

Republic Act 11210 105-Day Expanded Maternity Leave Law

What is the Expanded Maternity Leave under RA 11210?



The 105-Day Expanded Maternity Leave Law (RA 11210 or EML) provides the updated policy on maternity leave that cover females who are workers in the private and public sectors, workers in the informal economy, voluntary contributors to the Social Security System (SSS), and national athletes. It likewise grants a woman the option to allocate up to seven days of paid maternity leave to her child's father or an alternate care giver.

When did the law take effect and who can benefit from this law?

The law took effect on March 11, 2019. Therefore, those who gave birth or had miscarriage or emergency termination of pregnancy on March 11, 2019 onwards are already covered by RA 11210.

What are the changes in the maternity leave period?

The EML increased the paid maternity leave period to 105 days in case of livebirth, with an option to extend it for 30 more days, but without pay. The law also grants additional 15 days of paid maternity leave for those who qualify as solo parents under RA 8972. These shall apply regardless of the mode of delivery.

In cases of miscarriage or emergency termination of pregnancy, which includes still birth, the paid maternity leave shall be 60 days.



Is the maternity leave applicable only to married women?

No, maternity leave can be availed of regardless of the civil status of the woman who gave birth or suffered miscarriage or emergency termination of pregnancy.

What if a woman has consecutive pregnancies or multiple childbirth?

A woman may apply for maternity leave in every instance of pregnancy, regardless of frequency.

In case of overlapping maternity benefit claims (e.g. one miscarriage or emergency termination of pregnancy after another, or a live child birth followed by miscarriage), she shall be granted maternity leave benefits for the two contingencies in a consecutive manner. For SSS members, the amount of benefit corresponding to the period where there is an overlap shall be deducted from the current maternity benefit claim.

For multiple childbirth (e.g. twins), a woman shall be granted only one maternity benefit, regardless of the number of offspring/children per delivery. - (Sec. 6, Rule V, RA 11210 IRR)

Does counting of maternity leave period include Saturdays, Sundays and Holidays?

Yes, maternity leave should be availed of in a continuous and uninterrupted manner, thus, inclusive of Saturdays, Sundays, and Holidays. Maternity Leave is counted in calendar days.

- (Sec. 2, Rule V, RA 11210 IRR)

Can a female employee who was terminated or who resigned from employment avail of maternity leave?

Yes, a female employee can avail of maternity leave if live childbirth, miscarriage, or emergency termination of pregnancy occurs not more than fifteen 15 calendar days after the termination of her employment. Such period is not applicable when the employment of the pregnant worker has been terminated without cause.

Guide for private sector workers, workers in the informal economy, and voluntary contributors to the SSS

Eligibility

To qualify for the grant of maternity leave benefits, a female member must have paid at least three monthly SSS contributions in the 12-month period immediately preceding the semester of the birth, miscarriage, or emergency termination of pregnancy.

- (Sec. 1, Rule VI, RA 11210 IRR)

Notice requirement

The employee should notify her employer of the pregnancy and the expected date of delivery, who in turn shall transmit it to the SSS. The female worker shall still receive her maternity benefits even if she failed to notify her employer of her pregnancy, but it shall be subject to the guidelines prescribed by the SSS.

Self-employed, voluntary, and overseas Filipino workers (OFWs) who are members of the SSS may give notice directly to the SSS.

- (Sec. 2, Rule VI, RA 11210 IRR)

Extended maternity leave

In case of livebirth, a female worker in the private sector has the option to avail of an additional maternity leave of 30 days without pay. She should submit a written notice to her



employer that she is availing of such, at least 45 days before the end of her paid maternity leave. In case of a medical emergency, prior notice shall not be necessary, but she should subsequently notify her employer of such.

Manner of payment and taxability

Full payment of maternity leave benefits to qualified female workers shall be advanced by the employer. The SSS shall immediately reimburse the employer of the applicable SSS maternity benefits. Any difference between the worker's actual salary and the applicable SSS maternity benefits shall be borne by the employer. However, the Implementing Rules and Regulations (IRR) of the EML provides certain exemptions from payment of salary differential.

The SSS shall directly pay the maternity benefits of female members who are self-employed, including those in the informal economy, OFWs, and voluntary contributors.

Bureau of Internal Revenue Memorandum Circular 105-2019 issued on October 9, 2019 clarified that the salary differential provided by the employer under RA 11210 is a benefit exempt from income and withholding taxes

Guide for public sector workers

Eligibility

A pregnant female worker in the government service, regardless of employment status and length of service, in National Government Agencies, Local Government Units, Government-Owned or Controlled Corporations, State Universities and Colleges, or Local Universities and Colleges may avail of the maternity leave benefits under RA 11210.

- (Sec. 1, Rule V, RA 11210 IRR)



Notice and other requirements

Whenever possible, the pregnant worker should notify the head of agency of her pregnancy and the date of her maternity leave at least 30 days in advance. The following documents shall be submitted to the agency to be entitled to the maternity leave benefits:

1. Accomplished Application for Leave (Civil Service Form No. 6);
2. Medical Certificate issued by a government or private physician, as proof of pregnancy and estimated date of delivery;
3. Accomplished Clearance Form (Civil Service Form No. 7); and
4. Solo Parent ID, for solo parents who want to avail of the additional maternity leave of 15 days.

