

FAML I Policy Guidance

Professional Employer Organizations (PEOs)

Control Number: #E-26-003	Effective Date: 10/7/2026
Issued By: Elliot Schreur, Assistant Secretary	Issuance Date: 10/7/2026

Issue

All employers with employees localized in Maryland¹ are required to register with the Family and Medical Leave Insurance (FAML I) Division, as outlined in the Code of Maryland Regulations (COMAR) [09.42.02.02](#). There are no exceptions under state law. Two registration pathways exist: one for employers and a second for Third-Party Agents (TPAs). FAML I's employer registration process limits one registration per federal Employer Identification Number (EIN).

Professional Employer Organizations (PEOs) provide administrative services to employers, including issuing wages, remitting taxes, providing workers' compensation, and assisting employers to comply with labor laws. Unlike traditional TPAs, PEOs have a co-employer relationship with their employers where both the PEO and the client employer are considered the employer of record for some purposes. Client employers and PEOs may use the PEO's federal EIN for employee tax documentation, including W-2's, depending on the contractual arrangement.

This guidance explains how client employers and PEOs should understand their roles and related responsibilities with respect to employer registration and the two distinct registration pathways. It is the client employer's decision as to which entity registers as the employer with FAML I, either the PEO or the client employer, so long as each employee is reported to FAML I. Depending on the client employer's registration choice, there are additional implications for calculation of employer size, plan selection, and employer tax liability, outlined below.

¹ See FAML I's Localization Policy Guidance (Control #E-26-001).
paidleave.maryland.gov

Definitions

In this document, the following terms have the meanings indicated:

- Client employer – an employer who has contracted with a PEO for administrative services including the management of FAMLl tasks. Also known as a client.
 - Contribution – defined in COMAR [09.42.01.01B\(12\)](#).
 - Declaration of Intent – defined in COMAR [09.42.03.01B\(1\)](#).
 - Employee – defined in COMAR [09.42.01.01B\(20\)](#).
 - Employer – defined in COMAR [09.42.01.01B\(21\)](#).
 - Equivalent private insurance plan (“private plan”) - defined in COMAR [09.42.01.01B\(23\)](#).
 - Commercially insured private insurance plan (“commercial plan”) - defined in COMAR [09.42.01.01B\(10\)](#).
 - Self-insured private insurance plan (“self-insured plan”) - defined in COMAR [09.42.01.01B\(39\)](#).
 - Federal Employer Identification Number (EIN) – the federal tax ID number for businesses, tax-exempt organizations, and other entities, defined on the [Internal Revenue Service website](#).
 - Professional Employer Organization (PEO) – an external individual or entity which places all or part of a client employer's employees on its payroll or payrolls and, by written agreement, assigns or leases the workers to the client employer.
 - Quarterly Wage and Hour Reports (QWHRs) – retrospective data reports employers submit every three months (starting April 2027) including, but not limited to: total employee headcount; hours worked by each employee; and wages paid to each employee from the previous quarter. See also COMAR [09.42.02.08B](#).
 - Small employer – defined in COMAR [09.42.02.01B\(1\)](#).
 - Small employer discount – if an employer has fewer than 15 total employees, the employer is only responsible for remitting the employee share of the contribution rate and is exempt from remitting the employer share. See also Small Employer Guidance.
 - State Plan – defined in COMAR [09.42.01.01B\(42\)](#).
 - Total employee headcount – the number of employees employed by the employer both within and outside of Maryland.
 - Third-Party Agent (TPA) – an external individual or entity authorized by an employer via a Power of Attorney to manage FAMLl tasks on the employer's behalf.
-

Policy discussion & procedure

The client employer has discretion to pursue which of two registration pathways best suits their needs. One option is for the client employer to register as the employer and delegate FAMLI tasks to the PEO through a Power of Attorney, with the PEO registering as TPA. The second option is for the PEO to register as the employer of record. FAMLI cannot advise on internal employer decisions. However, there are implications of the registration pathway choice for administration, plan selection, the small employer discount, and income tax reporting.

Account administration

Client employer registers as employer and delegates authority to PEO

If the client employer registers as the employer, the client employer and its delegated staff members will be responsible for choosing the plan, submitting Quarterly Wage and Hour Reports (QWHRs), remitting contributions, and responding to leave requests. However, the client employer can delegate authority to their PEO by signing a Power of Attorney. With a valid Power of Attorney, the PEO can submit QWHRs, remit contributions, and/or respond to leave requests. To initiate this delegation of authority from the client employer, the PEO should register with FAMLI as a TPA. The TPA registration pathway allows the PEO to administer the client employer's State Plan or private plan requirements. There are some FAMLI tasks excluded from this delegation of authority, including, for example, the [Declaration of Intent](#) to pursue a private plan.

PEO registers as employer

Alternatively, if the client prefers for their PEO to register as the employer, the PEO and its assigned PEO staff members will choose the plan, submit QWHRs, remit contributions, and respond to leave requests. PEO staff members are the only individuals who can take these administrative actions or receive direct correspondence from FAMLI. Please note that if the client selects this registration pathway, privacy permissions are not available for the PEO's staff to protect information across client employers. PEO staff roles within the FAMLI digital system do not distinguish between different client employers. All PEO staff members with the same assigned role receive all notifications pertaining to the PEO EIN.

