

Paid Leave Oregon Advisory Committee

October 5, 2022

1:00pm – 3:00pm

ZoomGov - <https://www.zoomgov.com/j/1603758108>

Agenda

Members
 Karen Humelbaugh
 David Gerstenfeld
 Jeannine Beatrice
 Amanda Dalton
 Jenny Dresler
 Linda Herrera
 Eric Hunter
 Andrea Paluso
 Eva Rippeteau
 Paloma Sparks
 Jessica Giannettino

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh &
1.1	Member Roundtable		David Gerstenfeld
1.2	Agency & Program Updates		
1.3	Approval of September Meeting Notes		
2.0	Forecast Update	Inform	Ayesha Khalid
3.0	Operations Updates	Inform	Layla Hatoum
4.0	Policy Updates	Inform	Shannon Ball
5.0	Outreach & Communications Updates	Inform	Michele Schwartz Angela Yeager

Paid Leave Oregon Advisory Committee Docket

Docket Item:

1.3 – Approval of September Meeting Notes

Docket Summary:

Karen Madden Humelbaugh asks committee members if they have any edits to the notes from the previous meeting. After feedback is addressed, the committee will vote on whether to approve the notes.

Docket Materials:

PDF – Paid Leave Oregon Advisory Committee Notes 09-2022

Staff Recommendation:

Approve notes.

Meeting:	Paid Leave Oregon Advisory Committee				
Date/time:	September 7, 2022				
Location:	Microsoft Teams				
Attendees:	P (Present) A (Absent) S (sent sub)				
	Facilitator: Karen Madden Humelbaugh Scribe: Mackenzie Jones				
Members		Staff		Guest	
P	Karen Madden Humelbaugh	P	Mackenzie Jones	P	Renee Royston
A	David Gerstenfeld	P	Shannon Ball	P	Lynn Kneeland
P	Jeannine Beatrice	P	Juan Serratos		
P	Amanda Dalton (employers)	P	Danielle Willey		
P	Jenny Dresler (employers)	P	Michele Roland-Schwartz		
A	Linda Herrera (employees)	P	Angela Yeager		
P	Eric Hunter (employers)	P	Rachel Bruneau		
P	Andrea Paluso (employees)				
P	Eva Rippeteau (employees)				
A	Paloma Sparks (employers)				
P	Jessica Giannettino (employees)				

Agenda

Docket #	Topic	Purpose	Presenter
1.0	Welcome	Inform	Karen Madden Humelbaugh & Jeannine Beatrice
1.1	Member Roundtable		Jeannine Beatrice
1.2	Agency & Program Updates		
1.3	Approval of August Meeting Notes		

No comments from committee members, notes approved. Jessica Giannettino and Eva Rippeteau expressed neutral votes because they were not present for the August meeting.

Jeannine Beatrice shared agency-wide updates. The agency is shifting from the COVID-19 crisis mode into focusing on growing teams, empowering leadership and participating in meaningful engagement. The first Rollout of the new online system Frances occurred 24 hours ago with comfortable success.

Karen Madden Humelbaugh shared program updates. She, David Gerstenfeld and others had the opportunity to debrief with the Governor and her staff last week, particularly around what to expect for the Frances launch over the weekend. They also spoke more generally about Paid Leave including updates on outreach and engagement and feedback the team is receiving. Karen will be participating in September legislative days as part of a presentation to both the Senate and the House sides. The presentation will include updates on many parts of the agency.

2.0	Administrative Rules Updates	Inform	Shannon Ball
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Shannon Ball shared updates on the administrative rulemaking that the team is working on.

- Batch 1 rules (35 rules related to contributions, self-employed, small employer, assistance grants and outreach) – became final January 31, 2022.
- Batch 2 rules (9 rules related to equivalent plans) – became final April 21, 2022.
- Batch 3 rules (16 rules related to benefits) – became final July 22, 2022.
- Batch 4 rules (appeals, contributions tribal governments and equivalent plans) – the equivalent plan rules were finalized first on August 22, 2022. The team is still reviewing feedback on the other rules and are hoping to have them final sometime this month.
- Batch 5 rules (benefits) – the public comment closed on August 31, 2022 and plan to have them final sometime in October, 2022.

Paid Leave Oregon has 100 administrative rules drafted but still have many more on their list. The next push for rules will likely happen next summer so they can be finalized before benefits begin in 2023.

Amanda Dalton voiced a number of topics she'd like to have future conversation on.

