



Interpretive Notice & Formal Opinion (“INFO”) # 6C:

Differences & Overlap Between Colorado’s Two Paid Leave Laws: The Healthy Families & Workplaces Act (“HFWA”), and the Family & Medical Leave Insurance (“FAMLI”) Program

Overview

- Colorado has two laws that provide employees with paid leave for a range of health and safety needs.
 - Colorado’s [Healthy Families and Workplaces Act \(“HFWA”\)](#) requires employers to provide one hour of paid leave per 30 hours worked (up to 48 hours per year).
 - For the details of HFWA coverage and requirements, see [INFO #6B](#).
 - Colorado’s [Family & Medical Leave Insurance \(“FAMLI”\) Program](#) provides paid family and medical leave for up to 12 weeks (with an additional 4 weeks for pregnancy complications) to most employees on a continuous, intermittent or reduced leave basis.
 - For the details of FAMLI coverage and requirements, visit the [Family & Medical Leave Insurance \(“FAMLI”\) Program](#) homepage.
- Depending on the situation, employee leave may be covered by HFWA, FAMLI, or both. This INFO covers:
 - **differences** between when HFWA applies and when FAMLI applies; and
 - **how to apply HFWA, FAMLI, or both** if an employee’s leave could be covered by both laws.

What Different Reasons for Leave Are Covered by HFWA & FAMLI?

- **HFWA** covers a wide range of health and safety needs (for more details, see [INFO #6B](#)):
 - 1) inability to work due to any mental or physical illness, injury, or health condition;
 - 2) obtaining preventive medical care (including vaccination), or medical diagnosis/care/treatment;
 - 3) various needs due to domestic/sexual abuse, or criminal harassment;
 - 4) care for a family member who needs the sort of care listed above;
 - 5) various needs and situations during a declared public health emergency;
 - 6) bereavement, or financial/legal needs after a death of a family member; or
 - 7) due to inclement weather, power/heat/water loss, or other unexpected event, a need to evacuate one’s residence, or care for a family member whose school or place of care was closed.
- **FAMLI** covers a partially overlapping range of needs (for more detail, see [Reasons to take FAMLI Leave](#)):
 - 1) medical leave to care for yourself or a family member due to a “serious health condition”;
 - 2) parental leave within the first 12 months after a birth, adoption or foster care placement;
 - 3) various needs due to domestic/sexual abuse, or criminal harassment; or
 - 4) needs of family members of those called to active-duty military service.

Example 1: A new parent wishes to stay home to bond with and care for their newborn child, but not due to any medical condition or health need of the child or a parent. FAMLI applies; HFWA does not.

Example 2: A year later, that parent needs a day off to take their child to the pediatrician for a checkup and vaccination, then a day off a week later when the child has a cold. HFWA applies; FAMLI does not.

Who's Covered by HFWA and by FAMLII?

- **Employees & employers covered:** Both HFWA and FAMLII cover all employees and employers, in all sectors (public and private), industries, and jobs, including temporary or seasonal employees, except:
 - (1) **both** HFWA and FAMLII exclude employees of the federal government, as well as employees covered by the Railroad Unemployment Insurance Act; and
 - (2) **FAMLII** doesn't cover employees of local government employers who have opted out.FAMLII also covers self-employed individuals, and employees of local governments that have opted out, who register to **opt in individually** (with a requirement to stay in the program at least three years).
- **Coverage of new employees:**
 - **HFWA** covers employees **immediately** with no waiting period, but employees **accrue leave gradually**: one hour of paid leave per 30 hours worked (up to the 48-hour annual maximum).
 - **FAMLII** benefits are available once an individual has earned **at least \$2500 in wages** subject to FAMLII premiums and met FAMLII's program requirements for a "Covered Individual."¹

Example 3: An employee needs 6 days off for surgery, recovery, and a follow-up exam. They already used up all the HFWA leave they had accrued for the year. They are not eligible for HFWA leave, but they may be eligible for FAMLII leave, assuming they meet the FAMLII coverage requirements (above).

Example 4: Same as example 3, but: the employee still has 48 hours' HFWA leave available; the employer is a local government that opted out of FAMLII; and the employee chose not to opt into FAMLII individually. They are eligible for HFWA but not FAMLII leave.

How Do HFWA & FAMLII Apply If an Employee's Leave Could Be Covered by Both Laws?

- If both laws could apply to a leave request, the **employee can choose whether to take HFWA or FAMLII leave**, or whether to take one after another, in either order. For example:
 - ✓ An employee **unsure if their leave will be longer than HFWA provides** can take HFWA leave first, then FAMLII leave if they need more leave time.
 - ✓ An employee needing **more leave than HFWA** provides can take HFWA leave first, then FAMLII leave.

Example 5: An employee who regularly works eight-hour days Monday-Friday needs 44 hours of leave: a full day off on Monday for foot surgery; then Tuesday through Friday off to recover at home; then a half-day off two weeks later for follow-up appointment by the surgeon. The employee's options include:

- (A) They can take just HFWA leave *if* they have 44 hours of leave available — *i.e.*, if they accrued that much HFWA leave (which a new employee may not have), and didn't already use up too much of that accrued HFWA leave. If they take just HFWA leave, then only HFWA (not FAMLII) requirements apply.
- (B) They can take just FAMLII leave *if* they have 44 hours of leave available — *i.e.*, if they're eligible for FAMLII coverage and hadn't already used too much FAMLII leave (such as if they already took 11-12 weeks of FAMLII leave). If they take just FAMLII leave, then only FAMLII (not HFWA) requirements apply.
- (C) They can take HFWA leave at the start — for example, the first 8-hour day, if they have only that much HFWA leave available — then FAMLII leave for the other 36 hours (or they could take FAMLII leave before HFWA leave). If they use HFWA for part of their leave, and FAMLII for the rest, then HFWA requirements apply to the HFWA time, and FAMLII requirements apply to the FAMLII time.

¹ As defined in C.R.S. § 8-13.3-503(3). Once an employee has been employed by their current employer for at least 180 days, individuals are also eligible for job protection under C.R.S. § 8-13.3-509.

For More Information:

- For questions specific to FAML, visit the Division of Family & Medical Leave Insurance [website](#), call 1-866-CO-FAML (1-866-263-2654), or email cdle_FAML_info@state.co.us.
- For questions specific to HFWA, visit the Division of Labor Standards and Statistic [website](#), call 303-318-8441, or email cdle_labor_standards@state.co.us.
- For questions about overlap and differences between FAML and HFWA, contact either Division.