

Minnesota Paid Leave (MPL)

OVERVIEW

Objective

To provide guidelines to agencies on the implementation of the Minnesota Paid Leave Law ([M.S. Ch. 268B](#)).

Policy Statement

Minnesota Paid Leave is a statewide program that provides eligible employees with job-protected leave and temporary partial income replacement for certain types of qualifying family and medical leaves. Agencies will implement the Minnesota Paid Leave Law in a manner that is consistent with state and federal law (including the federal Family and Medical Leave Act and Minnesota Pregnancy and Parenting Leave Act), statewide enterprise policies, and the collective bargaining agreements and compensation plans. In doing so, agencies will endeavor to balance the demands of the workplace with the legitimate needs of employees and their families. Agencies shall not retaliate, take adverse action, restrain, coerce, or discriminate against an employee because the employee exercised or attempted to exercise rights protected under applicable law.

Scope

This policy applies to all employees of agencies in the executive branch, as defined in Minnesota Statutes, section 43A.02, subdivisions 2 and 22, and employees of the Minnesota State Retirement System, Public Employees Retirement Association, and the Teachers Retirement Association.

Definitions and Key Terms

Some definitions from the Minnesota Paid Leave Law are included here for ease of reference. Please refer to [M.S. 268B.01](#) for all definitions used by the MPL Program.

Applicant. An employee or the employee's representative applying for leave with benefits under M.S. 268B.

Benefit(s). Monetary payments under M.S. Ch. 268B associated with qualifying bonding, family care, medical care related to pregnancy, serious health condition, qualifying exigency, or safety leave events, unless otherwise indicated by context.

Benefit Year. Generally, the period of 52 calendar weeks beginning on the first day an employee is absent for an MPL-qualifying event. For an effective date of leave that is any January 1, April 1, July 1, or October 1, the benefit year will be a period of 53 calendar weeks.

Bonding Leave. Time spent by an applicant who is a biological, adoptive, or foster parent with a biological, adopted, or foster child in conjunction with the child's birth, adoption, or placement. Bonding leave taken under M.S. Ch. 268B begins at a time requested by the employee. Bonding leave must end within 12 months of the birth, adoption, or placement of a foster child, except that, in the case where the child must remain in the hospital longer than the mother, the leave must end within 12 months after the child leaves the hospital. Employees may also use bonding leave before the actual placement or adoption of a child in situations that include but are not limited to where the employee may be required to:

1. Attend counseling sessions;
2. Appear in court;
3. Consult with the attorney or doctors representing the birth parent;
4. Submit to a physical examination; or
5. Travel to another country to complete an adoption.

Family member. With respect to an applicant, a "family member" is:

1. A spouse or domestic partner;
2. A child, including a biological child, adopted child, foster child, stepchild, child of a domestic partner, or child to whom the applicant stands in loco parentis, is a legal guardian, or is a de facto custodian;
3. A parent or legal guardian of the applicant ("parent" means the biological, adoptive, de facto custodian, or foster parent, stepparent, or legal guardian of an applicant or the applicant's spouse, or an individual who stood in loco parentis to an applicant when the applicant was a child);
4. A sibling;
5. A grandchild (child of the employee's child);
6. A grandparent (parent of the employee's parent) or spouse's grandparent;
7. An adult child's spouse (son-in-law or daughter-in-law); and
8. An individual who has a personal relationship with the applicant that creates an expectation and reliance that the applicant care for the individual without compensation, whether or not the applicant and the individual reside together.

Incapacity. Inability to perform regular work, attend school, or perform regular daily activities due to a serious health condition, treatment therefore, or recovery therefrom.

Medical care related to pregnancy. Includes prenatal care or incapacity due to pregnancy or recovery from childbirth, stillbirth, miscarriage, or related health conditions.

MPL Program. A division within Minnesota Department of Employment and Economic Development (DEED) that implements the Minnesota Paid Leave Law as provided for in M.S. Ch. 268B.

