

FAMLI Employee Handbook



COLORADO

**Family and Medical Leave
Insurance Program (FAMLI)**

Department of Labor and Employment





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What is FAMLI?

Colorado voters approved the paid Family and Medical Leave Insurance (FAMLI) program in 2020. FAMLI supports both employees and businesses alike by protecting and supporting them when certain life events happen.

Most Colorado workers can apply for FAMLI leave benefits to help them get through the following circumstances:

- » Caring for a new child during the first year after the birth, adoption, or foster care placement of that child.
- » Caring for a family member with a serious health condition.
- » Caring for your own serious health condition.
- » Making arrangements for a family member's military deployment.
- » Obtaining safe housing, care, and/or legal assistance in response to intimate partner violence, stalking, sexual assault, or sexual abuse.



Payroll Deductions

The FAMLI program is funded through premiums paid by both workers and employers (depending on how many employees the business has). The portion paid by workers is made through a simple payroll deduction facilitated by employers.

- » The employee share of FAMLI premiums is set at 0.45% of employee wages through 2024.
- » For every \$100.00 an employee makes, an employer may deduct up to \$0.45. For someone making \$45,000/year that's a deduction of less than \$8 per biweekly paycheck.

To see what your estimated deduction will be, check out the premium and benefit calculator on famli.colorado.gov.



FAMILI Benefits

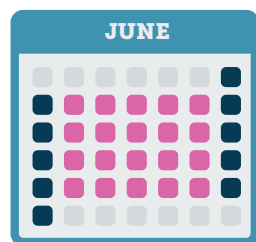
Eligibility

Paid family and medical leave benefits will be available to most Colorado workers who have earned \$2,500 in wages subject to FAMILI premiums over the course of roughly a year. You don't have to work for your employer a minimum amount of time in order to qualify for paid family and medical leave benefits.

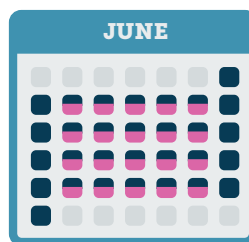
Covered employees are entitled to up to 12 weeks of paid family and medical leave per year. Individuals with serious health conditions caused by pregnancy complications or childbirth complications may be entitled to up to 4 more weeks of paid leave per year for a total of 16 weeks.

How FAMILI Leave Can Be Used

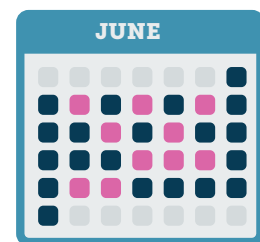
FAMILI leave may be taken continuously, intermittently, or in the form of a reduced work schedule.



Continuous
LEAVE



Reduced
WORK SCHEDULE



Intermittent
LEAVE

Continuous leave is taken for a specific period of time without any interruption. An example of continuous leave would be when you welcome a new child and would like to take twelve consecutive weeks of leave to bond with the child.

Leave in the form of a **reduced work schedule** is when the same amount of time off work is taken each day or week, and you work fewer hours than your regular schedule. For example, you are recovering from back surgery, and your doctor tells you not to be on your feet more than four hours a day. You temporarily go from working full-time to part-time and leave work each day after working four hours.

Intermittent leave is taken in separate blocks of time occurring at irregular intervals that are not continuous or steady within a six-month period. An example of intermittent leave is if you must care for a family member with a medical condition that has episodic flareups.

We have more examples of each leave type on famli.colorado.gov.

Benefit Amounts

FAMILI wage replacement benefits are paid at a rate of up to 90% of the employee's average weekly wage, with lower wage earners receiving a higher percentage. Benefits are calculated on a sliding scale using the individual's average weekly wage from the previous five calendar quarters in relation to the average weekly wage for the state of Colorado and may increase over time. Benefits are capped at \$1,100 per week. You can estimate your potential benefits by using the calculator available at famli.colorado.gov.

How much will employees receive when using FAMILI benefits?

The sample benefit amounts below are based on the State's Average Weekly Wage as of May 2024.

