HB 824

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 824 (Delegate Stewart)
Economic Matters

Family and Medical Leave Insurance Program - Covered Individuals - Alternatively Qualified Individuals

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This bill expands the Family and Medical Leave Insurance (FAMLI) Program by providing a one-time payment, initially set at $2,000 beginning July 1, 2027, for an alternatively qualified individual who is unemployed or taking unpaid leave from employment to care for or bond with a child, as specified. An employer of a covered alternatively qualified individual must provide up to six weeks of unpaid leave to care for or bond with a child as specified. The Secretary of Labor must adopt regulations regarding the establishment of private employer plans with respect to benefits paid to a covered alternatively qualified individual. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: Special fund expenditures for FAMLI increase significantly beginning in FY 2027 for the operating expenses of the Maryland Department of Labor (MD Labor) (likely by several hundred thousand dollars annually), and increase significantly more, likely by at least $60 million, to pay FAMLI benefits beginning in FY 2028. Special fund revenues from FAMLI contributions significantly increase beginning in FY 2027 to cover these expenses. The Board of Public Works (BPW) can carry out its responsibilities with existing resources. **This bill increases the cost of an entitlement program beginning in FY 2027.**

Local Effect: Local jurisdictions may experience increased costs, likely beginning in FY 2027, from FAMLI contribution rates and rates for private employer plans increasing to cover this new benefit. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: An "alternatively qualified individual" is an employee or an unemployed individual who (1) has earned at least $7,200 in total lifetime wages in the State; (2) does not qualify under the FAMLI Program as a covered employee or a self-employed individual who elects to participate in the program; and (3) is not eligible for or receiving comparable benefits in another state. A covered alternatively qualified individual is precluded from receiving existing FAMLI benefits established under current law.

A cost analysis of the FAMLI Program must be conducted annually beginning on November 15, 2025, instead of November 15, 2026, under current law, which is used to determine contribution rates for the upcoming fiscal year.

The bill specifies the claims process for approving and receiving benefits – beginning July 1, 2027. An alternatively qualified individual may not receive more than one benefit payment per application year but may receive another benefit in a subsequent year if wage requirements are met. If an employer provides paid leave to a covered alternatively qualified individual, the employer may require, or the individual may elect, to substitute the paid leave for any or all unpaid leave to which the alternatively qualified individual is entitled.

The benefit for alternatively qualified individuals, initially set at $2,000 beginning July 1, 2027, is indexed to inflation beginning January 1, 2028, and annually thereafter. The bill specifies how inflation is determined and set. MD Labor must notify each employer of the increase to the benefit.

Current Law: Chapter 48 of 2022 established the FAMLI Program, to be administered by MD Labor. Chapters 258 and 259 of 2023 and Chapters 266 and 267 of 2024 made several modifications to the program, including delaying the program's start date. Employer, employee, and self-employed individual contributions to the program begin July 1, 2025, and claims for benefits begin July 1, 2026.

The program generally provides up to 12 weeks of benefits to a covered individual who is taking leave from employment due to caring for or bonding with certain family members, the individual's own serious health condition, or a qualifying exigency arising out of a family member's military deployment. The weekly benefit is based on an individual's average weekly wage and is indexed to inflation.

Family and Medical Leave Insurance Fund

Chapter 48 also establishes the FAMLI Fund, which is a special fund administered by the Secretary of Labor consisting of employee, employer, and self-employed individual contributions, specified application and renewal fees, money collected from specified assessments and hearings, and other specified sources of funds. Funds must be used to pay FAMLI benefits and may be used to pay for public education on the FAMLI Program and any other costs associated with the initial implementation and ongoing administration of the FAMLI Program. Employer, employee, and self-employed individual contributions to the program capitalize the fund and begin July 1, 2025; claims for benefits paid out from the fund begin July 1, 2026.

Contributions

Required contributions to the program, which are shared equally between employers and employees, are also based on employee wages, although employers with 14 or fewer employees are not required to contribute. The total rate of contribution may not exceed 1.2% of an employee's wages up to and including the Social Security wage base, and the rate is annually adjusted based on a required cost analysis. In September 2023, MD Labor set the initial total rate of contribution at 0.9% of covered wages. This rate applies for fiscal 2026; thus, beginning July 1, 2025, each employee, each employer with 15 or more employees, and each participating self-employed individual must pay to the Secretary of Labor 0.9% of covered wages up to the Social Security cap, equally divided between employees and employers (self-employed individuals pay the total 0.9% contribution rate). By November 15, 2026, and annually thereafter, the Secretary of Labor must conduct a cost analysis to, among other things, determine future contribution rates.

Benefits

A covered individual may not receive more than 12 weeks of benefits in an application year, except under specified circumstances. A covered individual may take eligible leave on an intermittent leave schedule under specified conditions. The weekly benefit payable to a covered individual is calculated based on the employee's average weekly wage and ranges from a minimum of $50 to a maximum of $1,000 for the six-month period beginning July 1, 2026. Beginning January 1, 2027, the maximum weekly benefit must be increased by the annual percentage growth in the Consumer Price Index, subject to a determination by BPW based on expected economic conditions.

