An Overview of Paid Family Leave

Andrea Paluso, Family Forward Oregon
Paid maternity leave around the world

World Policy Forum: worldpolicyforum.org/policies/is-paid-leave-available-for-mothers-of-infants
History of Family Leave Laws in Oregon

• 1989: Pregnancy Disability is added to the Parental Leave Act.
• 1991: Family Medical Leave Act is passed to provide protected leave for the health conditions of family members.
• 1993: The federal Family Medical Leave Act (FMLA) is enacted and many components of Oregon’s leave laws are adopted.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
History of Family Leave Laws in Oregon

• 1995: Oregon leave laws are repealed and consolidated into the Oregon Family Leave Act (OFLA).

• 2007: Several changes to OFLA are enacted by the 74th Legislative Assembly, including:
  • New provisions related to the use of paid sick leave for employees taking family leave;
  • Redefining family leave to exclude leave taken due to an on-the-job injury;
  • Expanding the definition of “family member” to include grandparents, grandchildren and same-sex domestic partners.

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Other Leave Provisions in Oregon Law

• In 2007 the Oregon Victims of Certain Crimes Leave Act was passed by the Oregon legislature.
  • This law provides protected leave to deal with events arising from domestic violence, sexual assault or stalking.
• In 2009 the Oregon Military Family Leave Act is enacted.
  • This law mirrors the 2008 FMLA amendments to provide new leave rights for military service.
• In 2011 the Crime Victims Leave law was amended to provide leave for criminal harassment.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
Who is covered by leave laws in Oregon?

OFLA and FMLA comparison

<table>
<thead>
<tr>
<th>Size of Firm</th>
<th># of firms</th>
<th># of workers</th>
<th>% of firms</th>
<th>% of workers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-24</td>
<td>81,433</td>
<td>390,073</td>
<td>91.29%</td>
<td>29.86%</td>
</tr>
<tr>
<td>25-49</td>
<td>4,027</td>
<td>137,421</td>
<td>4.51%</td>
<td>10.52%</td>
</tr>
<tr>
<td>50+</td>
<td>3,741</td>
<td>778,446</td>
<td>4.19%</td>
<td>59.61%</td>
</tr>
<tr>
<td>Total</td>
<td>89,201</td>
<td>1,305,960</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Oregon Employment Department
Private sector only, based on March 2011 employment

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
COVERED EMPLOYERS

FMLA

• 50 or more employees working in the U.S.

OFLA

• 25 or more employees working in Oregon

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
## COVERED EMPLOYEES

### FMLA
- Worked for the covered employer for a total of 12 months (need not be consecutive)
- Worked at least 1250 hours in the 12 month period immediately preceding the leave
- Employer must have 50 or more employees within 75 miles of the employee’s worksite

### OFLA
- Worked for the covered employer at least 180 calendar days
- Worked an average of 25 hours per week during the 180 days preceding the leave
- For parental leave, does not need to meet the 25 hours per week worked requirement.
- For Oregon Military Family Leave, does not need to meet the 180 days worked requirement.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
# COVERED FAMILY MEMBERS

## FMLA
- Spouse
- Child (under the age of 18; if over 18 must be incapable of self care due to mental or physical disability)
- "In loco parentis"
- Parent
- For Service Member Leave, also includes next of kin

## OFLA
- Spouse
- Same sex domestic partner
- Child (any age)
- "In loco parentis"
- Parent
- Parent-in-law
- Grandparent
- Grandchild

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
# COVERED LEAVE EVENTS

## FMLA

**Illness, injury or impairment that:**

- Requires an overnight hospital stay
- Involves a period of incapacity of 3 full consecutive days and:
- Requires in-person treatment within 30 days of the first day of incapacity with the first visit within 7 days of the first day of incapacity; or
- In person treatment at least once that results in continuing treatment, with the first visit within 7 days of the first day of incapacity.

## OFLA

**Illness, injury or impairment that:**

- Requires an overnight hospital stay
- Requires constant or continuing care
- Involves a period of incapacity for more than 3 consecutive days and 2 or more treatments by a health care provider or 1 treatment plus a regimen of continuing care.
- Permanent or long-term incapacity for which treatment may not be effective.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
# COVERED LEAVE EVENTS

## FMLA
- Chronic conditions that require at least 2 visits a year for treatment and may be episodic.
- Permanent or long term conditions for which treatment may not be effective (Alzheimer’s, stroke).
- Conditions that involve multiple treatments for restorative surgery or conditions that, if not treated, would result in incapacity of more than 3 days.
- Prenatal care and pregnancy.
- Parental leave.
- Injury or illness of a service member incurred in the line of active duty.

## OFLA
- Chronic conditions that require periodic visits for treatment and may be episodic.
- Terminal conditions.
- Conditions that involve multiple treatments for restorative surgery or conditions that, if not treated, would result in incapacity of more than 3 days.
- Prenatal care and pregnancy.
- Parental leave.
- Sick Child Leave (non serious health condition of a child)
- Military Family Leave
- Bereavement Leave

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
<table>
<thead>
<tr>
<th><strong>LENGTH OF LEAVE</strong></th>
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</thead>
<tbody>
<tr>
<td><strong>FMLA</strong></td>
</tr>
<tr>
<td>12 weeks per leave year</td>
</tr>
<tr>
<td><strong>Exception:</strong></td>
</tr>
<tr>
<td>• The spouse, child, parent or next of kin of an injured service member receives up to 26 weeks of leave to care for the service member.</td>
</tr>
<tr>
<td><strong>OFLA</strong></td>
</tr>
<tr>
<td>12 weeks per leave year</td>
</tr>
<tr>
<td><strong>Exceptions:</strong></td>
</tr>
<tr>
<td>• A female employee who uses pregnancy disability leave is eligible for an additional 12 weeks of OFLA leave.</td>
</tr>
<tr>
<td>• A female or male employee who uses a full 12 weeks for Parental Leave purposes is eligible for 12 additional weeks for Sick Child Leave Purposes only.</td>
</tr>
</tbody>
</table>

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
BENEFITS WHILE ON LEAVE

**FMLA**
- Employee may use any accrued vacation.
- May use sick leave if consistent with the employer policy.
- Accrual of leave, benefits, seniority, and bonuses is subject to employer policy.
- Employer must continue medical insurance while on leave.

**OFLA**
- Employee may use any accrued vacation.
- Employee may use any accrued sick leave.
- Accrual of leave, benefits, seniority, and bonuses is subject to employer policy.
- Employer is not required to continue medical insurance while on leave.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
REINSTATEMENT

FMLA

- Employee is entitled to the position held at the time leave began or to an equivalent position.

OFLA

- Employee is entitled to the position held at the time leave began.

Information provided by the Technical Assistance Department at the Bureau of Labor and Industries
What’s needed next?
MOVING
OREGON
FORWARD...
TOGETHER.