

FAQs



DELAWARE
Paid Leave

Family and Medical Leave Insurance Program

Delaware Paid Leave is now in effect. Here's what you need to know as a health care provider.

Note: This resource is for health care providers with patients in the state of Delaware.

What is the Family and Medical Leave Insurance Program (Delaware Paid Leave)?

Delaware Paid Leave, which is often called Family and Medical Leave, helps ensure that Delaware workers have financial support if they need to take a leave of absence from their job due to the following:

- **Parental Leave:** 12 weeks every year to care for a new child. This includes birth, adoption, or fostering.
- **Qualified Exigency:** Six weeks every two years to deal with issues from an overseas military deployment.
- **Medical Leave:** Six weeks every two years to address a serious health condition.
- **Family Caregiver Leave:** Six weeks every two years to care for a family member with a serious illness or injury. This includes a child, spouse, or parent.

Delaware Paid Leave allows employees to take paid time off with peace of mind — knowing that they have a job to return to and that their employer cannot retaliate against them for taking leave.

The maximum amount of combined leave a covered individual can take in a 12-month period is 12 weeks.

Doesn't the federal Family and Medical Leave Act (FMLA) already take care of this?

For more than 30 years, FMLA has allowed employees to take up to 12 weeks of unpaid but job-protected leave, with the ability to continue their medical

benefits. Delaware's program enables employees to take approved time off that provides them with wage-replacement benefits at 80% of their average weekly wages, up to \$900 per week.

Throughout Delaware, many employees are eligible for FMLA but cannot afford to take leave without pay. FMLA is also mandatory for employers with 50 or more employees, whereas Delaware Paid Leave is mandatory for employers with 10 or more Delaware-based eligible employees.

What's the health care provider's role in Delaware Paid Leave?

When a claimant in Delaware files for medical leave or family caregiver leave, their health care provider will be required to complete a Certification of Serious Health Condition (CSHC) before the claimant's employer can adjudicate the claim. This certification is similar to what's completed for FMLA but will be accessed and completed online.

The CSHC confirms that the employee is filing for Delaware Paid Leave based on legitimate personal or family medical reasons, preventing fraud. This is a required part of medical leave and family caregiver leave.

How do I access the Certification of Serious Health Condition?

The employee will file their claim using Delaware LaborFirst. Once the system validates that the claim is eligible, the employee will receive the CSHC access link and code. It is the employee's responsibility to share the form and access code with you, their health care provider. For efficiency, it's recommended that you allow individuals to submit this information electronically. You and your staff will use the code to access Delaware LaborFirst and complete the CSHC online.

How much time do I have to complete the CSHC?

The certification must be completed within 30 calendar days from date of claim submission. If the CSHC is not completed, a claim cannot move forward into adjudication. Again, the claimant is responsible for providing you with the certification link and access code for Delaware LaborFirst. The claimant may reach out to you for status updates on the certification.

What information is included on the CSHC?

There are three questions that you'll need to answer on behalf of the claimant:

1. Does this illness or injury meet the FMLA definition of a "serious health condition"?

- If your answer to this question is no, you will not receive the next two questions.

2. How many weeks should the employee take off?

3. Does this qualify for reduced-schedule or intermittent leave?

You will never be asked for private medical information protected by HIPAA, nor will you be required to provide a patient's diagnosis or any other supporting medical materials (EKGs, X-rays, etc.). You are entrusted by Delaware Paid Leave with the final decision on your patient's eligibility.

What are the different types of leave schedules?

As part of the CSHC process, you will determine the leave schedule for medical leave and family caregiver leave claims. Your expert opinion will be critical in identifying the appropriate leave schedule. The available leave schedules include:

- **Continuous:** Leave is taken all at once in a single, uninterrupted block of time. There's an identified start and end date.
- **Intermittent:** Leave is taken on a periodic basis. The blocks of time can vary in length but are counted in full days, unlike FMLA, which goes down to units as little as a single hour. For example, the employee may miss a few days of work each month when a chronic condition flares up.
- **Reduced hours per day:** Allows a claimant to work fewer hours per day. The percentage of a full workday the claimant can still work would be used.
- **Reduced days per week:** Allows a claimant to work fewer days per week. The number of days the claimant can still work would be used.

Health care providers are not expected to tell us what the employee's actual work schedule will be. That can be worked out between the employer and employee. Your input helps guide this discussion and decisions.

Where can I get more information and support?

The Delaware Department of Labor's Division of Paid Leave is here to help health care providers navigate this process to ensure it is effective, easy, and efficient. If you have any questions, at any time, you can email PFML@Delaware.gov, call 302-761-8375, or visit the Delaware Paid Leave website at de.gov/paidleaveproviders. For information of a technical nature, please visit de.gov/laborfirst.

