What is Parental Leave?

Parental Leave is paid time off from work, taken by an employee to bond with or care for a child during the first year after the birth, adoption, or foster care placement of the child.

Am I required to provide Parental Leave?

If you have 10 or more employees, you are required to provide Parental Leave for your employees, unless your company meets one of the limited exceptions.

Which employers are exempt from providing Parental Leave?

You are not required to provide Parental Leave if:

(1) you have 0-9 employees;
(2) you are part of the federal government; or
(3) your business is closed at least 30 consecutive days per year.

Who is considered an employee under the Healthy Delaware Families Act ("Act")?

Any individual who works for an employer and works primarily in Delaware is considered an "employee" for purposes of the Act. An individual works "primarily" in Delaware if they spend at least 60% of their working hours in Delaware. If an individual does not primarily work in Delaware, they are not considered an "employee" under the Act.
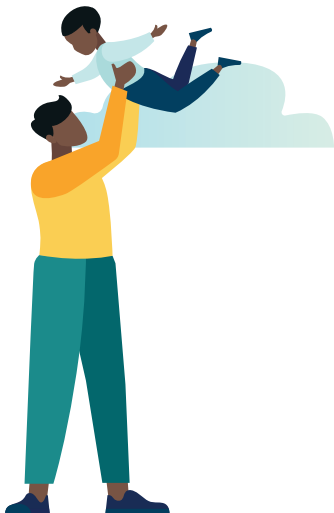
Who can take Parental Leave?

Any employee who is a parent, regardless of sex, gender, or marital status, can take Parental Leave if they are a "covered individual" under the Act. A "covered individual" is an employee who has worked primarily in Delaware for the employer for at least 12 months and has worked at least 1,250 hours during the past 12 months for the employer.

How much time is an employee permitted to take for Parental Leave?

Generally, an employee can take up to 12 weeks of Parental Leave to bond with or care for a child. However, for the first five years of this program, employers with 10 to 24 employees may temporarily reduce the amount of time an employee can take for Parental Leave. Employers may elect to offer anywhere from 6 to 12 weeks initially. This is to assist small employers at the start of this program, who now have to provide parental leave benefits.

I am an employer with 10 to 24 employees. How do I temporarily reduce the number of weeks an employee can take for Parental Leave?

Employers must notify the Division of Paid Leave through the Grandfathering/Parental Leave Duration Application Portal ("Grandfathering/PLD Portal") on the Division's website to temporarily change their parental leave time period. To access the Grandfathering/PLD Portal, employers will need their EIN and the 2022 Total Withholding amount from Line 3 of their Delaware Division of Revenue Annual Reconciliation WTH-REC form. Once an account has been created and an employer's contact information has been entered, the employer will be directed to select the number of employees in the company. If the company has the required number of employees, an option will be given to temporarily reduce the length of parental leave offered to employees from 12 weeks to 6, 7, 8, 9, 10, or 11 weeks. At minimum, an employer must offer 6 weeks of Parental Leave. If an employer decides to offer 12 weeks, there is no need to notify the Division.

When does an employer need to make this selection?

To temporarily reduce the amount of Parental Leave, employers must notify the Division of Paid Leave **no later than January 1, 2024,** through the Division's online Grandfathering/PLD Portal, which will open **October 1, 2023.** Parental Leave benefits cannot be temporarily reduced after **January 1, 2024**. An employer can only make this election from **October 1, 2023,** through **January 1, 2024.**

Are there any other requirements that an employer must meet to temporarily reduce the length of Parental Leave?

No. To temporarily reduce the length of Parental Leave, employers must (1) have between 10 and 24 employees and (2) notify the Division of Paid Leave of their decision by **January 1, 2024.**

Does an employer have to notify their employees of the decision to temporarily reduce the length of Parental Leave?

Yes. If the employer has decided to temporarily reduce the length of Parental Leave, they are required to notify employees, in writing, by **December 1, 2024.** Employees must be made aware of the amount of time off they are entitled to take upon the birth, adoption, or foster care placement of a child.

I am an employer with 10 to 24 employees. If I elect to reduce the amount of time off an employee can take for Parental Leave, how long does that last?

Employers are permitted to provide reduced Parental Leave benefits until **December 31, 2030.** At that time, all employers will be required to provide 12 weeks of parental leave for every 12-month period.

I elected to reduce the length of our Parental Leave benefit as I currently have 10-24 employees. Will this election remain if my workforce increases to 25 or more employees prior to December 31, 2030?

Yes, this selection will remain valid through **December 31, 2030** even if the number of employees an employer has increases above 24 during the first 5 years of the program.

Can an employer change the number of weeks employees receive for paid Parental Leave once an election has been made?

Employers may change their election while the Grandfathering/PLD Portal is open, from **October 1, 2023,** through **January 1, 2024.** An employer may not temporarily reduce the number of Parental Leave weeks offered to employees after the Grandfathering/PLD Portal closes on **January 1, 2024.**

If an employer decides to increase the length of Parental Leave after **January 1, 2024,** but before **January 1, 2025,** they should contact the Division of Paid Leave by email at PFML@delaware.gov to make this change. If the increase occurs after **January 1, 2025,** the employer will be able to make this change by accessing the employer's account on the Division of Paid Leave's administrative system.

Can an employer offer more than 12 weeks of Parental Leave?

Yes, an employer is always able to offer better benefits than what is required by law. However, benefit payments from the Delaware Paid Leave plan will only reflect the required coverage. Employers will be responsible for the payment of any benefit they offer beyond those required by law.