CRC BENEFITS | THRIVE Workplace Benefits
Dedicated to Development and Success

COLORADO

Regulatory Compliance and Resources by State

STATE CONTINUATION

Covered Employers: Employers with fewer than 20 employees

Qualified Beneficiaries: Employee and dependents, when the employee has been continuously covered for at least 6 months

Qualifying Events:

- Termination
- Employee's death
- Change in marital status (or civil union status) of an eligible employee
- Reduction in hours

COBRA Duration: 18 months

Maximum Premium Amount: Not specified

PAID FAMILY LEAVE

Employers and their employees are both responsible for funding the program and may split the cost 50/50. The premiums are set to 0.9% of the employee's wage, with 0.45% paid by the employer and 0.45% paid by the employee.

Businesses with nine or fewer employees do not have to contribute to the program but do need to remit their employees' share (0.45%) of the premium on behalf of employees each quarter. This can be done through a simple payroll deduction. Employers are required to begin these premium deductions on January 1, 2023. All employers, regardless of size, will be required to register with the FAMLI Division before the first premium payment is due at the end of the first quarter of 2023. **Benefits will become available to workers starting in January 2024.**

While FAMLI benefits won't be available to employees until 2024, businesses must begin collecting premiums starting on January 1, 2023 through a simple payroll deduction. Most Colorado businesses will need to begin deducting FAMLI premiums from all employees on their payroll, including full-time, part-time and seasonal. Employers cannot collect missed premiums from employees in later pay periods. It is important to know employees are never required to pay more than 50% of the total premium. By law, the FAMLI Division Director is required to recalculate the premium rate every year past 2025 and determine if adjustments to the premium rate need to be made. Current Colorado law caps the premium at 1.2% meaning it will not be assessed any higher than this amount.

When it comes to counting how many employees your business has, your headcount will be calculated by **counting the number of employees you have on your payroll for a total of 20 or more calendar workweeks in the preceding calendar year.** Employers will report their headcount during the initial registration process and once a year thereafter during the first quarter of each year.

Businesses that report having ten or more employees who worked during 20 or more weeks in all of 2022 will be responsible for sending in the full 0.9% premium for all four quarters in 2023.

The graphic below visualizes this 20-calendar-week concept in four examples.

The first two employees are seasonal workers who both work during 20 or more weeks throughout the calendar year. Note that they both work intermittent schedules throughout the year and may only work one or two days during some work weeks, but they are still included in your headcount.

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The third full time worker worked for more than 20 weeks, so would also be counted, even though you can see this worker left the company in August.

The final full time worker in the red box, let's say this worker was hired to replace the previous one, would not count toward your total headcount because he only worked during 19 weeks of the year.

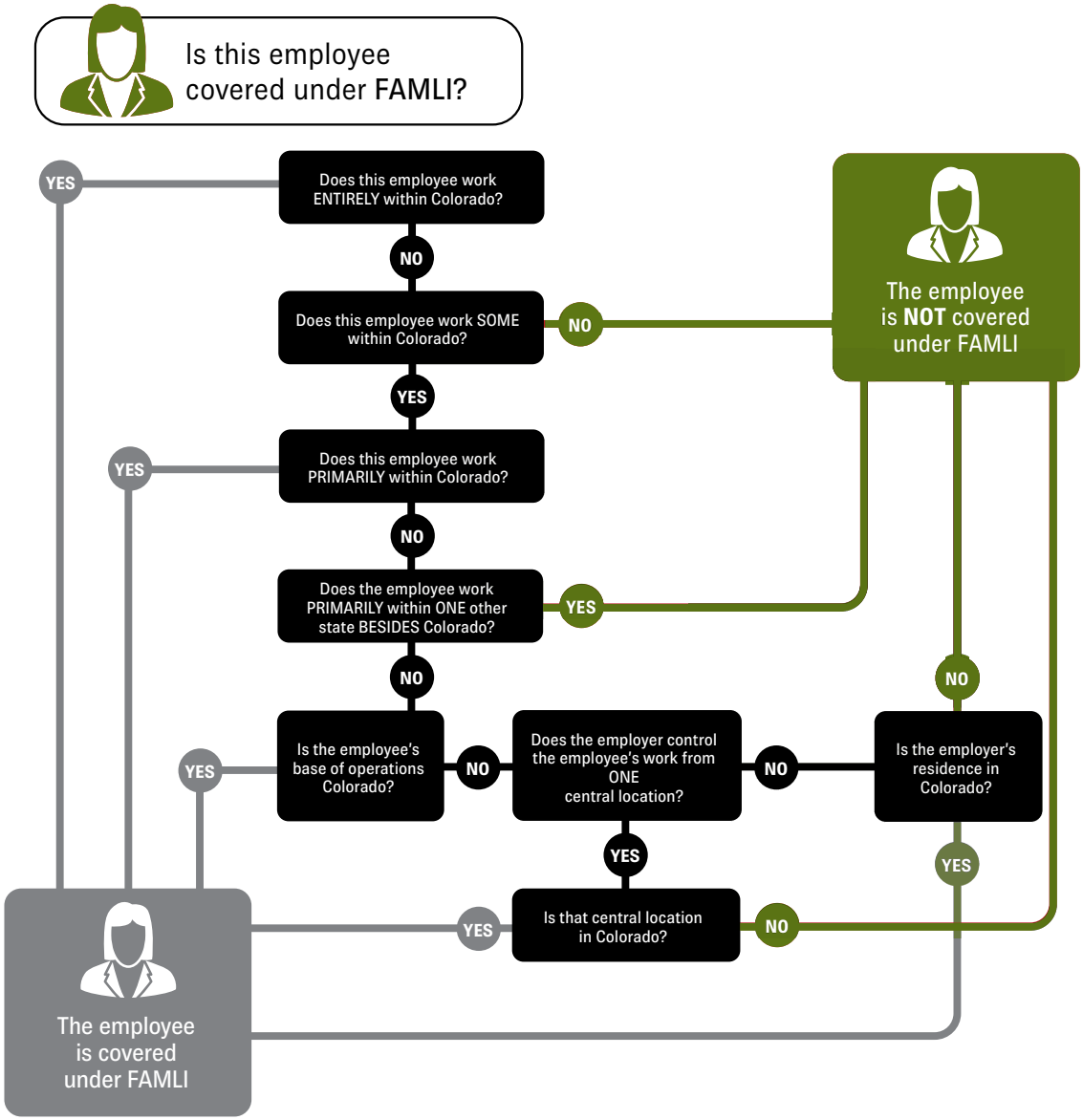
It's important to note that employers are responsible for deducting and remitting premiums for every employee as soon as they are hired. This 20-week concept should only be used to determine whether or not your business is categorized as having 10 or more employees and thus responsible for sending in the full 0.9% premium once a quarter.

