

## PFML Meeting w/OER 5/23/19

### Request for Information regarding MGL. C. 175M PFML:

1. The intent of the MGL c. 175 PFML was to provide a paid leave benefit for employees that do not have a paid leave benefit from their employer. The Commonwealth provides NAGE members with a paid leave program under the CBA. Please provide the reasoning to include NAGE members under the PFML.
2. Pursuant to MGL c. 175M PFML, an employer may be approved for an exemption from the requirement to remit contributions if the employer's private plan confers the same or better benefits as those under the PFML....and may not cost employees more than they would be charged under the PFML plan.

NAGE members (state employees) are entitled to a leave and benefit program under the current CBA and additionally EILB. NAGE members do not have a cost for the current negotiated leave plan under the CBA. Therefore, under the PFML law the cost of PFML plan for state employees, as proposed by the Commonwealth's letter to NAGE dated April 29, 2019, would be greater.

Please provide the analysis and study comparing the leave benefits for NAGE members under the CBA, EILB and the PFML and the cost analysis that was used to determine whether the Commonwealth as an employer should be exempt from the PFML as outlined in the law.

3. If the Commonwealth's analysis determined that the current leave benefit for NAGE members is not commensurate with the PFML benefit, has the Commonwealth studied other ways to make the private plan commensurate with PFML to allow for exemption?
4. What proposals have other public sector unions discussed to implement a private plan to exempt their members from the PFML?
5. Please provide an analysis of the monetary value of the paid leave benefits provided by the PFML and those provided by our CBA.
6. Pursuant to the PFML, an employer that is denied an exemption under PFML may appeal the decision to the DFML.

- a. What is the process for the appeal? What is the threshold test and analysis to determine exemption? Who has the authority to issue decisions for the appeal? Is there a further appeal right to exhaust after denial of the appeal?
  - b. How many employers (including all employers/public/private) are currently appealing their denial for exemption from the PFML? What are the reasons used by those employers and other entities as justification for exemption?
7. It is our understanding that the rate charged by the DFML to employer/employees may be adjusted annually based upon the cost of the PFML and that there is no cap for rate. NAGE is very concerned that the rate could dramatically increase and economically impact NAGE members. Please advise if this is accurate and please provide the process for adjusting the rate, the criteria to be utilized. Please also provide who will have the authority to make the decision.
8. In addition to the total rate being adjusted annually by the Director of the DFML, he may also change the employee share. What method and criteria be utilized to make those determinations?
9. In our meeting a “steering committee” for DFML was mentioned please provide the mission and authority for the committee.
10. Regarding the steering committee; please provide the composition, will they be appointed and by whom, tenure, guidelines, selection criteria, oversight, etc.
11. Please provide the current organizational chart and all staff of the DFML.
12. NAGE received a response to an initial information request made on May 10, 2019 that indicated the Commonwealth had not conducted studies when adopting the amount for the employees’ share under the PFML. What was the basis for the decision to impose the maximum amount for the employees’ share allowable under the PFML?
13. Please provide the application process for NAGE members to obtain leave under PFML.
14. Please provide the criteria for approval of PFML? Please provide the criteria for denial of PFML? Who at the DFML has the authority to decide the PFML applications?
15. What medical information will be required for approval of PFML?

16. Will prior usage of sick leave and FMLA be considered in the approval process of PFML?
17. If denied, is there an appeal process? If so, please provide the appeal process and criteria for the process.
18. What entity will hear the appeals of denial for PFML?
19. How long will the application process for PFML take? Please provide the timeline from application to approval/decision.
20. If a member has approved EILB, short term disability/long term disability, will they be approved for PFML?
21. Has the Commonwealth studied the impact of the PFMLA upon the contributions to and the withdrawals from EILB? Has the Commonwealth studied the impact of the PFMLA upon legislative sick leave banks?
22. Is there a plan to eliminate EILB due to the PFML?
23. What is the number of NAGE members (including those at independent agencies) contributing to EILB in 2016, 2017, 2018 and 2019?
24. What was the utilization and duration of withdrawals by NAGE members (including those at independent agencies) from EILB in 2016, 2017, 2018 and 2019?
25. How many NAGE members (including those at independent agencies) were approved to enroll in or withdraw from EILB in 2016, 2017, 2018 and 2019?
26. How many NAGE members (including those at independent agencies) were denied enrollment in or withdrawal from EILB in 2016, 2018, 2018 and 2019?
27. What is the number of NAGE members (including those at independent agencies) utilizing FMLA in 2016, 2017, 2018 and 2019? How many were paid and what was the duration of that paid leave? How many were unpaid and what was the duration of that unpaid leave?
28. Please provide the number of NAGE members (including those at independent agencies) approved for FMLA both paid and unpaid during those same years.
29. Please provide the number of denials for FMLA during those same years.
30. What is the number of NAGE members (including those at independent agencies) utilizing FMLA for parental leave in 2016, 2017, 2018 and 2019? What is the duration of that leave for the same period?

31. What is the number of NAGE members (including those at independent agencies) utilizing FMLA for family leave in 2016, 2017, 2018 and 2019? What is the duration of that leave for the same period?
32. What is the number of NAGE members (including those at independent agencies) utilizing FMLA for medical leave in 2016, 2017, 2018 and 2019? What is the duration of that leave for the same period?
33. What is the number of NAGE members (including those at independent agencies) utilizing catastrophic leave in 2016, 2017, 2018 and 2019? What is the duration of that leave for the same period?
34. What is the utilization of vacation leave in lieu of sick in 2016, 2017, 2018 and 2019? What is the duration of that leave in 2016, 2017, 2018 and 2019?
35. What is the number of employees of all NAGE members (including those at independent agencies) with accrued leave in excess of 20 weeks?
36. Please provide the age, gender and length of service of NAGE members (including those at independent agencies) utilizing both consecutive and intermittent FMLA, paid and unpaid.
37. What is the Commonwealth's estimated dollar contribution to the DFML Trust Fund by January 2021? By July 20121?
  - a. What is the employee share rate for managers and non-bargaining unit employees? What is the employee share rate for contractors?
38. Will the Commonwealth's share of the contribution be charged back to the agencies or be funded in the future through the agency operating budgets?
39. When and how will the employee notice and acknowledgement form be distributed? Please provide us with a copy of the notice prior to being distributed.

