



FMLA

New Hampshire

Federal vs. New Hampshire Family & Medical Leave Laws

	FEDERAL ELEMENTS	STATE ELEMENTS
Employers Covered	<p>Private employers with 50 or more employees in at least 20 weeks of the current or preceding year.</p> <p>Public agencies, including state, local and federal employers.</p> <p>Local education agencies covered under special provisions.</p>	<p>In addition to the federal FMLA, New Hampshire has laws concerning 1) paid family leave insurance, and 2) family pregnancy/childbirth leave (contained within the New Hampshire Law Against Discrimination).</p> <p>Paid family leave: The program is voluntary for private employers. Permanent state employees must be covered at no cost.</p> <p>Family pregnancy/childbirth leave: Employers with six or more employees are covered by the pregnancy/childbirth leave law.</p>
Employees Eligible	<p>Worked for employer for at least 12 months (which need not be consecutive); worked at least 1,250 hours for employer during 12 months preceding leave; and employed at a worksite with 50 or more employees within 75 miles of worksite.</p>	<p>Paid family leave: All permanent state employees must be covered at no cost. Workers whose private employers do not offer coverage may opt into the plan.</p> <p>Family pregnancy/childbirth leave: Female employees who are physically disabled by pregnancy, childbirth or related medical conditions. Excludes domestic service employees and employees who are employed by a parent, spouse or child.</p>

<p>Leave Amount</p>	<p>Generally, up to a total of 12 weeks during a 12-month period.</p> <p>Up to 26 weeks during a single 12-month period to care for spouse, child, parent or next of kin who is a covered service member with a serious injury or illness.</p> <p>However, leave for birth, adoption, foster care, care for a parent with a serious health condition or care for a covered service member with a serious injury or illness must be shared by spouses working for same employer.</p>	<p>Paid family leave: Private employers may choose plans that provide six or 12 weeks of leave benefits. Individual workers who opt into the plan receive six weeks of benefits, as do state employees.</p> <p>Family pregnancy/childbirth leave: There is no set period for pregnancy leave. Leave is for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions.</p>
<p>Type of Leave</p>	<p>Unpaid leave for:</p> <ul style="list-style-type: none"> • Birth of employee’s newborn child; • Placement of child with employee for adoption or foster care; • Providing care for employee's parent, child or spouse with serious health condition; • Employee’s own serious health condition; • Any qualifying exigency when employee’s spouse, child or parent is on active duty or is notified of impending call or order to active duty in Armed Forces; or • Caring for a spouse, child, parent or next of kin who is a covered service member with a serious injury or illness. 	<p>Paid family leave: Wage replacement benefits are provided for a maximum of six weeks, for the following reasons:</p> <ul style="list-style-type: none"> • Birth of a child of the employee, or placement of a child with the employee for adoption or fostering, within the past 12 months; • The employee’s own serious health condition when disability does not apply, including childbirth (this qualifying reason applies only to private employees, not to state employees); • Serious health condition of a family member; or • Qualifying military exigency, or to care for a service member with a serious injury or illness. <p>Family pregnancy/childbirth leave: Leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth or related medical conditions.</p> <p>Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as</p>

		employees affected by any other temporary disability.
<p>Serious Health Condition/Serious Injury or Illness</p>	<p>Serious Health Condition: Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in hospital, hospice, or residential medical-care facility, or continuing treatment by a health care provider involving a period of incapacity due to:</p> <ul style="list-style-type: none"> • A health condition lasting more than three consecutive full calendar days and involving a certain level of treatment; • A chronic serious health condition or a permanent or long-term condition for which treatment may be ineffective; • Absences to receive multiple treatments (including recovery periods) for a restorative surgery or for a condition that if left untreated likely would result in incapacity of more than three days; or • Any incapacity related to pregnancy or for prenatal care. <p>Serious Injury or Illness: In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness incurred by the member in line of duty on active duty in the Armed Forces (or which existed before the beginning of active</p>	<p>Paid family leave: Similar to FMLA. Family pregnancy/childbirth leave: No provision</p>

	<p>duty and was aggravated by service in the line of duty on active duty) that may render the member medically unfit to perform the duties of the member's office, grade, rank or rating.</p> <p>For a veteran of the Armed Forces, including a veteran of the National Guard or Reserves, an injury or illness incurred by the member in the line of duty on active duty in the Armed Forces (or which existed before the beginning of active duty and was aggravated by service in the line of duty on active duty) and that manifested itself either before or after the member became a veteran.</p>	
<p>Health Care Provider</p>	<p>Doctors of medicine or osteopathy authorized to practice medicine or surgery; podiatrists, dentists, clinical psychologists, clinical social workers, physician assistants, optometrists, chiropractors (limited to manual manipulation of spine to correct subluxation shown to exist by x-ray), nurse practitioners, and nurse-midwives, if authorized to practice under state law and consistent with the scope of their authorization; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, MA; any provider so recognized by the employer or its group health plan's benefits manager; and any health provider listed above who practices and is authorized to practice in a country other than the United States.</p>	<p>No provision</p>