MPL-Protected Leave. Leave taken for any day for which the MPL Program has determined that the employee is eligible for benefits or leave under M.S. Ch. 268B; or any day for which the employee meets the eligibility criteria under M.S. 268B.06, subd. 1(a), clauses (2) and (3), or the employee has applied for benefits in good faith under M.S. Ch. 268B.

Qualifying Exigency. A need arising out of a military member's active duty service or notice of an impending call or order to active duty in the United States armed forces, including providing for the care or other needs of the family member's child or other dependent, making financial or legal arrangements for the family member, attending counseling, attending military events or ceremonies, spending time with the family member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member.

For the purposes of M.S. Ch. 268B, a “military member” means a current or former member of the United States armed forces, including a member of the National Guard or reserves, who, except for a deceased military member, is a resident of the state and is a family member of the applicant taking leave related to the qualifying exigency.

Safety Leave. Leave from work because of domestic abuse, sexual assault, or stalking of the applicant or applicant’s family member, provided the leave is to:

1. Seek medical attention related to the physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
2. Obtain services from a victim services organization;
3. Obtain psychological or other counseling;
4. Seek relocation due to the domestic abuse, sexual assault, or stalking; or
5. Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to, or resulting from, the domestic abuse, sexual assault, or stalking.

Serious Health Condition. A physical or mental illness, injury, impairment, condition, or substance use disorder that involves:

1. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or
2. Continuing treatment or supervision by a health care provider that includes any one or more of the following:
 - a. A period of incapacity of seven or more days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances beyond the individual’s control prevent a follow-up visit from occurring as planned, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider;
 - b. A period of incapacity due to medical care related to pregnancy;
 - c. A period of incapacity or treatment for a chronic health condition that:
 - i. Requires periodic visits, defined as at least twice a year, for treatment by a health care provider or under orders of, or on referral by, a health care provider;
 - ii. Continues over an extended period of time, including recurring episodes of a single underlying condition; and
 - iii. May cause episodic rather than continuing periods of incapacity;
 - d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The applicant or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider; or

- e. A period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for:
 - i. Restorative surgery after an accident or other injury; or
 - ii. A condition that would likely result in a period of incapacity of more than seven full calendar days in the absence of medical intervention or treatment.

Treatment by a health care provider means an in-person visit or telemedicine visit with a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider.

Treatment includes but is not limited to examinations to determine if a serious health condition exists and evaluations of the condition.

Absences attributable to incapacity due to medical care related to pregnancy or a chronic health condition qualify for leave under M.S. Ch. 268B even if the applicant or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than seven consecutive, full calendar days.

Supplemental Benefits. The employer's payment of accrued sick or vacation leave, or Paid Parental Leave, to an employee who chooses to receive it. Such a payment is in addition to any family or medical benefit payments the employee is receiving under M.S. Ch. 268B. Supplemental benefits for purposes of MPL do not include payments of short-term disability, long-term disability, or income protection plan benefits.

1. Nothing in M.S. Ch. 268B requires an employee to receive supplemental benefit payments.
2. At no time shall a supplemental benefit payment as defined above, combined with any leave benefit received under M.S. Ch. 268B, exceed the regular wage or salary of the applicant.

Statutory References

[M.S. 268B.001](#), et seq., Minnesota Paid Leave Law

GENERAL STANDARDS AND EXPECTATIONS

I. The Minnesota Paid Leave Program

Minnesota Paid Leave (MPL) offers job protection and temporary partial wage replacement benefits to eligible employees who are absent from work for a qualifying reason. The MPL Program is a division within the Minnesota Department of Employment and Economic Development (DEED). The MPL Program, not the employer, administers determination of claims, eligibility, and approval or denial of benefit payments, and appeals of determinations and appeals in accordance with M.S. Ch. 268B. Benefits are funded by employer and employee premium contributions to DEED.

The MPL Program requires an applicant to establish an account, submit certification supporting their request for benefits, meet eligibility standards, and provide information requested throughout the application process. Except for bonding leave or leave that is intermittent, the MPL Program requires any claim for benefit payments to be based on a single qualifying event of at least seven (7) calendar days.