Maryland Parental Leave Act

Chapters 333 and 334 of 2014 established the Maryland Parental Leave Act (which is a separate program from the FAMLI Program). In Maryland, firms with 15 to 49 employees are required to provide employees with unpaid parental leave benefits. An eligible employee may take unpaid parental leave up to a total of six weeks in a 12-month period for the birth, adoption, or foster placement of a child. During parental leave, the employer must maintain existing coverage for a group health plan and, in specified circumstances, may recover the premium if the employee fails to return to work. State and local governments are not included. To be eligible for the unpaid parental leave, an employee must have worked for the employer for at least one year and for 1,250 hours in the previous 12 months. The Act does not apply to the State and local governments as employers.

State Revenues: MD Labor advises that the FAMLI contribution rate of covered employees and employers likely needs to be increased for the FAMLI Fund to cover the additional benefits. It is likely that FAMLI contribution rates have to be raised high enough to cover at least $60 million of benefits annually, plus the associated operational costs for MD Labor to issue the benefits. The actual impact is unknown at this time as it depends on a cost analysis on the fund's solvency that must be conducted by November 15, 2025 (and annually thereafter) and is used to determine rates for the upcoming fiscal year. However, assuming the FAMLI rate is increased beginning July 1, 2026, special fund revenues increase significantly, likely by at least $60 million annually, beginning in fiscal 2027.

State Expenditures: Special fund expenditures for FAMLI increase significantly beginning in fiscal 2027 for MD Labor's operating expenses and increase significantly more, likely by at least $60 million, beginning in fiscal 2028, as discussed below.

Maryland Department of Labor Operating Expenses

The bill establishes a new benefit under the FAMLI Program that MD Labor must administer. MD Labor estimates it needs to hire 16 additional employees to administer the new benefit. Additionally, MD Labor notes that some aspects of implementing this new benefit can be addressed with FAMLI's existing processes and tools, but that FAMLI's information technology vendors may need to modify or create new processes/tools at a cost of $130,000 in fiscal 2027. Therefore, MD Labor estimates its operating expenses increase by approximately $385,500 in fiscal 2027 and by at least $1.2 million annually thereafter to administer the new benefit.

The Department of Legislative Services (DLS) concurs that the bill significantly increases the responsibilities and duties of MD Labor and agrees that MD Labor needs additional personnel and resources to administer this benefit beginning in fiscal 2027. However, as MD Labor is still in the implementation phase of the FAMLI Program, there are a number of unknowns about the FAMLI Program at this time, including the number of employers that will opt to be covered under private plans. Thus, DLS cannot reliably estimate the existing capacity of employees under the current FAMLI Program to administer the new benefit. As such, it is unknown how many additional personnel and resources MD Labor needs to administer this benefit, but special fund expenditures for MD Labor's operational expenses may increase annually by several hundred thousand dollars beginning in fiscal 2027 and by as much as $1.0 million annually thereafter.

Family and Medical Leave Insurance Benefits

Benefits for covered alternatively qualified individuals begin on July 1, 2027, so special fund expenditures increase significantly beginning in fiscal 2028. A higher volume of claims is expected in the initial year, which is attributable to a backlog of individuals who began bonding with a child in the prior year and then become eligible once benefits commence.

More specifically, based on birth rates in Maryland and the projected number of individuals who would be qualified for FAMLI benefits to bond with a child under the current program, potentially more than 60,000 individuals could qualify as alternatively qualified individuals. Assuming at least half of these individuals qualify for benefits as an alternatively qualified individual, special fund expenditures increase by at least $60 million per year (though probably significantly more in fiscal 2028 due to the backlog), increasing annually with inflation. Although the actual impact could be significantly higher, it cannot be more reliably estimated until additional data on claims experience becomes available from the existing FAMLI Program.

Impact on the State as an Employer

Alternatively qualified individuals who are employed by the State are entitled to six weeks of unpaid leave. State agencies do not generally hire temporary employees when employees are on leave. As the vast majority of State employees should qualify for regular FAMLI benefits, DLS assumes that only a limited number of State employees would qualify as alternatively qualified individuals and elect to take unpaid leave provided by the bill. Thus, State finances are not materially affected by providing up to six weeks of unpaid leave to covered alternatively qualified individuals who are State employees.

The State is opting to self-insure for the FAMLI Program so there is no material cost to the State as an employer related to any increased FAMLI contribution rates.

Local Expenditures: Local jurisdictions may experience increased costs, likely beginning in fiscal 2027, from FAMLI contribution rates increasing to cover the new benefit. To the extent that a local jurisdiction has a private employer plan, plan costs may increase to cover employed alternatively qualified individuals.

Local jurisdictions that employ covered alternatively qualified individuals (who are thus ineligible for FAMLI benefits under current law) must allow those individuals to take up to six weeks of unpaid leave to care for or bond with a child.

Small Business Effect: A small business that employs a covered alternatively qualified individual (who is thus ineligible for FAMLI benefits under current law) must allow that individual to take up to six weeks of unpaid leave to care for or bond with a child. There is no minimum number of work hours for an employee to qualify for this leave, unlike the Maryland Parental Leave Act and the FAMLI Program under current law.

The FAMLI contribution rate may need to be increased to cover this new benefit. To the extent that the FAMLI contribution rate increases, small businesses with at least 15 employees may have to pay more in employer FAMLI contributions. If employer private plan rates increase, likewise, small businesses may have to pay more for FAMLI coverage.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Board of Public Works; U.S. Centers for Disease Control and Prevention; Department of Legislative Services

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