Weekly wage	Weekly benefit	Maximum annual benefit	Percent of weekly wage
\$500	\$450	\$5,400	90%
\$1,500	\$1,034	\$12,408	69%
\$2,000	\$1,100	\$13,200	55%
\$2,500	\$1,100	\$13,200	44%
\$3,000	\$1,100	\$13,200	37%

Applying for FAMILI Benefits

Individuals or their designated representatives can apply for FAMILI benefits by submitting an application, along with other required documents that support the need for leave, by using My FAMILI+.

In the My FAMILI+ portal, workers who want to file a claim can create accounts and find instructions for filing claims and the necessary documents to support those claims. Visit famli.colorado.gov to review the user guide, how-to videos and to create an account in My FAMILI+.

Applications may be submitted in advance when the need for qualified leave is foreseeable. When the need for leave is foreseeable, individuals must give their employer at least 30 days' notice of the leave. If the need for leave isn't foreseeable, or providing advance notice isn't possible, individuals must give their employer notice as soon as practicable. And regardless of whether the leave was foreseeable, all employees must make a reasonable effort to schedule their leave with their employer to avoid unduly disrupting operations when possible. Individuals generally have up to 30 days after the leave has begun to apply for FAMILI benefits.

Approved applications will be paid by the FAMILI Division within two weeks after the claim is properly filed, and every week thereafter for the extent of the approved leave.

FAMILI Application Checklist

Have these items handy when applying for FAMILI benefits:

- » Your contact information. The person applying for benefits in My FAMILI+, or their designated representative, will be the primary account administrator and will need to set up multi-factor authentication in order to log in.
- » Your Social Security Number or Individual Taxpayer ID Number.
- » Your Employer's information.
- » If applying for FAMILI benefits to care for yourself or a loved one, a Serious Health Condition form completed by a licensed health care provider.
- » If applying for parental bonding leave, a birth certificate or other documentation of birth or adoption for foster-care or kinship-care placement.

- » The start and end dates of your leave.
- » Know how you'd like to use your leave (continuously, intermittently, or on a reduced schedule.)
- » On the first day of your leave: log into your My FAMILI+ account to confirm that your leave has officially begun! For more details on what's needed for specific situations like Military Family Members (Exigency) Leave and Safe Leave, please visit our Individuals & Families page.

If you're applying for leave in advance:

REMEMBER: The final step before the FAMILI Division can approve your benefit payments is to let us know that your leave has officially begun. This will show up as a task in your Claims Dashboard in your My FAMILI+ account. Even if you successfully submitted all required documentation up to 30 days in advance of your leave start date, you must log into your account or call the contact center to let us know when your leave has officially started.

How to apply for benefits if your employer has an approved private plan or has opted out of FAMILI

FAMILI requires most Colorado employers to provide paid family and medical leave insurance coverage, but coverage can look different for some workers depending on their employer's participation. Only local government employers have the option to opt out of FAMILI entirely. Private employers have the option to use a private plan, or employer-administered private plan, that offers the same or greater benefits as the FAMILI program but must get approval from the FAMILI Division to do so. Once they get approval, employers are required to tell their employees that they are covered by a private plan.

Private plans provide benefits to employees through either a private insurance company or an employer-administered plan instead of through the FAMILI Division.

If you work for an employer with an approved private plan, or for a local government that has opted out of FAMILI, this will impact how you apply for benefits. The table below demonstrates where you will apply for FAMILI benefits depending on your situation:

How do I apply for benefits?

What Type of Plan Do I Have?	Apply with My FAML I+	Apply as directed by your employer's private plan	Do I need to register with My FAML I+ Employer before applying for benefits in My FAML I+?
My employer is participating in FAML I	yes	n/a	no
My employer has an approved private plan or an approved employer-administered plan	no	yes	no
I am self employed and voluntarily want to participate in FAML I	yes	n/a	yes
My employer is a Local Government that has opted out of FAML I	yes	n/a	yes
My employer is a Local Government that has opted out of FAML I but is reporting wages and paying premiums on my behalf	yes	n/a	yes