- Tax treatment for benefits and contributions – Shannon Ball shared that the team has a meeting with the Department of Revenue tomorrow and is actively working on this.
- OFLA/FMLA and Paid Leave chart and clarity – More clarity is needed and more examples of how they will work in tandem would be helpful. Shannon Ball said that the team is very close to having the chart completed and are working with BOLI on additional clarification.
- One year lookback – shared she was surprised to hear agency staff share with the public at an online session that an employee who has a child any time starting September 2022 and utilizes 12 weeks of leave prior to the program going live can still qualify for another 12 weeks come September 2023. She understands this is a first year problem and will be a small percentage but that this is a cause for concern for employers and replacing the workforce will be nearly impossible.
- Blood and affinity language – concerned that the department hasn't defined this further in rule as believes the statute wasn't specific to allow opportunity for it to be defined in rule. This puts Equivalent Plan employers in a difficult situation if all their employee has to do is sign an affidavit to declare they have a familial relationship to another. She does not believe this was the intent of the legislature.
 - Andrea Paluso stated that believes the intention was to remain broad and attest the relationship and that in most cases, they'd be receiving partial wage replacement. She is interested in seeing the team track data as benefits go live to see if this is causing problems.
 - Jenny Dressler echoed Amanda's point and is concerned about potential solvency of the program. She would like to be part of the conversations around this topic. She shared that she feels some of the policies in the program have exceeded where she thought the legislative body landed.
 - Jessica Giannettino stated that she believes the intent of remaining broad was to capture people in the LGBTQ+ community and others who have unique family relationships as we are not experts in family make-up.
 - Amanda Dalton does not agree with Jessica's statement.

3.0	Operations Update	Inform	Danielle Willey
3.1	Frances Go-Live Update		Lynn Kneeland & Renee Royston

Danielle Willey provided updates on the work of the Operations Team. The team has completed training on Frances to learn how to process equivalent plan (EP) applications. They have created employer guidebooks which are tools that employers and employee representatives can use for as a helpful reference when they are submitting EP applications. This guidebook is available in multiple languages on the Paid Leave website. They are also creating an additional, more general guidebook for employers that will be coming in a couple weeks also to be available in

multiple languages. They have been receiving tickets through their Contact Us form on the website and have had an uptick in phone volume.

Renee Royston, MOD Division Director and Lynn Kneeland, Communication Specialist, joined the meeting to provide updates on the launch of the online web platform, Frances. The site went live at 7:00am yesterday. There have been over 8,000 individual visits to the webpage and over 1,700 accounts created. The first EP application was submitted within the first hour after the launch. They have received 18 declarations, 12 completed EP applications with fees paid by ACH and have a couple applications on hold until the credit card functionality is available. Over 300 people have initiated conversation with the site's interactive assistant which is available in English and Spanish. There have been 1,200 log-ins from other partner agencies accessing wage information for their own business administration. Francesinfo.oregon.gov contains many helpful resources including a FAQ that is being updated daily as well as a Help and Support page with infographics on how to perform some initial activities such as creating an account and filing payroll reports.

Andrea Paluso asked what plans the team has in terms of outreach and information that will be available for employees of an EP employer and suggested there be a future conversation on this topic.

4.0	Communications & Engagement Updates	Inform	Michele Roland-Schwartz & Angela Yeager
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Michele Roland-Schwartz gave an update on the Outreach and Engagement team. The team welcomed a new Program Analyst who is based in Klamath Falls. They are currently recruiting for another Program Analyst with experience in community activism, grassroots organizing, volunteering or other experience related to employee representation and labor unions. The Outreach team just finished participating in the Department of Revenue roadshow in 12 locations across the state and have been tabling at various events. The Equivalent Plans Explained and Community Conversation Zoom sessions with the public have been well attended. The team will be prerecording a session to post on the Paid Leave website.

Angela Yeager provided updates on the Communications team. They are in the beginning stages of a statewide employer campaign and will be launching various parts of the campaign in October. This will include an employer toolkit, paid advertising and video and photoshoots with employers. The team's social media channels launched in August. Paid Leave is now on Facebook, Twitter and Instagram and committee members are encouraged to like, follow and share.

Action Items

Action	Assigned	Due Date	Completed

Decisions

- August Advisory Committee meeting notes were approved.

Paid Leave Oregon Advisory Committee Docket

Docket Item:

2.0 – Forecast

Docket Summary:

The Paid Leave Oregon Trust Fund Forecast is updated quarterly based on Office of Economic Analysis (OEA) Economic and Revenue Forecast. The recent Economic and Revenue Forecast was released on August 31, which is being used to update the current Paid Leave Oregon Trust Fund forecast. This forecast also reflects changes due to updated current and projected General Fund loan usage, and birth data from OHA for 2021. The updated forecast will be presented as well as how it compares to the previous forecast, especially in terms of the 6-month solvency requirement at the one percent contribution rate.

Docket Materials:

None

Staff Recommendation:

None, this is an informational item only.

