

# Electronic Alert

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## **The OED Wants to Know: Are You Planning to Enroll in Oregon’s Paid Leave Program, or Create Your Own Equivalent Plan?**

By Stacie Damazo

This week, the Oregon Employment Department (“OED”) announced it is conducting a survey to gauge employers’ interest in participating in Oregon’s new Paid Family and Medical Leave Insurance (“PFMLI”)—recently rebranded by OED as Paid Leave Oregon—program. In short, OED wants to know if employers are most likely to: (1) use the state-offered plan; (2) develop or purchase their own plan; or (3) use an existing employer-administered paid leave plan. OED states responses to the survey are non-binding and for informational purposes only. If you would like to participate in the survey, you may do so [here](#).

As a refresher, Paid Leave Oregon is a family, medical, and sick leave insurance program that was created to provide eligible individuals, including certain employees, compensated time off from work for certain qualifying purposes. The program is funded by employer and employee contributions to the PFMLI Fund. OED will begin collecting contributions in January 2023, and eligible individuals may begin to use the program in September 2023.

Employers can *either*:

- Enroll in the state’s program; or
- Submit an application for approval of an Equivalent Plan.

An Equivalent Plan may be administered by an employer. Alternatively, an employer may purchase an insurance policy from an insurance company, through which the requisite benefits are administered.

In addition to providing leave insurance benefits that are equal to or greater than the weekly benefits and duration of leave that an eligible employee would qualify for under the state program, Equivalent Plans must, among other things:

- Provide for benefit decisions to be made in writing;
- Provide an appeal process to review benefit decisions; and
- Ensure that contributions retained under an Equivalent Plan are used solely for Equivalent Plan expenses.

If you intend to apply for an Equivalent Plan, it may be advantageous to do so sooner rather than later. OED plans to begin accepting Equivalent Plan applications beginning in September 2022. Approved Equivalent Plans become effective on the first day of the calendar quarter immediately following the date of approval by OED. So, depending on OED’s timeline for review and approval of Equivalent Plan applications, employers may be required to participate in the state program for a period of time while waiting for OED’s decision.

While an Equivalent Plan may provide employers additional flexibility to design a program that better suits the needs of its workforce, employers who choose to administer an Equivalent Plan assume all financial risk associated with the administration of that plan. This is true, even if employers work with third party administrators to assist with implementation of an Equivalent Plan.

*For questions about Paid Leave Oregon or for other leave-related questions, contact Stacie Damazo at 503-228-0500, or at [sdamazo@barran.com](mailto:sdamazo@barran.com).*