirements](#).

PAID FAMILY AND MEDICAL LEAVE

Covered Employers

Under Maryland's Family and Medical Leave Insurance program (FAMLI), also known as the "Time to Care Act of 2022," employers (including out-of-state employers) must provide paid family and medical leave benefits to their employees working in Maryland. FAMLI payroll deductions are effective January 1, 2027, and benefits are effective January 3, 2028.

Required Contributions

Required contributions are set at 0.9% of an employee's wages up to the Social Security taxable income limit (TBD for 2027). For employers with 15 or more employees (including out-of-state employees), employers and employees each contribute 50% of the total premium. For employers with fewer than 15 employees (including out-of-state employees), employees contribute 50% of the total premium and employers are not required to contribute. It is not yet clear whether the total number of employees includes international employees. Employers in doubt about their applicable size can request an official determination from Maryland's Department of Labor FAMLI Division. Employers of all sizes may choose to contribute more than their required share of FAMLI premium to reduce the employee-required contribution.

Eligibility and Qualified Reasons for Benefits

To be eligible for FAMLI, employees must have worked at least 680 hours in a position based in Maryland over the previous four calendar quarters immediately preceding the start of the leave. Qualified reasons for leave include an employee's own non-work-related disability (e.g., illness, injury, pregnancy, childbirth recovery); to care for a family member (including spouse, domestic partner, child, parent, legal guardian, grandchild, grandparent, and sibling) with a serious health condition; to bond with a new child; for organ donation; or to arrange for a family member's military deployment.

Benefits

Eligible employees receive weekly benefits calculated as 90% of wages that do not exceed 65% of the state average weekly wage (TBD for 2028) plus 50% of wages that exceed 65% of the state average weekly wage. Benefits are capped at \$1,000 per week in 2026 and may not exceed 12 weeks in any 12-month period. Employees who qualify for leave based on both a serious health condition and child bonding in the same application year may take an additional 12 weeks of leave. Leave may be taken continuously or intermittently. There is no waiting period before benefits begin, and employers cannot require employees to exhaust paid time off (PTO) under an employer policy before or during FAMILI leave. However, an employer and employee can mutually agree to use PTO while an employee is receiving FAMILI benefits (not to exceed 100% of the employee's average weekly wage).

Plan Options

As an alternative to the state-administered plan, employers may provide benefits through an approved carrier plan or self-insured plan.

Required Notices

Employers will be required to provide employees with a written notice of the law's protections at least annually and upon hire. Maryland's Department of Labor FAMILI Division will provide a model notice for this purpose. Employers must also provide employees with a notice of FAMILI eligibility within five business days of a leave request notification. Employers may require at least 30 days' advance notice for foreseeable leaves. For unexpected leaves, employers may require employees to give notice as soon as practicable. For more information on MD FAMILI requirements, see [MD FAMILI | Employers](#) and [MD FAMILI](#). For more information on similar paid family and medical leave laws in other states, see the PPI publication [Quick Reference Chart: Statutory Disability & Paid Family and Medical Leave Programs](#).

OTHER LEAVE LAWS

Note that short-term state and local employment leave laws that provide one month or less of leave are outside the scope of this publication. Short-term employment leave protections that may apply in Maryland based on employer size include jury duty leave, sick and safe leave, and public health emergency leave. Employers should consult with their human resources consultant or employment law counsel to ensure their leave, PTO, and other personnel policies satisfy all applicable state and local employment laws.

Parental Leave

The Maryland Parental Leave Act requires employers with 15 to 49 employees in Maryland during 20 or more workweeks in the current or previous calendar year to provide eligible employees with up to six workweeks of unpaid parental leave during any 12-month period. The law does not apply to employers subject to federal FMLA, which applies to employers with 50 or more employees (located anywhere in the U.S.) in 20 or more workweeks in either the current or previous calendar year. Qualifying reasons for leave include the employee's birth, adoption, or fostering of a child. To be eligible, the employee must have been employed for at least 12 months and worked at least 1,250 hours prior to the leave.

During the unpaid leave, the employer must maintain group health plan coverage under the same terms and conditions as if the employee remained actively at work. If an employee fails to return to work, the employer may recover unpaid premiums from the employee's final wages, unless the failure to return to work was due to circumstances beyond the employee's control.

Employers may require employees to provide at least 30 days' notice prior to the start of an expected leave. However, employers may not require advance notice in the event of a premature birth or unexpected adoption or foster care placement.

Bone Marrow and Organ Donor Leave

Maryland law requires employers with at least 15 employees working in Maryland to provide unpaid bone marrow and organ donor leave. In addition to any eligible FMLA leave, under Maryland law an eligible employee is entitled to take up to 30 business days of bone marrow donor leave during any 12-month period, or up to 60 business days of organ donor leave during any 12-month period. To be eligible, the employee must have been employed for at least 12 months and worked at least 1,250 hours prior to the leave. The employee must provide a physician's written verification that the employee is a medically necessary organ or bone marrow donor. During the unpaid leave, the employer must maintain group health plan coverage under the same terms and conditions as if the employee remained actively at work.

OFFER OF RETIREMENT PLAN

The MarylandSaves program is a mandatory state-run retirement savings program for employers that do not otherwise offer Maryland employees a private, tax-qualified retirement savings plan. The law applies to businesses that have been in operation for at least two years and employ at least one W-2 employee with Maryland income. Employers that already sponsor a qualified savings arrangement for employees (or sponsored such a program in the preceding calendar year) can opt out of the program but must file an exemption. Governmental employers are also exempt.

Employers that do not qualify for an exemption must register with the MarylandSaves program, automatically enroll employees in the program, and withhold and forward 5% of each employee's compensation each pay period. Each employee's contribution automatically increases by 1% each January 1 up to the maximum 10%. Employees may opt out or change their contribution percentage at any time. All contributions are placed in a Roth IRA. Covered employers are not required to make contributions but must provide employees with a description of the program and the opt-out instructions.

For more information, see [MarylandSaves](#).

COMMUTER BENEFITS

Maryland does not require private sector employers to offer commuter benefits to employees.

LIFE INSURANCE

Maryland does not require private sector employers to offer group life insurance benefits. However, if group life insurance benefits are offered, a policy delivered or issued in Maryland must satisfy certain requirements. These requirements relate to mandatory enrollment of all eligible employees for employee noncontributory coverage (except those who reject coverage in writing or are unable to provide satisfactory evidence of insurability), premium payment grace periods, incontestability, conversion rights upon termination of group coverage, and required conversion notices. While these requirements apply to insurers, employers should be aware of their policy terms and have a reliable process to communicate coverage terms to plan participants.

Under Maryland law, employees who lose eligibility for group life insurance must be given an opportunity to convert a group plan to an individual policy under certain circumstances. Insurers are required to notify individuals of the opportunity to convert at least 15 days before a conversion period expires. The details of how conversion notices are distributed are generally memorialized in plan documents or carrier agreements and vary by carrier. For more information on group life insurance compliance, see the PPI publication [Group Term Life Insurance: A Guide for Employers](#).

SUMMARY

Employers with one or more employees who work or live in Maryland should be well informed about the range of benefit requirements that pertain to such employees.

RESOURCES

[Continuation Coverage Resources | Maryland Insurance Administration](#)

[Continuation Coverage Comparison | Maryland Insurance Administration](#)

[Continuation Coverage Bulletin | Maryland Insurance Administration](#)

[Domestic Partnership Requirements | Maryland Division of State Documents](#)

[Maryland EHB Benchmark Plan](#)

[MarylandSaves](#)

[MD FAMILI | Employers and MD FAMILI](#)