When it comes to counting remote employees, if the employer has more than ten TOTAL employees—even if they work outside of Colorado–the employer will still be responsible for sending in the full 0.9% premium once a quarter.

In the example below, the employer would be responsible for both the 0.45% employee share and the 0.45% employer share for the three employees who work in Colorado because it has 12 total employees.

National employers who have employees based all over the country will need to use their total employee headcount to determine its premium responsibility for its Colorado-based employees.

As you can see on the map below, the employer has 15 total employees, so it will be required to send in the full 0.9% premium for the eight employees who are based in Colorado.



PAYING YOUR PREMIUMS

Employers will have several payment type options to submit their quarterly premium payments to the FAMLI Division:

1. Online Payments through the My FAMLI+ Employer Portal:

- Employers and third party administrators can make payments online directly in the My FAMLI+ Employer portal. You will need to provide your bank account's routing number and account number. Payment instructions can be found in the My FAMLI+ Employer User Guides for both Employers and TPAs.

2. Online Bill Pay

- Employers can make electronic payments from a checking account using Online Bill Pay. If your bank offers this functionality, you will log into your bank's website to add FAMLI as a payee using the following information:
  - Payee Name: Division of Family and Medical Leave Insurance
    - If this is too long, you may also enter "Colorado FAMLI"
  - Address: P.O. BOX 5070, Denver, CO 80217-5070
  - Phone Number: 866-263-2654
  - Account Number: enter your 10-digit FAMLI Employer Account Number
- Once FAMLI is setup as a payee, you can initiate a one-time payment from your bank's website.

3. Payment via API

- If you are a software developer looking to allow your users to make electronic payments to FAMLI from your software, please email cdle_famli_info@state.co.us with your request. Please enter "API Access Request" as the subject and details on what you are trying to accomplish.
- In the future, you will be able to search for the API from the website where you will be able to download API specifications and request credentials to use the API. We expect this to be available between Q1 and Q2 2023.

4. ACH Credit

- Employers and third party administrators (TPAs) can also make payments by issuing an Automated Clearing House (ACH) Credit through their bank. This payment option is available to employers and TPAs who meet all of the following prerequisites:
  - Have already established ACH credit payment processes through their bank.
  - Are already familiar with National Automated Clearing House Association (NACHA) file formats and can support the ACH Cash Concentration and Disbursement Plus One Addenda Record (CCD+) format.
  - Can include the required ACH addenda detail formatted in the FAMLI-defined format to ensure your payment credits your FAMLI account. Please refer to the FAMLI ACH Credit Specifications.
- Direct your bank to issue an ACH Credit payment to FAMLI:
  - Routing Number: 021052053 (Receiving DFI Identification)
  - Account Number: 72878553 (DFI Account Number)
- TPAs can make ACH Credit payment on behalf of multiple employers. TPAs must follow FAMLI's ACH Credit Specifications to ensure each employer's account is credited correctly.

5. Payment by Check

- Instructions for paying by check will be shared in the coming weeks.

Employers are required to submit wage data to the Division once a quarter. This will determine the employer's total premium payment for the quarter. All of this will be done using our online employer services portal, My FAMLI+ Employer. (My FAMLI+ Employer is expected to launch at the end of 2022.)