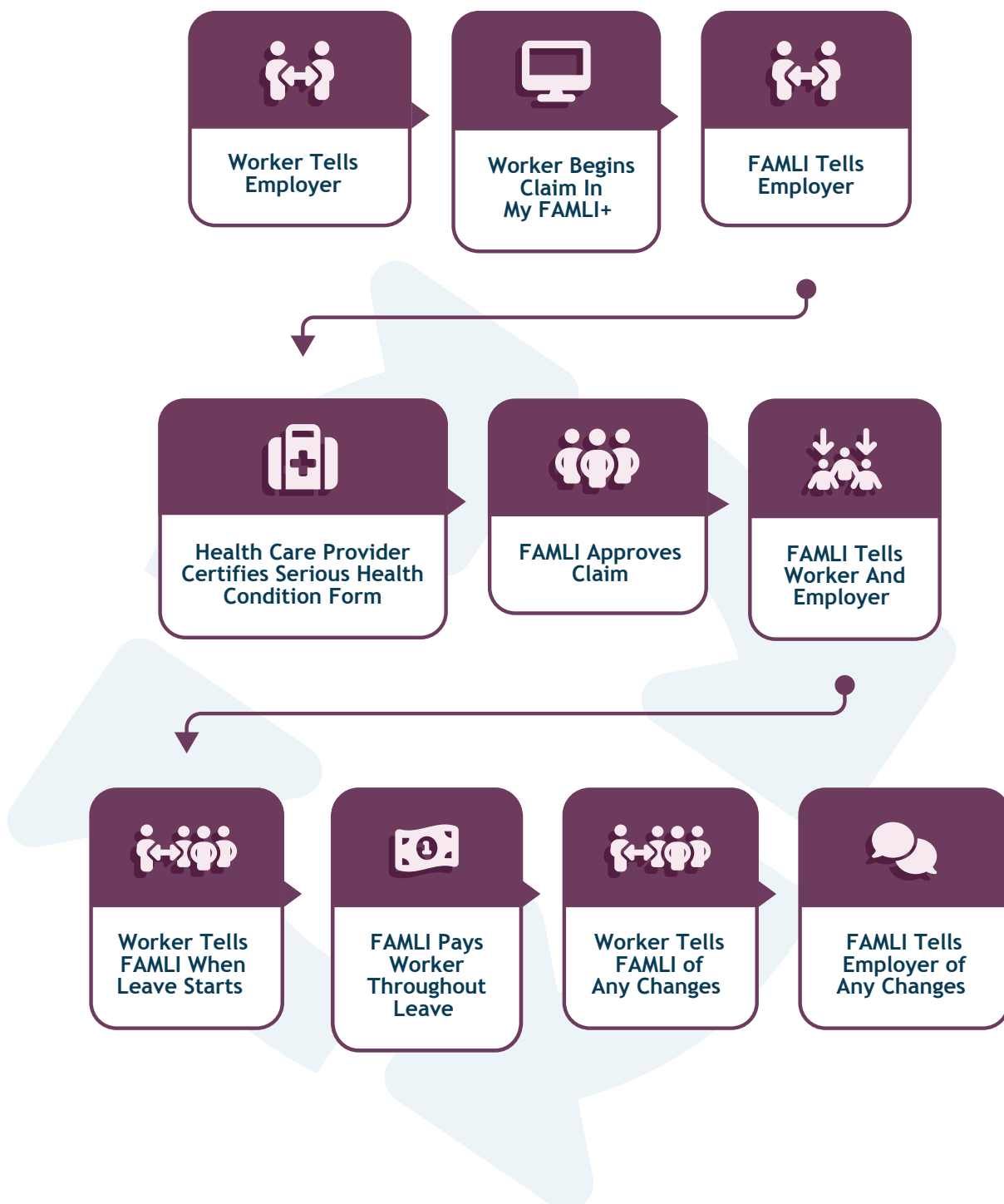
FAML I & Other Types of Leave

Here's how FAML I works with other types of absences from work:

