
FAML I Policy Guidance

Small Employers

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Issued By: Elliot Schreur, Assistant Secretary	Issuance Date: September 18, 2026

Issue

Under [Labor and Employment Art. §8.3–601](#) of the Annotated Code of Maryland, Family and Medical Leave Insurance (FAML I) is funded through both employee and employer contributions.¹ Employers are entitled to withhold up to 50% of the total contribution rate from their employees' pay. Employers with 15 or more employees are also required to contribute the remaining 50% of the total contribution rate for each employee. If an employer has fewer than 15 employees, the employer is only responsible for remitting the employee share of the contribution rate and is exempt from remitting the employer share via what FAML I refers to as the "small employer discount." The small employer discount is outlined in Code of Maryland Regulations (COMAR) [09.42.02.06D](#).

Regardless of employer size, employers may opt to pay all or a portion of the required employee contribution, instead of withholding from employee pay. Also regardless of employer size, only employers remit contribution payments to FAML I. Employees will not remit contribution payments directly to FAML I.

This guidance explains how FAML I determines employer size.

¹ The contribution rate is determined annually. The current rate is 0.9 percent. This rate shall be in effect for wages paid during the period from January 1, 2027 to December 31, 2027.

Definitions

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

- Contribution – defined in COMAR [09.42.01.01B\(12\)](#).
- Employee – defined in COMAR [09.42.01.01B\(20\)](#).
- Employer – defined in COMAR [09.42.01.01B\(21\)](#).
- 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](#).
- 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.
- Total employee headcount – The number of employees employed by the employer both within and outside of Maryland.

Policy discussion & procedure

Calculating total employee headcount

FAMLI will determine employer size based on an employer's total employee headcount. This figure includes all employees falling under the same federal Employer Identification Number (EIN), both within and outside of Maryland. Total employee headcount should include all employees who worked any hours for wages for the employer during the respective quarter, regardless of their start date or employment status at the end of the quarter or the date of the report. Total employee headcount is not a representation of full-time equivalent employees, but rather counts each individual employee receiving any wages under the EIN as one person.

Reporting total employee headcount

Starting in April 2027, all employers with employees localized in Maryland² will be required to submit [Quarterly Wage and Hour Reports](#) (QWHRs) to FAMILI. Employers are required to report the wages paid and hours worked for each employee localized in Maryland on the QWHR. In addition, employers have the option to report on the QWHR their total employee headcount, which includes all employees both within and outside of Maryland. Employers do not need to report the names, wages, or hours worked for employees who are not localized in Maryland on the QWHR.

The total employee headcount field is optional. An employer that does not complete the total employee headcount field for any QWHR in a year will not be eligible for the small employer discount in the following year. Employers interested in seeking the small employer discount must complete the total employee headcount field for each QWHR for every quarter in a year.

Calculating total employee headcount after a full calendar year of reports

Starting in February 2028 and every February afterwards,³ FAMILI will annually determine employer size by averaging the total employee headcount reported over the previous four quarters for the current calendar year. If the four-quarter average is below 15, the employer will qualify for the small employer discount for the four quarters in the calendar year in which that February falls. If the four-quarter average is 15 or above, the employer will not qualify for the small employer discount for any of the four quarters of the calendar year in which that February falls.

Example: Continuing with the above ABC Graphic Design scenario:

In February 2028, FAMILI will average the reported total employee headcounts from the previous four quarters' filed QWHR: 17, 13, 21, and 6 will be added together and then divided by 4:

$$17+13+21+6 = 57$$

$$57/4 = \underline{\underline{14.25}}$$

² See FAMILI's Localization Policy Guidance (Control #E-26-001).

³ New employers with fewer than four quarters of history would be excluded from the annual determination of employer size in February 2028. For example, if Best Baltimore Bagels opens in June 2027, their employer size would not be calculated annually until February 2029.

For the contribution payments due April 30, July 31, October 31, 2028 and January 31, 2029, ABC Graphic Design will be eligible for the small employer discount and owe 50% of the contribution rate for all four payments.

The 2029 employer size determination and resulting contribution amount due will be based on the average of the total employee headcounts reported in the QWHRs due in April, July, and October 2028 and January 2029. The same annual determination schedule will continue in subsequent years.

Calculating total employee headcount before a full calendar year of reports

During calendar year 2027 or before an employer has a complete calendar year of submitted QWHRs, FAML I will determine employer size each quarter based on the total employee headcount reported in the QWHR for that quarter. If the total employee headcount reported is below 15, the employer will qualify for the small employer discount for that quarter. If the total employee headcount reported is 15 or above, the employer will not qualify for the small employer discount that quarter.

Example: ABC Graphic Design, a Maryland based employer with offices within and outside of the State.

1. On April 17, 2027, ABC Graphic Design files their first QWHR with FAML I and reports a total employee headcount of 17. Of those employees, six work in Maryland and 11 outside the State.
 - Because ABC Graphic Design's QWHR indicates they have more than 15 total employees, they will owe the full contribution rate, due April 30, 2027.
2. On July 22, 2027, ABC Graphic Design files a QWHR and reports a total employee headcount of 13. Of those employees, six work in Maryland and seven outside the State.
 - ABC Graphic Design will be eligible for the small employer discount and owe 50% of the contribution rate, due July 31, 2027.
3. On October 19, 2027, ABC Graphic Design files their third QWHR with FAML I and reports a total employee headcount of 21. Of those employees, six work in Maryland and 15 outside the State.
 - ABC Graphic Design will owe the full contribution rate, due October 31, 2027.
4. On January 7, 2028, ABC Graphic Design files their fourth QWHR and reports a total employee headcount of six.

- ABC Graphic Design will be eligible for the small employer discount and owe 50% of the contribution rate, due January 31, 2028.

QWHR amendments and impact on employer size

Under COMAR [09.42.02.08F](#), QWHR amendments “shall be submitted to the Division within 1 year of the initial due date.” If an employer submits a QWHR amendment that changes total employee headcount, the employer may owe FAML I contributions, penalties, and interest for the applicable quarter.

Distinction from the Family and Medical Leave Act

FAML I’s small employer discount is distinct from determining employer size and the role employer size plays under the federal Family and Medical Leave Act (FMLA). FAML I applies to all employers with at least one employee localized in Maryland. The Maryland Department of Labor cannot advise on FMLA; please refer to FMLA resources issued by the U.S. Dept. of Labor.

References

- Labor and Employment Article, [§8.3–601](#), Annotated Code of Maryland
- COMAR [09.42.01.01B](#)
- COMAR [09.42.02.01B](#)
- COMAR [09.42.02.06D](#)
- COMAR [09.42.02.08F](#)
- FAML I Policy Guidance: Localization (Control #E-26-001)

FAML I contact

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