



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: O'LYNDA FETTE, HUMAN RESOURCES MANAGER
LESLIE EDWARDS, FINANCE DIRECTOR
RE: PUBLIC COMMENT, VOTE AND RESOLUTION TO OPT-OUT OF COLORADO FAMILI
PAID LEAVE PROGRAM
DATE: SEPTEMBER 27, 2022

In November 2020, Colorado voters approved Proposition 118, which paved the way for a state-run paid Family and Medical Leave Insurance (FAMLI) program. Although the program is not effective until January 2023, the Town must decide in 2022 whether to participate in the state-run program.

Background on FAMLI:

The State of Colorado Paid Family and Medical Leave Insurance (FAMLI) program provides employees up to 12 weeks of paid leave to take care of themselves or a family member during life events such as injury, serious illness, or pregnancy. Participating employers and employees will both contribute to premiums for FAMLI. Participating employers will start collecting and remitting premiums January 1, 2023 and benefits will be available to employees starting January 1, 2024.

Premiums are equal to 0.9% of each employee's regular weekly wage. Half of the 0.9% (or 0.45%) is to be paid by the employee, and the other half is to be paid by the employer. The employer is responsible for collecting employee premiums via payroll deduction, and for remitting all premiums to the State on a quarterly basis. For participating employers, premiums would be mandatory for all full-time, part-time, seasonal and temporary employees whether they ever utilize the benefit or not.

Benefits during a state-approved FAMLI leave will pay employees between 37% and 90% of their wages, capped at \$1,100 per week. Employees earning about \$1,500 per week will receive approximately 65% of their weekly wage, or \$977 per week while on FAMLI. A premium and benefits calculator can be found online at: <https://famli.colorado.gov/individuals-and-families/premium-and-benefits-calculator>

While all municipalities are included in FAMLI by default, a municipality may opt out and avoid the employer portion of premiums by a vote of a governing body. The municipality must give prior notice of the vote in the same manner it notices other public business, must provide special notice to employees, and must provide an opportunity to submit comments before voting. Declination by a municipality allows employees to individually opt in to the FAMLI program at their same employee only cost if they so desire. The state has not yet clarified if the benefits for employees that choose to

Town Council Meeting October 11, 2022
**PUBLIC COMMENT, VOTE AND RESOLUTION TO
OPT-OUT OF COLORADO FAMILI PAID LEAVE
PROGRAM**

Page 2

individually opt-in will be reduced or remain as described above.

State law requires participation in FAMILI unless the municipality's governing body votes to opt out of the program by December 31, 2022. There are various employee notification requirements that the Town must observe, depending on whether we opt-in or opt-out.

Local Government FAMILI: <https://famli.colorado.gov/employers/local-governments>

FAQ's for Local Governments: <https://famli.colorado.gov/employers/local-governments/faqs-for-local-governments>

Background on Town of Frisco Actions:

- September 13th, staff along with Laura Early, the Town's benefit broker with IMA, presented to Council the history of FAMILI, the current Town employee benefits, the option and reason to opt-out of the State run family and medical leave program in favor of a private plan. *For details, see the staff memo and presentation in the September 13, 2022 agenda packet and meeting recording.*
- September 13th, Council supported the staff recommendation to opt-out of the FAMILI program as the Town's participation in the FAMILI program would not benefit the majority of Town employees like the Town's own private plan would, the Town's current benefits are of similar value to full-time employees as the state's FAMILI program without the additional costs, and eligible employees can still participate in FAMILI on their own if they choose.
- September 13th, Council also supported staff's recommendation to consider further analysis of Town leave benefits and understand where adjustments could be made to better align with the FAMILI program benefits. The Town will continue to provide full-time employees with a leave program to care for themselves or a family member in the event of a serious illness or injury. While Colorado statute does not require the Town to provide a substitute benefit when opting out of FAMILI, the Town is considering offering a more robust leave program benefiting the majority of our employees in order to remain an employer of choice.
- September 14th, notice of a public hearing was emailed to all active Town employees. This notice provided a history of FAMILI, the Town current leave programs, and the staff recommendation to opt-out of the state run family and medical leave program in favor of a private plan.
- September 20th, as of 4:00PM, no public written comments have been submitted.
- September 27th, public comment and Town Council vote on staff recommendation to opt-out of FAMILI, the State run family and medical leave program.

Financial Impact: The Town's financial burden in the first year of the FAMILI program of 0.45% of wages is expected to be approximately \$43,000. In addition, employees would bear the same equivalent financial contribution of 0.45%. The program cost may increase up to 33% in 2025 to 1.2% of wages, split between the employer and employee. Future year impacts are unknown at this time.

Additionally, the Town currently pays an average of approximately \$7,500 annually in short-term disability wages when employees need leave beyond their accrued paid time off. This short-term disability coverage currently provides 60% of weekly wages for employees on disability for up to 90 days (12-weeks).

Alignment with Strategic Plan: The Town is committed to providing quality core services through attraction and retention of high performing personnel to deliver exceptional service to the Public by: being an "Employer of Choice"; maintain positive employee/employer relations; offer competitive compensation and benefits

Staff Recommendation: Because the Town's participation in the FAML I program would not benefit all employees, and those eligible can still participate on their own, the staff recommendation is to opt-out of the state-run FAML I program and consider further analysis of Town benefits where adjustments could be made to better align with the FAML I program benefits. With the cost of living continuing to rise, we do not want to subject all employees to an additional fee for a benefit they will not utilize. Employees who wish to participate can do so at their choosing.

Opting out of the state-run FAML I program would allow us to avoid having to pay costly premiums to the State and save our employees from having to pay the state premiums (unless individually desired). We will still provide our full-time employees with the protection of a paid leave program to care for themselves or a family member in the event of a serious illness or injury. The funding that would be saved from opting out could be used for a purpose that would benefit all employees.

Passage of attached Resolution serves only to notify the FAML I Division of the Town's intent to decline participation. Should Council decline participation and wish to consider private plan, direction should be given to Staff to proceed with an internal plan design for Council approval in the 2023 budget.

It is recommended that Town Council approve the following motion:

“Move to approve a Resolution of the Town Council of the Town of Frisco, Colorado, declining participation in the FAML I program.”

Approved By:

Tom Fisher, Town Manager
Leslie Edwards, Finance Director

Attachments:

TOF Resolution – Declining Participation in FAML I

Public hearing email – all staff 09132022

Memo to Staff – FAML I Public Comment Notice 09142022

DOL – Division of FAML I Regulation 7 CCR 1107-2