- » **Paid Time Off (PTO):** Employees can't be required to use PTO before FAML I leave, but they may choose to do so. Employers and employees must have a mutual signed written agreement to use accrued PTO to top-off the FAML I benefit. The total amount from PTO and FAML I may not exceed the employee's average weekly wage.
- » **FMLA:** FAML I is designed to run concurrently with the FMLA. If FAML I leave is used for a reason that also qualifies as leave under FMLA, then the leave also counts as FMLA leave. An employer can't require an employee to exhaust available FAML I leave as a condition to access FMLA leave.
- » **Unemployment:** No one getting unemployment insurance payments can receive FAML I benefits for the same job and same period of time.
- » **Workers' comp:** No one getting workers' compensation indemnity benefits payments can take FAML I leave from the same job to recover from the same workplace-related injury.
- » **Healthy Families and Workplaces Act (HFWA):** HFWA and FAML I are two separate Colorado laws that provide employees with paid leave for a range of health and safety needs. For more information and specifics on the differences and overlap of the two leave types, please see INFO #6C on cdle.colorado.gov/infos.
- » **Other leave benefits:** Employers can require employees to use FAML I leave as a condition for benefits that the employer is not legally required to provide, like short-term disability, long-term disability, or paid parental leave. Additionally, employers can require FAML I leave to run concurrently with those short-term disability, long-term disability or paid parental leave benefits. Otherwise, employers and benefit administrators can't require an employee to exhaust available FAML I leave.

If an employee is improperly paid PTO or sick leave, employers may recoup the overpayment. Employees should ask their employers how they will be coordinating other employer-provided benefits with FAML I.

Life Cycle of a FMLI Claim



Appeals

Workers have 49 days to appeal if they disagree with the determination of their claim. Appeals can be made for an overall determination, or because a worker disagrees with the length of leave granted or the amount of the benefit payments.

To appeal a decision, claimants should log in to the My FAMILI+ portal and select “My Claim.” After that, they should select “Claim Details” and then select “Appeal.” That’s where workers have a chance to enter details and documents supporting their appeals.

Individuals who attempt to defraud the FAMILI program may be disqualified from receiving benefits.

FAMILI & Taxes

Here is what you need to know about how taxes impact your FAMILI benefits:

FAMILI benefits are not subject to state income tax. Current IRS guidance suggests that state programs like FAMILI are taxed similar to unemployment compensation, which is subject to federal income tax.

FAMILI will report to the IRS the amount of FAMILI benefits paid to each claimant during the year. We will issue IRS form 1099-G to claimants who received FAMILI benefit payments. The benefits paid will be reported in Box 1, which is labeled “unemployment compensation.” Per IRS instructions, this box is also used for governmental paid family leave programs.



Employee Rights and Protections

Eligible Colorado workers have the right to take FAMILI leave for covered circumstances at any point in their employment.

Once you have worked for the same employer for at least 180 days (about six months), your job is protected under the law. That means you're entitled to return to the same position, or an equivalent position, when your leave ends. You can still take FAMILI leave before you meet that 180 day threshold, but your employer may not be required to keep your job for you when your leave is over. As long as you are eligible and qualify to use paid leave, your employer cannot prevent you from taking leave, and cannot penalize you for taking paid leave.

You are also entitled to the same healthcare benefits while you are on FAMILI leave, but you also remain responsible for paying for those benefits in the same amounts as before the leave began.



Frequently Asked Questions:

I did not vote for this, why must I contribute part of my paycheck?

When Colorado voters passed Prop 118 in 2020, that established the FAML I Act for all of Colorado. With the law now in effect, most businesses and most workers across the state are required to comply.

Can I opt out?

No. The FAML I Act does not allow employees to opt out of the program.

I don't plan on ever using this benefit, do I still need to contribute?

Yes. The FAML I program is a social insurance program, and does not operate like a personal health savings account. Your individual contributions are not tied to when you apply for benefits. Contributions made

by both employees and employers fund the social insurance pool.

I am an employee of a local government that has voted to opt out of FAML I. How do I self-select coverage?

These employees will need to register with the FAML I Division in order to pay their employee share of the premium and submit wage data every quarter. While local government employers may choose to help facilitate this process for its employees, the employees still have to register directly with the Division's employer services portal My FAML I+ Employer. If a local government employee voluntarily chooses to participate in FAML I program, they must agree to do so for a minimum of three consecutive years, in order to prevent taking leave only when the leave is foreseeable.