An application for MPL benefits is not considered a claim against an employer but is considered a request for benefits from the family and medical benefit insurance account. Benefits may be subject to state and federal taxes or withholdings.

Employees must notify the employer of their need for leave and request for benefits before applying for MPL benefits from the MPL Program. Employee notice requirements are set forth in this policy. Employees who decline to apply for MPL benefits through the MPL Program may remain entitled to take MPL-protected leave.

II. Eligibility

Employees may be eligible for Minnesota Paid Leave if:

- A. The employee is unable to perform regular work due to their own serious health condition, including medical care related to pregnancy; bonding; family care; a qualifying exigency; or safety leave; and
- B. The employee is financially eligible.
 - 1. “Financially eligible” means that the employee has earned at least 5.3 percent of the state’s average annual wage in covered employment in the employee’s base period (generally the most recent four completed calendar quarters or the first four of the most recent five completed quarters, whichever contains more wage credits).¹
 - 2. “Covered employment” means:
 - i. 50 percent (50%) or more of the employment during the calendar year is performed in Minnesota, or
 - ii. Some of the employment is performed in Minnesota and the employee resides in Minnesota for 50 percent (50%) or more of the calendar year.

Covered employment includes intermittent, temporary, and part-time work, and probationary employees.

III. Leave

- A. **Types of Leave.** Eligible employees are entitled to receive medical leave and family leave, which may be used for the following reasons:
 - 1. Medical Leave.
 - a. Leave for the employee’s own serious health condition, including medical care related to the employee’s own pregnancy and childbirth.
 - 2. Family Leave.

¹ See Minn. Stat. 268B.01, subd. 5, for a complete definition of “base period.”

- a. Bonding leave.
 - b. Leave to care for a family member's serious health condition.
 - c. Safety leave.
 - d. Qualifying exigency leave.
- B. **Amount of Leave.** Eligible employees are entitled to receive up to 12 weeks of medical leave and up to 12 weeks of family leave, but no more than 20 weeks of total leave, in the employee's benefit year. A benefit year begins on the first day an employee is absent for an MPL-qualifying reason.
- C. **Leave Schedule.** All types of MPL-protected leave may be taken continuously, intermittently, or on a reduced schedule basis. For leave based on the serious health condition of an employee or a qualifying family member, a health care provider will be asked to certify that intermittent leave is medically beneficial to the patient given their medical condition.
 - 1. Employees may take intermittent leave in increments consistent with the minimum increments used to account for other forms of leave.
 - 2. Agencies may adopt written policies providing that employees approved for intermittent MPL may not receive more than 480 hours (or the hourly equivalent of 12 workweeks) of intermittent leave in a 12-month period. If an agency limits hours of intermittent leave pursuant to such a policy, an employee is entitled to take their remaining leave continuously, subject to the total amount of leave available.

IV. Employee Rights and Responsibilities

- A. **Notice to Employer.** An employee must provide their appointing authority at least thirty (30) days of advance notice before MPL-protected leave is to begin if the need for the leave is foreseeable. If they do not, the employee must explain why if asked.

When an employee becomes aware of a need for leave less than 30 days in advance, they should provide notice as soon as possible and practical. That means either the same day or the next day, unless the need for leave is based on a medical emergency.

The employee must advise the appointing authority as soon as possible and practical if dates of scheduled leave change, are extended, or were initially unknown.

Employees must comply with their agency and appointing authority's usual and customary notice and procedural requirements for requesting leave, including attendance or call-out policies and procedures, absent unusual circumstances or other circumstances caused by the reason for the employee's need for leave. In all cases, an employee shall provide sufficient information to make the agency aware that the employee needs MPL-protected leave and the anticipated timing and duration of the leave.

If the required notice is not provided, the taking of leave may be delayed or denied. In all cases, it is the employee's responsibility to provide sufficient notice.

- B. **Documentation.** Employees must provide sufficient documentation for every type of MPL leave. The employee shall provide a copy of the documentation as soon as possible and practical. If an employee is applying for MPL Benefits, providing certification at or around the time the employee provides a certification to the MPL Program shall be considered timely.

