

MASSACHUSETTS PFML: NEW PRIVATE PLAN PROCEDURE & JURY VERDICT ON RETALIATION CLAIM

This Compliance Insight briefly describes a new process for requesting private plan exemptions and a recent court decision interpreting the anti-retaliation provisions contained in the Massachusetts Paid Family and Medical Leave (MA PFML) law.

NEW PROCESS FOR PRIVATE PLAN REQUESTS

The Massachusetts Department of Family and Medical Leave (DFML) introduced a new process for requesting and renewing private plan exemptions for MA PFML. Beginning **July 1, 2026**, employers will use the [PFML Employer Portal](#) to request PFML exemptions and renewals for purchased or self-insured private plans.

RAS NOTE: To be clear, any request submitted on or before June 30, 2026, will continue to be processed in MassTaxConnect. Requests submitted on or after July 1, 2026, must be submitted in the new PFML Employer Portal.

DFML provides the following step-by-step guide to the new process.

- **Step 1: Visit the PFML employer portal.** Create an account or log in to your existing employer account.
- **Step 2: Find your organization.** From the Welcome page, go to the “Organizations” tab. If you are new to the PFML employer portal, you may need to use your MassTaxConnect PFML account ID to verify your organization.
- **Step 3: Manage exemptions.** Navigate to the “Exemptions” tab. If the EIN associated with your organization has a history of PFML exemptions, this tab will show past approved exemptions, including coverage type and effective dates.
- **Step 4: Start a request for a new exemption or renewal of an existing exemption.** In the “Exemptions” screen, select the “start new request” button. You will be taken to an acknowledgment page. Then you can begin your request. You will be asked for the following information:
 - Contact Information: your name, title, phone number, and email. Also, contact info for your third-party administrator, if applicable.
 - Organization information: including workforce size.
 - Plan information: coverage type and effective dates.

- Supporting documents: upload proof of paid leave benefits plus:
 - Completed Confirmation of Insurance (COI) form for fully insured plans, or
 - Surety Bond form and Self-Insured Insurance Declaration for self-insured plans.
- **Step 5: Review and Submit.** After submission you will receive an email with updates on your request.

\$4.7 MILLION DOLLAR JURY AWARD IN MA PFML RETALIATION CASE

An April 2026 jury verdict rendered in a MA PFML case highlights the significance of MA PFML's presumption of retaliation within 6 months of returning to employment and the higher burden of proof required under the MA PFML law. In *Boyle v. Wayfair LLC*, a Massachusetts jury awarded \$4.7 million to a former employee who claimed her termination of employment for poor performance within 6 months of her return from paid medical leave amounted to retaliation by Wayfair.

Only \$75,000 of the award was for back pay. The balance of the award was for emotional distress and punitive damages. In this case, Wayfair had documented the employee's poor performance in performance reviews occurring prior to the employee taking PFML leave.

The employee's medical leave was taken for depression, exhaustion and an inability to function normally. Upon her return to work, Wayfair placed her on a performance improvement plan and gave her 45 days to improve. Upon conclusion of the 45-day period, Wayfair terminated her employment for failure to meet the improvement plan criteria. Do the math. Forty-five days is well within the six-month window following her return to employment.

Despite the documented poor performance prior to the leave taking, the jury apparently found that it was not enough to rebut the statutory presumption of retaliation using the required higher evidentiary standard: by clear and convincing evidence (not the lower civil standard of a preponderance of the evidence).

Presumption of Retaliation Plus a Higher Burden of Proof is a Steep Climb

The statutory presumption of retaliation means the MA PFML law assumes at the outset that the employer retaliated against the employee without the employee having to prove anything additional. The employer is then tasked with rebutting the assumed claim of retaliation by producing clear and convincing evidence that its actions were not in



retaliation and that the employer had sufficient independent justification for the adverse action taken against the employee.

Although each case turns on its own facts, this verdict underscores that terminating an employee within six months after returning from PFML leave carries significant risk, even when the employer believes its decision to terminate is justified and well documented.

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The foregoing has been prepared as a general overview of the subject matter covered. It is not meant to provide legal advice with respect to any specific matter, and it should not be taken as legal or compliance advice. Do not take, or refrain from taking, any action on legal or compliance issues related to any employee benefit plan(s) based upon this information. Readers of this *Insights* issue are encouraged to consult with their own professional counsel. This agency and RAS Law, P.C. are not obligated to provide updates on the information presented

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