Within My FAMLI+ Employer, employers will have options to submit wage data to the Division:

- Manually input wage data for each employee individually.
- Bulk upload wage data for all employees by uploading a file within My FAMLI+ Employer. Please refer to our Wage Reporting File Specifications and use one of the following single filer wage report sample templates to build your wage report files:
  - .CSV Sample Single Filer Wage Report
  - XML Sample Single Filer Wage Report
- Submit wage reports using API technology. Please refer to our Wage Reporting API Specifications for instructions.

- Private businesses have the option of using an approved private plan that offers the same or greater benefits and protections as the FAMLI program. Employers considering to offer a private plan (including self insurance models) are not exempt from paying FAMLI premiums until the FAMLI Division has reviewed and approved the private plan or self insurance documentation in accordance with the Division's private plan regulations.
- **All employers must register with the FAMLI program, and will be required to pay premiums beginning January 1, 2023. Employers can request a refund for premiums paid in 2023 if they get a private plan approved by the Division with an effective date on or before January 1, 2024.**
- The FAMLI Division anticipates opening up the application for private plan approval in the first quarter of 2023. Instructions on that application process are forthcoming. Read the adopted private plan rules here.
- Most Colorado workers will be eligible for FAMLI benefits, including self-employed individuals and independent contractors. Participation for self-employed workers is optional. If you do decide to opt into FAMLI as a self-employed worker, you must agree to participate by paying premiums and reporting your income for a minimum of three years in order to avoid only opting in only when the need for leave is foreseeable. There is no enrollment period for self-employed workers. **You can opt in any time and apply for leave any time once benefits become available in 2024. No action is required until then.**
- Self-employed individuals who do not wish to participate in FAMLI do not need to take any action to opt out of the program. Y**ou do not need to register in order to opt out**. You will only need to register in order to voluntarily opt in and commit to paying premiums for three years once you can self-elect coverage in 2024.
- We have more details on how self-employed workers count their earnings on our Individuals & Families page.

PAID SICK LEAVE

The Colorado Healthy Families and Workplaces Act (HFWA) requires Colorado employers to provide two types of paid sick leave to their employees: public health emergency (PHE) leave and accrued leave. The following points apply to both PHE and accrued leave.

- Leave must be paid for time on leave, and at the same pay rate the employee earns during time worked.
- Leave can't be counted against employees as absences that may lead to firing or other negative action.
- Employers are also required to provide one hour of paid leave per 30 hours worked, up to 48 hours per year. This requirement took effect January 1, 2021, and is permanently in effect, not just during the COVID emergency.

Accrued leave is usable for a wide range of health and safety needs, not just COVID-related: Needs include:

- Any mental or physical illness, injury, or health condition that prevents work;
- Diagnosis, care, or treatment of such conditions;
- Preventive care (including vaccination);
- Needs due to suffering domestic violence, sexual abuse, or criminal harassment; or caring for family with such conditions or needs.

Starting January 1, 2022, small and large employers alike have the same accrued leave responsibilities. In 2021, employers with 15 or fewer employees had to provide emergency leave, but were exempt from accrued leave until the end of 2021.

Employers can require documentation for accrued paid sick leave (not for COVID-related public health emergency (PHE) leave), but only for absences of four or more consecutive days — and employees can provide the documentation after the leave ends.

SURPRISE BILLING

Out-of-network billing protections: What you need to know

- Effective Jan. 1, 2020
- In 2019, Colorado passed a law that protects Colorado consumers with state-regulated health insurance plans from being balance-billed for unknowingly receiving care outside of their insurance network.

What is a "surprise out-of-network medical bill?"

Patients may receive surprise out-of-network medical bills when they unknowingly see someone outside of their insurance network. Patients are often billed for the difference between what the insurer covered and the total bill, which is known as a "surprise" bill.

When does the law apply?

This law protects people on state-regulated insurance plans (check for "CO-DOI" on your insurance card) from receiving surprise bills:

- When you receive emergency care from facilities or providers that are out-of-network, including some ambulances
- When you receive non-emergency care at an in-network facility and unknowingly see an out-of-network provider
- Consumers who knowingly seek care from an out of network provider or facility are responsible for all costs.

This law applies to me. How will this impact me?

You are still responsible for any out-of-pocket costs required by your insurance plan. The rate you pay is based on your set in-network rate for that care, you can find out what this amount is before any procedure by calling your insurance company to ensure that you aren't overcharged. Hospitals and some other providers are required to give you a written disclosure notifying you that you have the right to ask to see an in-network provider and to be notified ahead of time, if possible, if you are receiving out-of-network care. They may ask you to sign this disclosure.

QUESTIONS ABOUT YOUR BILL?

If this law applies to you and you think you got balance billed or were charged the wrong rate, you can check with your insurance company, file a complaint with the Colorado Division of Insurance, or call CCHI's Consumer Assistance Program. If you paid a balance bill, the provider has to refund you the amount that you overpaid.

Contact our CAP Program for questions and assistance: (303) 839-1261

We are moving Jan. 2021: 303 E. 17th Ave., 4th Floor
Phone 303-839-1261
www.cohealthinitiative.org

General: inform@cohealthinitiative.org

Assistance: help@cohealthinitiative.org

Media: afox@cohealthinitiative.org

Department of Insurance website: https://doi.colorado.gov/