Sufficient documentation shall include:

1. A complete and sufficient FMLA medical certification form,
2. A complete and sufficient [MPL medical certification form](#), or
3. Other written notice allowed by the Minnesota Paid Leave Law.

If the required documentation is not provided, leave may be denied. In all cases, it is the employee's responsibility to provide sufficient documentation.

- C. **Supplemental Benefits.** Subject to the parameters below, employees may use accrued sick or vacation leave, or Paid Parental Leave as applicable, to supplement MPL. An employee cannot be required to exhaust such paid leave before or while taking MPL.
1. An employee may request and the agency shall grant the use of accrued sick or vacation leave, or PPL as applicable, to supplement MPL benefit payments.
 2. Employees who choose to supplement must elect in writing whether and how much they will supplement for the duration of the leave period.
 3. In no case may an employee receive more than their regular wage or salary in combined MPL benefits, supplemental benefits, or payment for hours worked.
 4. Employees on leave for reasons that qualify for Paid Parental Leave (PPL) who choose to supplement MPL benefits will be allowed to supplement with accrued sick leave, PPL, and accrued vacation leave in that order and pursuant to the terms and conditions of applicable policies, collective bargaining agreements, or compensation plans.
 5. Employees on leave for all other reasons who choose to supplement MPL benefits will be allowed to supplement with accrued sick leave and accrued vacation leave, in that order and pursuant to the terms and conditions of applicable policies, collective bargaining agreements, or compensation plans.
 6. Accrued sick leave hours may be used to supplement MPL only for those conditions which qualify for sick leave use.
 7. It is the employee's responsibility to accurately communicate information about requested or approved MPL benefits, including the amount of the weekly benefit received, to the agency.
- D. **Overpayments.** If an employee receives more than their regular wage or salary, due to the combination of MPL benefits and payment of supplemental benefits, the employee is responsible for repayment of any overpayment to the agency.
- E. **Continuation of Health Insurance.** During any leave to which an employee is entitled under the Minnesota Paid Leave Law, the agency must maintain coverage under any group insurance policy, group subscriber contract, or health care plan for the employee and any dependents as if the employee were not on leave. In order for coverage to continue, the employee must continue to pay the employee's portion of required premiums.
- F. **Pension Impact.** Employees should contact their retirement plan to understand how use of MPL leave may impact their retirement benefits and their options for purchasing service credit for leave.

G. Right to Reinstatement.

1. On return from MPL-protected leave, an employee is entitled to be returned to the same position they held when leave began or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment.
2. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the period of leave.
3. Employees who begin using MPL within ninety (90) calendar days of the start of their employment with the State of Minnesota may not have a right to reinstatement. Agencies should consult their own counsel or MMB Employment and Labor Counsel prior to making such a determination.

V. Coordination with Other Leaves

MPL will run concurrently with any leave or wage supplement for which employees may be eligible under state or federal law, including Family and Medical Leave Act (FMLA) and Minnesota Pregnancy and Parenting Leave under [M.S. 181.941](#), or the applicable collective bargaining agreement or compensation plan.

VI. Employer Requirements and Responsibilities

A. Notice to Employees.

1. Agencies must post the required workplace notice prepared by the MPL Program. The notice must be posted in English and in any language spoken by five (5) or more employees, if such notice is available from the MPL Program.
2. Agencies must issue an individual notice about MPL to each employee within thirty (30) days of the start of their employment. The notice may be provided on paper or electronically and must be provided in the employee's primary language, if such notice is available from the MPL Program. The notice must include the following.
 - a. An explanation of the availability of family and medical leave benefits provided under M.S. Ch. 268B, including rights to reinstatement and continuation of health insurance;
 - b. The amount of premium deductions made by the employer under M.S. Ch. 268B;
 - c. The employer's premium amount and obligations under M.S. Ch. 268B;
 - d. The name and mailing address of the employer;
 - e. The identification number assigned to the employer by DEED;
 - f. Instructions on how to file a claim for family and medical leave benefits;
 - g. The mailing address, email address, and telephone number of DEED; and
 - h. Any other information required by DEED.
3. Agencies must obtain written or electronic acknowledgment of receipt of the individual notice from each employee and keep a record of the acknowledgment. In cases where an employee refuses to acknowledge receipt, the agency must be able to demonstrate how the employee was notified.