Legal liability

The entity that registers as the employer is legally responsible for any violations of the FAMLI statute or regulations.

Switching PEOs

If the client employer terminates their contract with the PEO and the PEO was registered with FAML I as the employer of record, the client employer is responsible for ensuring continued reporting of their employees to FAML I. The client employer may do so through their own registration or a new PEO's. Failure to register and report employees' wages and hours timely could result in penalties and fees associated with late QWHRs and contribution remittance.

Employer size calculation

Employers with a total employee headcount of less than 15 employees within and outside of Maryland are eligible for the small employer discount for contributions, as outlined in COMAR [09.42.02.06D](#). All employees falling under the same federal EIN are to be included in the total employee headcount. Employers have the option to report total employee headcount quarterly via the QWHRs. To learn more about the small employer discount, reporting process, and employer size calculation please review FAML I's Small Employers Guidance (Control #E-26-002).

Client employer registers as employer and delegates authority to PEO

If the client employer is the registered employer, the total employee headcount will be based on the client employer's total employees.

PEO registers as employer

If the PEO is the registered employer, the total employee headcount will be based on the PEO's total employees.

Plan options

Per COMAR [09.42.03.03A](#), all employees registered under the same EIN are required to be in the same plan, be it the State Plan, a commercial plan, or a self-insured plan.

Client employer registers as employer and delegates authority to PEO

If a client employer has registered with FAML I as an employer and connected their profile to the PEO's as a TPA, as detailed above, the client employer can choose to remain in the State Plan or can apply for a private plan.

PEO registers as employer

If, instead, the client employer opts to have their PEO register as an employer on their behalf, all of the client employer's employees will be enrolled in whichever plan the PEO is enrolled in.

To learn more about plan options, including eligibility requirements, please review the ["Understand your plan" page](#) on FAMLI's website.

Tax reporting

January 2025 federal Internal Revenue Service (IRS) [guidance](#) indicates that certain benefit payments, including paid medical leave under state paid family and medical leave programs, will be considered third-party sick pay. According to [IRS resources and definitions](#), third-party sick pay is a type of wage subject to Federal Insurance Contributions Act (FICA) withholding and income taxation.

Because the FAMLI contribution is split between the employer and employee, the IRS considers the FAMLI benefit to also have an employer and employee split as well. When an employee on paid medical leave receives a benefit, FAMLI will withhold the employee portion of taxes. Liability for the employer side taxes remains with the employer. FAMLI will notify the employer registered with our system of their tax liability. FAMLI will also report that liability to the IRS in an annual filing.

Client employer registers as employer and delegates authority to PEO

If the client employer is registered with FAMLI, the liability for the FICA taxes will be reported using the client employer's EIN. FAMLI will notify the client employer of their tax liability.

PEO registers as employer

If the PEO is the employer registered with FAMLI, the liability for the FICA taxes will be reported using the PEO's EIN. FAMLI will notify the PEO of their tax liability.

Conclusion

The summary chart below outlines the details of each pathway.

PEO Summary Chart

	Client Employer Registers as Employer	PEO Registers as Employer
--	---------------------------------------	---------------------------

Registration and Account Administration	Client employer has full administrative access. Client employer receives notifications.	PEO has full administrative access. Client employer does not have access to nor receives notifications.
	Client employer must register themselves. Client employer must authorize PEO to delegate certain access and tasks to PEO. PEO registers as TPA.	PEO registers as employer; client does not. With full access, PEO can perform tasks and requires no additional delegation.
	If authorized by client employer, PEO copied on some notifications.	PEO receives all notifications.
Employer Size Calculation	Based on the total employee headcount of the client employer.	Based on the total employee headcount of the PEO.
Plan Options	Only client employer can apply for private plan.	PEO can apply for private plan for all client employers.
	Client employer has flexibility to select private plan. All employees reported by client employer must be on the same plan.	Client employer bound to PEO's private plan selection. All employees reported by PEO must be on the same plan.
Income Tax Reporting	FICA liability transfers to client employer's EIN.	FICA liability transfers to PEO's EIN.

References

- [IRS Revenue Ruling 2025 - 4](#)
- [IRS Employer Supplemental Tax Guide \(Publication 15-A\)](#)
- [IRS Website](#) - Employer Identification Number
- COMAR [09.42.01.01B](#)
- COMAR [09.42.02.01B](#)
- COMAR [09.42.02.02](#)
- COMAR [09.42.02.08B](#)
- COMAR [09.42.03.03A](#)
- FAMLI Policy Guidance: Localization (Control # E-26-001)
- FAMLI Policy Guidance: Small Employer (Control #E-26-002)

FAMLI contact

If you have additional questions about this guidance, please contact FAMLI's Customer Care Center at (410) 525-4010 or paid.leave@maryland.gov