<p>Intermittent Leave</p>	<p>Permitted for serious health condition, for care of covered service member when medically necessary and for active duty leave.</p> <p>Not permitted for care of newborn or new placement by adoption or foster care, unless employer agrees.</p>	<p>Paid family leave: Leave may be taken continuously or intermittently. The smallest increment in which leave may be taken is four hours.</p> <p>Family pregnancy/childbirth leave: Female employees may take temporary leave in the early stages of the pregnancy and then return to work until the end of the pregnancy.</p> <p>Pregnancy, childbirth and related medical conditions must be considered temporary disabilities for employment-related purposes, including receipt of benefits under fringe benefit programs.</p> <p>Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as employees affected by any other temporary disability.</p>
<p>Substitution of Paid Leave</p>	<p>Employees may elect, or employers may require, accrued paid leave to be substituted in some cases. Employee must follow terms and conditions of employer’s normal paid leave policies.</p>	<p>Paid family leave: Policies may require workers to use employer-sponsored paid time off benefits before insurance benefits under the policy.</p> <p>Family pregnancy/childbirth leave: Pregnancy, childbirth and related medical conditions must be considered temporary disabilities for employment-related purposes, including receipt of benefits under fringe benefit programs.</p> <p>Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as employees affected by any other temporary disability.</p>
<p>Reinstatement Rights</p>	<p>Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment.</p>	<p>Paid family leave: Employers with 50 or more employees who sponsor leave must restore workers to their former position or an equivalent.</p> <p>Family pregnancy/childbirth leave: When an employee is physically able to return to work, her original job or a comparable position must be made</p>

		available to her, unless business necessity makes this impossible or unreasonable.
Key Employee Exception to Reinstatement Rights	Limited exception for salaried employees if among highest paid 10 percent of workforce within 75 miles of worksite, restoration would lead to grievous economic harm to employer and other conditions met.	No provision
Maintenance of Health Benefits During Leave	Health insurance must be continued under same conditions as prior to leave.	<p>Paid family leave: Employers with 50 or more employees who sponsor leave must continue workers' health insurance during leave.</p> <p>Family pregnancy/childbirth leave: Pregnancy, childbirth and related medical conditions must be considered temporary disabilities for employment-related purposes, including receipt of benefits under fringe benefit programs.</p> <p>Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as employees affected by any other temporary disability.</p>
Leave Requests	<p>To be made by employee at least 30 days prior to date leave is to begin where need is known in advance or, where not foreseeable, as soon as practicable.</p> <p>If due to a planned medical treatment or for intermittent leave, the employee, subject to health care provider's approval, shall make a reasonable effort to schedule it in a way that does not unduly disrupt employer's operations.</p> <p>If due to foreseeable active duty of family member, notice must be made as soon as practicable.</p>	<p>Paid family leave: No provision. Carriers must establish and maintain reasonable procedures governing the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations.</p> <p>Family pregnancy/childbirth leave: Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as employees affected by any other temporary disability.</p>

<p>Certification Requirement</p>	<p>Employer may require certification for the following:</p> <p>Request for leave because of serious health condition or to care for covered service member with a serious illness or injury.</p> <p>Request for qualifying exigency leave because of family member’s active duty or call to active duty in the Armed Forces.</p> <p>To demonstrate employee's fitness to return to work from medical leave where employer has a uniformly applied practice or policy requiring such certification.</p>	<p>Paid family leave: No provision.</p> <p>Family pregnancy/childbirth leave: Female employees affected by pregnancy, childbirth or related medical conditions must be treated in the same manner as employees affected by any other temporary disability.</p>
<p>Executive, Administrative, and Professional Employees</p>	<p>These individuals are entitled to FMLA benefits. However, their use of FMLA leave does not change their status under the Fair Labor Standards Act (FLSA), i.e., an employer does not lose its exemption from the FLSA's minimum wage and overtime requirements.</p>	<p>No provision</p>
<p>Statutes</p>	<p>29 USC 2601</p>	<p>N.H. Rev. Stat. § 21-I:99 (Granite State Paid Family Leave Plan), § 354-A:7(VI)(b) (family pregnancy/childbirth leave)</p>

New Hampshire Commission for Human Rights

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