



Maine Credit Union League

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June 10, 2024

Luke Monahan
Director, Paid Family and Medical Leave
Maine Department of Labor
54 State House Station
Augusta, ME 04333-0054

Re: Paid Family Medical Leave Act Proposed Rules

Dear Director Monahan,

The Maine Credit Union League appreciates the opportunity to submit comments to the Department of Labor regarding the Paid Family Medical Leave proposed rules (PFML).

The League proudly represents Maine's 49 credit unions and more than 740,000 members statewide. Employing more than 2,500 Mainers, credit unions pride themselves in fulfilling their people helping people mission by focusing on their employees first. Credit unions are routinely recognized as top places to work, and staff received an average of \$86,669 in salary and benefits in 2023, surpassing the 2022 median household income by more than \$17,000.

It is crucial for employees across Maine to be supported and have access to appropriate leave and that is why our organization and many of our member credit unions already provide leave in line with the PFML law.

Our comments are focused on two areas of the proposed rule: Section V: Notice and Undue Hardship and Section XIII: Substitution of Private Plans.

Section V: Notice and Undue Hardship

Maine is unique in its inclusion of an undue hardship provision. The law states: "use of [PFML leave] must be scheduled to prevent undue hardship on the employer as reasonably determined by the employer." The proposed rule changes course by shifting the burden of proof onto the employer and makes the threshold for compliance extremely difficult, especially for small businesses.

Part 4-B of Section V states that the employer may not require a prescribed form. While we appreciate the attempt to provide ease for employees seeking to use this benefit, we feel the use of standard Notice of Eligibility Rights & Responsibilities forms that employers provide to employees for the federal FMLA program would provide clarity to employees as well as employers and help clarify leave requests in situations of undue hardship.

Proposed solution: In the Governor's testimony to the Labor and Housing Committee on this bill, she requested that an undue hardship provision be included in the bill to mirror the Earned Paid Leave undue hardship language. The committee agreed and made those

changes. Therefore, in line with the recommendations of the committee and the Governor, the rules on the undue hardship exemption should mirror the EPL rule language as closely as possible. A standard form could also be provided, similar to the Federal Notice of Eligibility Rights & Responsibilities form.

Section XIII: Substitution of Private Plans

The PFML law passed by the legislature and signed by the Governor in 2023 allows employers who provide a “substantially equivalent” private plan to opt out of the program. We appreciate the flexibility offered by the law, and believe it is a necessary option for employers. However, the proposed rule offers a one size fits all solution to the withholding of premiums whereby all employers and employees must contribute beginning January 1, 2025 regardless of the employer's intent to opt out of the plan. It is not until January 1, 2026 - a full year later - that employers can begin the process of opting out of the program. Even then, the earliest an application can be approved is April of 2026. No other state has taken this approach to declarations, and while we understand the need for a robust benefits fund, it should not be done on the backs of employers who want to comply with the law-afforded option of a private plan.

As not-for-profit financial cooperatives, credit union profits are put back into member benefits and services, which is why credit union members see better interest rates and lower fees than the average bank customer. Adding a year of contributions as an expense for credit unions who will seek an opt-out is not just unjust, it takes away from benefits that could be provided directly to credit union members.

Proposed solution: In every state that has allowed for private plans, declarations of opt-outs have started well before the program went live. In Massachusetts, the declaration process began 15 months before the program went live. In Connecticut, the declaration process began 12 months before the program went live. In Oregon, the declaration process was complete before contributions began. We suggest Maine move to a process like Massachusetts, where the declaration process begins in line with contributions. To balance the needs of a healthy benefits fund with the allowance of opt-outs, Massachusetts allows for quarterly, rolling opt-outs. Massachusetts' fund is healthy, evidenced by their contribution rate lowering in 2023. A rolling-opt out allows for some additional money to flow to the fund while still allowing businesses a reasonable path to opt-out.

Thank you for the opportunity to provide comments. We appreciate the work that has gone into the proposed rule and look forward to seeing it in its final form.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elise', with a long, sweeping horizontal line extending to the right.

Elise Baldacci, President, Maine Credit Union League