B. Employee Requests for Leave.

1. Agencies shall promptly respond to employee requests for MPL leave.

2. Upon an employee's request for leave, or when an agency otherwise has sufficient information to know that an employee's reason for leave may qualify for MPL, agencies shall check the employee's eligibility for MPL. If the employee applies for MPL benefits from the MPL Program, an agency may rely on a determination of eligibility issued by the MPL Program.
3. If an employee is eligible for MPL and their reason for leave qualifies for MPL, the agency must request sufficient documentation from the employee pursuant to Section IV.B. of this Policy. The agency must provide the employee with a Notice of Intent to Collect Private Data (Tennessee Warning) and the Consent to Release Information to DEED with the documentation request. The agency may provisionally grant MPL leave pending completion of the certification process.
4. After the agency acquires enough information to determine whether the leave is MPL-qualifying, the agency shall designate the leave as MPL and notify the employee. Notification must be sent by a method in which receipt can be verified. This notification should include whether the employee has chosen to supplement MPL benefits with accrued sick or vacation leave, or Paid Parental Leave as applicable, and notice to the employee that they are responsible for repayment to the agency in case of any overpayment.

C. Paid Leave Administration Using the Online Portal.

1. Agencies must respond to requests for information from the MPL Program about an employee's application for MPL benefits within seven (7) calendar days of the request, or within the timeline provided by the MPL Program. If an agency does not respond, the MPL Program may process the employee's application without the requested information.

VII. Recordkeeping

- A. Agencies should make, keep, and preserve MPL-related records in accordance with all relevant recordkeeping obligations.
- B. Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of MPL, shall be maintained as confidential medical records in separate files/records from the usual personnel files. As applicable, records and documents created for purposes of MPL containing family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of state and federal law.

VIII. Retaliation and Interference Prohibited

- A. Employers must not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against an employee for requesting or obtaining benefits or leave, or for exercising any other right under the Minnesota Paid Leave Law.
- B. Employers must not obstruct or impede an application for leave or benefits, or the exercise of rights under the Minnesota Paid Leave law.

RESPONSIBILITIES

Agencies are responsible for:

- Adopting and implementing this policy consistently and in compliance with other applicable laws, policies, collective bargaining agreements, and compensation plans.
- Coordinating other existing leave benefits with MPL benefits.
- Designating one or more Paid Leave Administrators to review leave applications, view determinations, and provide requested information to the MPL Program in a timely manner.
- Displaying the required workplace notice prepared by the MPL Program.
- Providing the statutorily required notice to individual employees, including new hires, regarding their rights under the Minnesota Paid Leave Law, obtaining acknowledgment of the notice from the employee, and maintaining documentation of that acknowledgment.
- Distributing this policy to agency staff and all employees.
- Requiring probationary agency supervisors, and encouraging permanent status agency supervisors, to attend Managing Leaves training presented either by individual agencies or by MMB as part of the Supervisor Core Training Program.
- Maintaining records relating to employee use of MPL in accordance with this policy.

MMB is responsible for:

- Ensuring that this policy is up to date with the provisions of collective bargaining agreements and compensation plans and any applicable statutory provisions.
- Providing training for agencies.

REFERENCES, FORMS, AND SUPPLEMENTS

Minnesota Paid Leave, <https://paidleave.mn.gov/>

[Collective Bargaining Agreements and Compensation Plans](#)

Additionally, the following forms are available on the [MMB website](#):

- Notice of Intent to Collect Private Data (Tennessee Warning)
- Consent to Release Information to DEED
- Authorization for Release of Medical Information from Treating Health Care Provider

CONTACTS

MMB Enterprise Employee Resources