

COLORADO EMPLOYERS FACE FIRST FAMILI QUARTERLY PAYMENT DEADLINE – WHAT 5 THINGS SHOULD YOU DO?

Insights
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Colorado employers are subject to new paid family and medical leave insurance obligations in 2023 – and your first quarterly premium payments are due on March 31. The Colorado Family and Medical Leave Insurance (FAMLI) program requires all employers to collect insurance premiums from workers' wages and, if you have at least 10 employees, to separately contribute insurance premiums to help finance the FAMLI program. What are the five things you should do given this impending deadline?

Summary of FAMLI Responsibilities and Your 5-Step Checklist

[As we previously detailed](#) in our Insight, Colorado employers must remit payment of FAMLI premiums to the state on a quarterly basis. The first deadline is fast approaching – on March 31. While there is a 30-day grace period allowing payment by April 30, you shouldn't delay any compliance obligations. Here are five things Colorado employers should do right away to prepare for the first FAMLI quarterly payment deadline and comply generally with FAMLI:

- 1. Register Your Business with [the CDLE's FAMLI Division](#).** Registration is now open, and all businesses employing even one Colorado employee must register to make their first FAMLI premium payments by April 30.
- 2. Ensure Your Business Is Deducting FAMLI Premiums from Employee Wages.** All Colorado employers are obligated to facilitate collection of FAMLI premiums for their Colorado employees. Employers may deduct the employee

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share of FAMLl premiums (0.45% of employee wages) through a simple payroll deduction.

For Colorado employers who have yet to implement the FAMLl payroll deduction for their employees, they should do so right away. Employers are prohibited from retroactively deducting employee premiums from employee wages. Thus, employers who have not implemented to payroll deduction must cover missed premiums themselves.

3. Determine Your Business's Required FAMLl Contributions for the First Quarter of 2023. As noted above, all Colorado employers are obligated to collect FAMLl premiums for their Colorado employees. The employee share of FAMLl premiums is set at 0.45% of employee wages for the first quarter of 2023.

Employers with 10 or more employees are responsible for separately paying 0.45% of their Colorado employee wages as FAMLl premiums. This is true even if an employer has one to nine employees in Colorado and the remaining employees working outside the state of Colorado. Employers with fewer than 10 employees total do not have to make separate employer contributions and are responsible only for facilitating collection of the employee share of FAMLl premiums for their Colorado employees.

All employers must remit payment of first quarter 2023 FAMLl premiums by April 30, 2023.

4. Update Your Employee Handbook and Leave Policies to Ensure FAMLl Compliance. Starting January 1, 2024, employees generally have access to 12 weeks of FAMLl paid leave, and employees with serious health conditions due to pregnancy complications or childbirth have access to an additional four weeks of paid leave (for a total of 16 weeks).

In addition to informing Colorado employees of their rights, Employers should consider updating their employee handbooks and leave policies to address FAMLl leave. For example, employers should determine:

- How should employees provide notice of their intent to take FAMLl leave?
- Whether employees can supplement FAMLl leave with other accrued paid leave?

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- Whether newly hired employees (who have worked for less than 180 days) are guaranteed continued employment or if their positions require filling?

Employers should consult with an employment attorney to assess whether any newly enacted policies comply with FAMLII and other federal, state, and local employment regulations.

5. Determine Whether To Directly Provide Paid Family and Medical Leave to Your Employees and Opt Out of FAMLII.

Employers who have already implemented or plan to implement a paid family and medical leave program for their employees may obtain approval from the state of Colorado to opt out of their FAMLII obligations.

More information regarding FAMLII, FAMLII-replacement private plans, and other frequently asked questions regarding FAMLII is available [here](#). The state of Colorado will allow refunds for any premiums paid in 2023 for employers who submit approved private plans with an effective date on or before January 1, 2024. To be eligible for a refund, employers must submit their private plan applications to the Colorado Department of Labor and Employment by October 31, 2023.

Notably, until the state of Colorado determines that an employer's private paid family and medical leave program provides equal or greater benefits and protections as FAMLII, the employer must comply with FAMLII's contribution provisions, including complying with the first FAMLII quarterly payment deadline.

Conclusion

We will continue to monitor these developments and provide updates as necessary. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to receive the most up-to-date information. If you have questions about new FAMLII program requirements, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our Denver office](#) for assistance.