Paid Leave Oregon Advisory Committee Docket

Docket Item:

3.0 – Operations Updates

Docket Summary:

Paid Leave Oregon's Equivalent Plans unit has been busy reviewing and processing applications submitted during the month of September. Submissions for equivalent plans decreased over the month of September, with the most applications coming in the first full week of the month. Declarations of Intent have been fairly steady throughout the month.

The majority of employers who have submitted a Declaration have indicated they will offer a fully-insured equivalent plan. This means that employers will purchase an insurance policy from an insurance company approved to sell Paid Leave Oregon products by the Department of Consumer and Business Services (DCBS), Division of Financial Regulation. DCBS has posted a draft of their product standards for Paid Leave on their website and anticipates those standards to be finalized in October.

Docket Materials:

None.

Staff Recommendation:

None, this is an informational item only.

Paid Leave Oregon Advisory Committee Docket

Docket Item:

3.0 – Policy Updates

Docket Summary:

Benefit Definition Sessions

Benefit definition sessions are designed for policy staff to meet with the vendor to configure the software to accommodate the programming needs. The definition sessions began September 19, 2022 and will run through December 2022. The definition sessions will cover a wide variety of topics such as:

- Benefit application
- Benefit application processing
- Assistance grants
- Payment of benefits
- Recovery
- Appeals

Continued Policy Work

The policy staff is also continuing to research other states Paid Leave processes, working with other state agencies, and drafting letters and forms for the topics identified in the definition sessions. The [employer guidebook](#) and [model notice](#) was finalized and recently published on our website.

Administrative Rules

PFMLI Rule Batch	Content	Status
Batch 1	Contributions, Self-Employed, Small Employer, Assistance Grants, and Outreach	Final - January 31, 2022
Batch 2	Equivalent Plans	Final – April 21, 2022
Batch 3	Benefits	Final – July 22, 2022
Batch 4	Miscellaneous (Appeals, Contributions, Equivalent Plans, and Tribal Government).	Equivalent Plan Rules Final – August 22, 2022 Other Rules Final in October 2022



Batch 5	Benefits	Final end of October 2022
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The Paid Leave Oregon Division will never be done drafting or amending administrative rules. All 100 administrative rules and three rule amendments within these five batches listed above cover what is required to have in rule per statute. The Division will likely have more draft rules in the summer/fall of 2023 before Paid Leave Oregon benefits begin.

Docket Materials:

N/A

Staff Recommendation:

None, this is an informational item only.

Paid Leave Oregon Advisory Committee Docket

Docket Item:

5.0 – Outreach & Communications

Docket Summary:

Outreach and Engagement: The outreach and engagement team has reached close to 7,000 individuals since June through virtual and in-person presentations, consultations, and tabling events for cultural celebrations, resource fairs, back-to-school backpack drives, conventions, and conferences. Our customer care team has responded to over 1400 Contact Us submissions from the public, with a less than 1-business day response time.

We are implementing a variety of non-competitive procurements with culturally specific and community-based organizations to host public sessions. Additionally, we are preparing a road show series for employers and workers in Oregon for 2023 in strategic locations across the state.

We extended our weekly Community Conversations about Paid Leave Oregon through the end of 2022 as follows:

- October – every Thursday from 3-4pm, English with ASL and Spanish language interpreters
- November – 7am on Nov 15th, plus two Facebook live sessions – one in English and one in Spanish (date TBD).
- Dec – the 1st, 8th and 15th from 3-4pm, English with ASL and Spanish language interpreters
- A recorded session in English and Spanish will be available on our website

Communications: Comprehensive website development is ongoing and on track to be completed by the end of December. The employer statewide outreach campaign is underway, with materials starting to go out in October and the larger radio and digital TV ads going out in November. Communications designed and posted the Model Notice Poster in 11 languages, a solvency web page to help employers for equivalent plans, and finished an OFLA/FMLA comparison chart in partnership with BOLI that is now online. We also just launched our LinkedIn page.

Docket Materials:

PDF – Model Notice Poster EN

PDF – OFLA/FMLA Chart EN

Staff Recommendation:

None, this is an informational item only.



What you need to know

Starting in September 2023, Paid Leave Oregon will serve most employees in Oregon by providing paid leave for the birth or adoption of a child, your or a loved one's serious illness or if you experience sexual assault, domestic violence, harassment, or stalking.

What benefits are provided through Paid Leave Oregon and who is eligible?

Employees in Oregon that have earned at least \$1,000 in the prior year may qualify for up to 12 weeks of paid family, medical or safe leave in a benefit year. While on leave, Paid Leave Oregon pays employees a percentage of their wages. Benefit amounts depend on what an employee earned in the prior year.

