
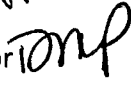


TOWN OF OCEAN VIEW
DELAWARE

November 5, 2024

TO: Honorable Mayor and Council

FROM: Carol S. Houck, Town Manager 
Dawn Mitchell Parks, Finance Director 

SUBJECT: Recommendation Regarding Delaware Paid Family and Medical Leave Insurance Requirement - Opt-Out of the State of Delaware PFML Plan and Implement Guardian Plan

Background

In May of 2022 the Delaware Paid Family and Medical Leave (PFML) Insurance Plan became law statewide for businesses with 10 or more employees, **going into full effect January 1, 2026**. The intent of the law as described by the State is to provide employees with “**support during a health or family event, and for employers who want to attract and retain top-quality personnel.**” This unfunded mandate allows the employer to share the cost up to 50% with the employees.

Delaware paid leave stages of implementation are as follows:

May 11, 2022 – Delaware Paid Leave (Paid Family and Medical Leave Insurance Program) was signed into law.

July 11, 2023 – The regulations for Delaware Paid Leave went into effect.

March 11, 2024 – 2nd Round of PFML Regulations becomes effective.

September 2024 through December 1, 2024 – Employers can set up an account using Delaware LaborFirst, the user-friendly system to manage Delaware Paid Leave. Once registered, required employers are automatically enrolled, while smaller employers can voluntarily join and larger employers may request to use a private plan.

January 1, 2025 – For those employers in the State’s plan, payroll deductions begin if your employees are contributing to the cost of Delaware Paid Leave.

April 30, 2025 – First Due Date for PFML contributions.

January 1, 2026 – Employees can begin to submit claim applications for payment.

The DE PFML law requires employers to offer income replacement benefits to employees that have worked for an entity at least 1,250 hours over the previous 12 months of employment. There are four (4) types of leave with three (3) lines of coverage. If leave is approved, employees must receive up to 80% of their wages (with a maximum of \$900 per week) to cover certain absences.

Opt-In or Out of the Delaware PFML Plan

Employers throughout the State have the option of Opting-In the Delaware Paid Leave plan or Opting-Out, by choosing to provide coverage through a private plan, either a Department of Insurance (DOI) approved insurance policy or a Department of Labor (DOL) approved self-insured plan. If Opting-In, no action is required, with the exception of initiating contributions to the plan in 2025. If Opting-Out, the employer must do so by December 1, 2024. The State then has until December 31st to approve or deny the request.

In May of 2024, Lyons Insurance, the broker for the Town's Dental, Short-term Disability and Life Insurance, held an educational Healthy Delaware Family Act: Paid Family and Medical Leave webinar in which we participated. In September of 2024, our representative reached out to inform us that Guardian has two DOI - approved insurance policies and provided us with a proposal.

PFML Insurance Plan Comparison

The income replacement benefits for employees, as previously explained, are the same for both the State plan and private plan along with January 2026 triggering the opportunity for qualified employees to submit claims as well as employers making eligibility determinations. The major difference between opting in or out of the State plan is the starting date for the collection and payment of the rate % of annual wages.

State of Delaware PFL Plan: The State will collect from us 0.80% of wages allowing employers to have employees contribute up to 50% of the cost (0.40% of their wages). Payments into the State plan are required to begin January of 2025 with the opportunity to submit claims commencing in January of 2026. This unfunded mandate impacts 4 months of FY2025 and we included funding accordingly in our current budget year (\$6,865 with no employee contribution) while continuing to evaluate our options. The estimated annual cost of the program, if opting-in, would be \$18,690 based on the FY2025 wages and no employee contribution.

The State plan does not offer the option of IRS reporting or making our FICA contributions or W2 creation for employees, we would be required to add this to our payroll processing through ADP. In addition, while the starting rate is 0.80% of wages for the State plan there is no guarantee that this rate will not change, albeit through a change in the law.

In addition, we share the troubling way the State managed its Healthcare program and resulting premiums for this fiscal year, where their early communication to us suggested a 17% premium

increase (we budgeted 22%), then mid budget process sharing that the increase would be 27%, and ultimately passing along a 29% premium increase to all participating agencies.

Lyons Employee Benefits (Broker for Guardian Insurance Company): There are two (2) existing DOI - approved insurance policy options. For both options, Guardian will not begin billing until January of 2026 with claims submittal commencing the same month and a rate guarantee for 2 years. The plan also allows for employees to contribute up to 0.50% of the cost (subject to TM recommendation and Council approval during the FY2026 budget process).

- **Option One** without W2 and FICA matching contributions. The PFML Rate (% of Payroll) will be 0.64% with year one savings over the State plan of \$3,737 based on the FY2025 wages.
- **Option Two** with W2 and FICA matching contributions where Guardian Insurance will prepare, issue and report to the IRS the total amounts paid under our plan. They will also make our FICA matching contributions and will print W2's for the employees reporting this information to the IRS. The PFML Rate (% of Payroll) will be 0.69% with year one savings over the State plan of \$2,569 based on the FY2025 wages.

Recommendation

With careful review and consideration, we ask that you accept the recommendation of the Town Manager and Finance Director to Opt-out of the State program by November 30th and enter into an expanded relationship with Lyons Insurance as the broker for the DE PFML Insurance Plan under **Option Two** above as offered by Guardian Insurance.

Further, during the FY2026 budget process, the Town Manager will make a recommendation regarding any employee cost share for this paid FMLA requirement.