Definitions

For legal definitions, please refer to the FAMILI Statute and all adopted FAMILI rules published at famli.colorado.gov/proposed/adopted-rules.

Covered Individual » A Colorado worker can be a Covered Individual once they have earned at least \$2,500 in wages subject to premiums within the State, over a period of roughly a year in either the employee's base period or alternative base period. The FAMILI base period is the first four of the last five completed calendar quarters immediately preceding the first day of the individual's benefit year, and the alternative base period is the last four completed calendar quarters immediately preceding the benefit year. Reference: §8-13.3-503 (3) C.R.S.

Caring for a new child » Caring, bonding, and providing the basic needs of a child that is under the age of 18 and sometimes up to the age of 21 if still under jurisdiction of the juvenile court. The FAMILI benefit can be used once during the fostering and adopting of the same child. When using leave to "care for a new child," benefits are limited to parents and individuals standing in loco parentis to the child.

Employee » Any individual, including a migratory laborer, performing labor

or services for the benefit of another, irrespective of whether the common-law relationship of master and servant exists. The FAMILI Act's definition of "employee" includes a two-prong exception. If a person is both primarily free from control in the performance of their work, and that work is part of their independent profession or trade, then that person is not an employee under the FAMILI Act, and payments to them would not be subject to premiums. Reference: §8-13.3-503 (7) C.R.S.

FAMILI » The Family and Medical Leave Insurance (FAMILI) program was voted in by the citizens of Colorado during the 2020 election. The vote was bi-partisan. Colorado law that covers this program is §8-13.3-501 et seq. C.R.S.

Family Member » A covered individual's child, parent, spouse, domestic partner, grandparent, grandchild, sibling, or someone with whom they have a significant personal bond as described in detail in §8-13.3-503 (11) C.R.S. Understanding that families are not always traditional, the Division will determine familial

relationships by looking to the totality of the circumstances by weighing non-dispositive factors including but not limited to:

- » shared financial responsibilities
- » emergency contact designations
- » expectation of care created by the relationship
- » cohabitation and geographical proximity.

FMLA » The Family and Medical Leave Act (FMLA) is a federal program that provides certain qualifying employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave. Colorado's FMLI program is designed to run concurrently with FMLA. Reference: 29 U.S.C. Chapter 28. However, it is important to note that individual FMLA coverage may vary among employees based on hours worked in the prior year.

Military Family Members (Exigency) Leave » Leave based on a need arising out of a covered individual's family member's active duty service or notice of an impending call or order to active duty in the armed forces. This type of leave includes things like providing for the care or other needs of the military member's child or other family member, making financial or legal arrangements for the military member, attending counseling, attending military events

or ceremonies, spending time with the military member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.

Serious Health Condition » An illness, injury, impairment, pregnancy, recovery from childbirth, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider. Reference: §8-13.3-503 (19) C.R.S.



Safe Leave (Domestic Violence) »

“Safe leave” means any leave needed because the covered individual or the covered individual’s family member is the victim of domestic violence, the victim of stalking, or the victim of sexual assault or abuse as described in 16-11.7-102(3). Individuals applying for “safe leave” to address the needs in response to domestic violence, stalking, sexual assault, or sexual abuse do not need to initially prove that they are a victim of a violent circumstance. Benefits may be awarded based on the victim’s good-faith attestation that the need for leave satisfies the elements of the offense. References: 16-11.7-102(3) C.R.S., §18-3-402 C.R.S. and §8-13.3-503 (20) C.R.S.

Parental (Bonding) Leave » Parental (bonding) leave is for a mother, father, or an individual considered in ‘loco parentis’ to the child. ‘In loco parentis’ is a relationship that is created when a person assumes the responsibility of parent to the child. A legal or biological relationship is not necessary. Parental (Bonding) Leave claims require proof of birth and/or placement documentation and do not need to be verified by a health care provider. Birthing parents who experience pregnancy or birthing complications may submit a separate FAMILI medical leave claim to extend the full duration of their leave to 16 weeks. This separate claim will require a Serious Health Condition Form to be verified by a health care provider.







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