Who pays for Paid Leave Oregon?

Starting on January 1, 2023, employees and employers contribute to Paid Leave Oregon through payroll taxes. Contributions are calculated as a percentage of wages and your employer will deduct your portion of the contribution rate from your paycheck.

When do I need to tell my employer about taking leave?

If your leave is foreseeable, you are required to give notice to your employer at least 30 days before starting paid family, medical or safe leave. If you do not give the required notice, Paid Leave Oregon may reduce your first weekly benefit by 25%.

How do I apply for Paid Leave?

In September 2023, you can apply for leave with Paid Leave Oregon online at **paidleave.oregon.gov** or request a paper application from the department. If your application is denied, you can appeal the decision with the Oregon Employment Department.

What are my rights?

If you are eligible for paid leave, your employer cannot prevent you from taking it. Your job is protected while you take paid leave if you have worked for your employer for at least 90 consecutive calendar days. You will not lose your pension rights while on leave and your employer must keep giving you the same health benefits as when you are working.

How is my information protected?

Any health information related to family, medical or safe leave that you choose to share with your employer is confidential and can only be released with your permission, unless the release is required by law.

What if I have questions about my rights?

It is unlawful for your employer to discriminate or retaliate against you because you asked about or claimed paid leave benefits. If your employer is not following the law, you have the right to bring a civil suit in court or to file a complaint with the Oregon Bureau of Labor & Industries (BOLI). You can file a complaint with BOLI online, via phone or email:

Web: www.oregon.gov/boli

Call: 971-245-3844

Email: help@boli.oregon.gov

Learn more about Paid Leave Oregon

Web: paidleave.oregon.gov

Call: 833-854-0166

Email: paidleave@oregon.gov

Program Comparison

- Paid Leave Oregon
- [Oregon Family and Medical Leave Act \(OFLA\)](#)
- [Federal Family and Medical Leave Act \(FMLA\)](#)
- [Oregon Sick Leave](#)

Paid Leave Oregon and the Oregon Bureau of Labor & Industries created this chart as a general program comparison. It is not intended to provide legal or financial advice and does not cover all possible exceptions. Each program has different qualifications and factors that determine eligibility.

Contact each agency directly to determine eligibility for their programs.

ELIGIBILITY REQUIREMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Covered Employers	All employers except federal or tribal governments	Employers with 25 or more employees	Employers with 50 or more employees and all public employers	All employees are eligible for protected unpaid time
Wages required to be eligible for leave	\$1,000 in wages the previous year	n/a	n/a	n/a
Required time worked for employer before taking leave and before job protection applies	No work time requirement for Paid Leave benefits, but must have worked 90 days to have job protection	180 days	12 months	90 days
Required hours worked for employer to be eligible for leave	n/a	25 hrs/week in past 180 days. <i>Does not apply to parental leave</i>	1,250 hours in previous 12 months	1 sick time hour earned for every 30 hours worked
Geographic requirement	n/a	n/a	Location with 50 employees within 75 miles	n/a
Eligibility requirement				
Not a requirement				

QUALIFYING PURPOSES	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Family Leave				
Birth, adoption or foster placement	Yes	Yes	Yes	Yes
Family member's serious health condition <i>(family member definitions vary)</i>	Yes	Yes	Yes	Yes
Medical Leave				
Individual's own serious health condition	Yes	Yes	Yes	Yes
Safe Leave				
Domestic violence, sexual assault, harassment or stalking	Yes	No <i>Serious health condition and reasonable safety accommodations under ORS 659A may include leave.</i>	No	Yes
Other Leave Types				
Extended leave for a pregnancy* <i>*In addition to leave for serious health condition</i>	Yes	Yes	No	No
Sick child leave	No	Yes	No	Yes
Military family leave	No	Yes	Yes	No
Bereavement leave	No	Yes	No	Yes
Public health emergency	No	Yes Active Public Health Emergency allows for sick child leave for school/child care closures	No	Yes
Covered				
Not Covered				

LEAVE DURATION AND BENEFIT PAYMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Leave duration <i>(most cases)</i>	12 weeks in a one-year period	12 weeks in a one-year period	12 weeks in a one-year period	40 hours in a one-year period
Maximum leave duration <i>(for certain combinations of leave types)</i>	14 weeks in a one-year period	36 weeks in a one-year period	26 weeks in a one-year period	Employers may cap use at 40 hours per year
Payment	Paid Leave	Unpaid Leave	Unpaid Leave	Paid Leave for employers with 10 or more employees <i>(6 or more in Portland)</i>
Benefit amount	Varies based on employee's average weekly wage. Up to 100% for lower-income workers.	n/a	n/a	100% of regular wages