

# One Minute Memo®



## Breaking News — Massachusetts DFML Confirms That Employers May Be Approved Now For Private Plans That Do Not Provide Paid Leave Benefits Until 2021

By Daniel B. Klein, Ariel D. Cudkowicz, Molly Mooney, and Christina Duszlak

**Seyfarth Synopsis:** In important breaking news, the Massachusetts Department of Family and Medical Leave (DFML) has changed its position and has confirmed that employers may receive approval of a private paid family or medical leave plan even if the plan does not provide paid leave benefits until 2021.

In a significant departure from the DFML's previous position, likely due to outside feedback, the DFML has confirmed that benefits under a private PFML plan that has been approved for an exemption do not have to begin until January 2021. Employers thus may receive approval of a private plan even though the plan does not provide paid leave benefits until January 2021, when the public program's leave benefits commence.

Under the DFML's prior position, a private plan would have had to have provided benefits in advance of approval and applying for the exemption now would have required an employer to provide the paid leave benefits now, 18 months earlier than the public program's benefits commence in January 2021. This news therefore may be a game-changer for certain companies in deciding whether to apply for a private plan exemption now or at any point between now and January 1, 2021.

As previously reported, for Quarter 1 only (July – September 2019), the deadline to file for a private plan exemption in time to avoid first quarter contributions for PFML has been moved from June 30 to September 20, 2019. This allows employers additional time to contemplate private plan options and insurance companies to develop corresponding insurance products. Going forward, the DFML will continue to accept applications on a rolling basis, but applications must be approved in the quarter prior to the quarter in which the exemption from the contributions will go into effect.

With today's news, if an employer applies for the private plan exemption by September 20th and receives approval of a plan that will not provide paid leave benefits until 2021, the employer will be able to avoid the first quarter contributions to the DFML (otherwise due October 31st), as well as future contributions. An employer also can apply *after* September 20, 2019, but the employer will be responsible for the Quarter 1 contributions and any subsequent quarters until the quarter following approval.

Today, the DFML also announced the dates and locations for its two public hearings. Written presentations may be submitted via the DFML contact form ahead of time as well. The hearings are scheduled as follows:

Thursday, May 23, 2019 (11 a.m. - 1 p.m.)  
Picknelly Adult and Family Education Center  
206 Maple Street  
Holyoke, MA

Friday, May 24, 2019 (1 p.m. - 3 p.m.)  
Hurley Building - Minihan Hall  
19 Staniford Street, 6th Floor  
Boston, MA

For our prior reports on the PFML Law and the proposed regulations, you may refer [here](#), [here](#), [here](#), [here](#), [here](#), and [here](#).

If you would like further information, please contact [Daniel B. Klein](#) at [dklein@seyfarth.com](mailto:dklein@seyfarth.com), [Ariel D. Cudkowicz](#) at [acudkowicz@seyfarth.com](mailto:acudkowicz@seyfarth.com), [Molly Mooney](#) at [mmooney@seyfarth.com](mailto:mmooney@seyfarth.com), or [Christina Duszlak](#) at [cduszlak@seyfarth.com](mailto:cduszlak@seyfarth.com).

[www.seyfarth.com](http://www.seyfarth.com)



Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

---

**Seyfarth Shaw LLP One Minute Memo® | May 10, 2019**

©2019 Seyfarth Shaw LLP. All rights reserved. "Seyfarth Shaw" refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.