



# Massachusetts High Court Sides with Employers: Benefit Accrual Not Required During Paid Family and Medical Leave

Insights

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In a rare win for Massachusetts employers, the Supreme Judicial Court just ruled that employers generally have no obligation to allow employees to continue accruing benefits, such as seniority, vacation, and sick time, while they are on the Commonwealth's mandated paid family and medical leave. This ruling is critical for employers navigating employee requests for leave under the PFMLA and understanding their obligations to maintain the status quo during such periods. What do you need to know about this timely decision? We'll give you four key takeaways plus your best practices going forward.

## PFMLA Refresher and the High Court's Recent Distinction

Since 2019, eligible Massachusetts employees have been entitled under the Paid Family and Medical Leave Act (PFMLA) to up to 26 weeks of paid leave to:

- bond with a new child (birth, adoption, or foster care),
- care for a family member with a serious health condition, or
- address a personal serious health condition.

Upon returning from leave, employees are entitled to their original or an equivalent position, including the same pay, employment benefits, and seniority as when they began their leave. This protection ensures employees can take leave without fear of losing their job or facing significant disadvantages upon returning.

However, the Supreme Judicial Court's September 13 decision in *Bodge v. Commonwealth* highlights an important distinction. According to the court, while employees must be restored to their previous status upon return, this does not mean they continue to earn benefits such as vacation or sick leave while on leave. Instead, the PFMLA's protections ensure employees return to their pre-leave benefit levels, without any deductions for the time spent on leave.

## 4 Key Takeaways

**1. Benefit Accruals.** You are not required to continue accruing benefits like vacation and sick leave while an employee is on PFMLA leave. Instead, focus on restoring the employee to their pre-leave

benefit status upon return. However, keep in mind that the PFMLA sets minimum standards – you may choose to offer more generous benefits, including the accrual of vacation or sick leave during PFMLA leave, through policies or negotiations with unions.

**2. Health Insurance.** While the accrual of benefits like vacation time is not mandatory, you must maintain an employee’s health insurance at the same level during their PFMLA leave, including by continuing their coverage and contributing to their health insurance benefits (but you may require employees to pay their portion, if any, of the health insurance premium on the same terms and conditions as before their leave).

**3. Job Restoration and Retaliation Protections.** Employees are guaranteed the right to return to their former job or an equivalent position after PFMLA leave. You should be cautious not to make any changes that could be perceived as retaliatory, as such actions would violate both the PFMLA and anti-retaliation provisions.

**4. Consistency with Other Leave Policies.** You should review your internal policies and collective bargaining agreements to ensure consistency with the ruling. If you permit accruals of benefits during other types of leave, an employee could claim that denying benefit accruals during their PFMLA leave is discriminatory.

## **Best Practices for Employers Moving Forward**

To stay compliant with both the PFMLA and state laws, you should:

- **Review Leave Policies:** Ensure your leave policies are up-to-date and clearly define the rights and obligations of both the employer and employee during PFMLA leave.
- **Communicate with Employees:** When an employee requests PFMLA leave, it’s important to communicate clearly about what benefits will and won’t accrue during their absence. Transparency can help avoid misunderstandings and legal challenges.
- **Monitor Legal Developments:** Keep an eye on state and federal rulings that may affect PFMLA obligations. The statute is still new and courts continue to interpret the scope of employer responsibilities, so staying informed is crucial.

## **Conclusion**

We will continue to monitor further developments and provide updates on this and other labor and employment issues affecting Massachusetts employers, so make sure you are subscribed to [Fisher Phillips’ Insights](#) to gather the most up-to-date information. If you have questions, please contact your Fisher Phillips attorney, the [author](#) of this Insight, or any attorney in our [Boston office](#).

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