Extended maternity leave

In case of livebirth, a female public sector worker may also avail of the additional 30 days of maternity leave without pay, or use her earned sick leave credits for extended leave with pay. Vacation leave credits may also be used if sick leave credits are not sufficient. The extended maternity leave without pay shall not be considered as a gap in the service.

Manner of payment and taxability

A female public sector worker is entitled to full pay from her agency during her maternity leave. It may be received through a lump-sum payment or regular salary payment through the agency payroll. Since the maternity leave in the public sector is considered as paid leave of absence, it is subject to tax.

Maternity leave in the teaching profession

The IRR of RA 11210 states that female teachers in the teaching profession may avail of the maternity leave even during long vacations. In such cases, they shall be granted both the maternity leave benefits and the proportional vacation pay. - (Sec. 3, Rule V, RA 11210 IRR)



Can pregnant women who are on job order or contact of service positions in the public sector avail of the maternity leave under R.A. No. 11210?

Female "contract of service" and "job order" workers in government offices are classified as female workers in the informal economy. They may claim maternity leave benefits from the SSS if they have remitted to the SSS at least three (3) monthly contributions in the twelve (12)-month period immediately preceding the semester of her childbirth, miscarriage, or emergency termination of pregnancy.

- (Sec. 1, Rule VII, RA 11210 IRR)

What is allocation of maternity leave credits?

In case of livebirth, a female worker may allocate or transfer up to seven days of her paid maternity leave to the child's father. This option is not applicable in cases of miscarriage or emergency termination of pregnancy, including still birth.

In the absence of the father, the female employee may still allocate said maternity leave to an alternate caregiver who is either a relative within the 4th degree of consanguinity or a current partner, regardless of sexual orientation or gender identity, who shares with her the same household.

Written notice to both the mother and the father or alternate caregiver's employers shall be submitted to avail of the benefits.

- (Sec. 1, Rule VIII, RA 11210 IRR)

Is the allocated leave the same as the paternity leave benefit?

No, the allocated maternity leave to the child's father is different and is over and above that which is provided under the Paternity Leave Act of 1996 (RA 8187). This means that a father may now enjoy as much as 14 days of paid leave to take care of his child, depending on his marital status with the mother.



Under RA 11210, maternity leave credits maybe allocated to the child's father whether or not he is married to the female worker. On the other hand, paternity leave under RA 8187 may only be availed if the father is married to his child's mother.

Maternity Leave Credits

The maternity leave credits can be credited as combination of pre-natal and post-natal leave as long as it does not exceed 105 days and provided that the compulsory post-natal leave shall not be less than 60 days. - (Sec. 2, Rule IV, RA 11210 IRR)



If a woman undergoes surgical emergency termination of pregnancy, can she also avail of the Special Leave Benefits for Women under the Magna Carta of Women (MCW SLB)?

The MCW SLB refers to a female employee's leave entitlement of up to two (2) months with full pay based on her gross monthly compensation following surgery caused by gynecological disorders or diseases. If the reason for surgery is pregnancy-related as mentioned above, she is entitled to maternity leave benefit, but not the MCW SLB.

Visit <https://pcw.gov.ph/availment-of-special-leave-benefit-faqs/> further information on the MCW SLB.

What if the female worker dies or becomes permanently incapacitated during the maternity leave period?

When such incident happens, the balance of her maternity leave benefits, if any, shall accrue to the child's father or the qualified alternate caregiver, provided that it is not yet paid in cash and that a certified true copy of the death certificate or medical certificate/abstract is provided to the employers.

In case the maternity leave benefit is already paid in full prior to the incident, there is no need to return such. Instead, the child's father or the qualified alternate caregiver shall be entitled to a leave without pay for a period equivalent to the unused maternity leave of the female worker. Such leave without pay shall not be considered as a gap in the service, both for the private and public sectors. - Sec. 4, Rule VIII, RA 11210 IRR

Will a female worker be paid for services rendered if she returns to work prior to exhaustion of her maternity leave?

No, since maternity leave under RA 11210 is no longer convertible to cash. This is consistent with the intent of the law to provide women with ample transition time to regain her health and overall wellness as well as to assume maternal roles before resuming paid work. Thus, female workers are encouraged to fully exhaust her maternity leave before returning to work.

What are the maternity benefits for female national athletes?

Female athletes in the roster of national athletes of the National Sports Association who becomes pregnant shall have these benefits:

- referral to a physician of the Philippine Sports Commission or an obstetrician-gynecologist to determine her fitness to continue training;
- allowed to participate in all team-related activities, unless the physician advises that participation is not medically safe or should be limited;
- upon medical advice, go on maternity leave until cleared to return to training; and
- continue receiving their allowance and benefits while on maternity leave prior to child birth and up



to six months after, unless advised by their physician that they can resume training sooner.

However, female national athletes who are employed in the public sector shall not receive double compensation or benefits. (Sec. 1, Rule IX, RA 11210 IRR)

Are there other maternity benefits aside from those provided by the SSS and employers?

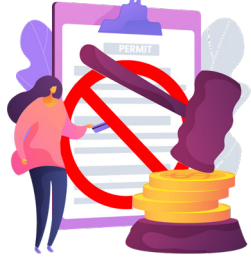
Yes, the EML mandates that female workers who are neither voluntary nor regular members of the SSS shall be governed by the Philippine Health Insurance Corporation (PhilHealth) Circular No. 022-2014 or the "Social Health Insurance Coverage and Benefits for Women About to Give Birth". Meanwhile, PhilHealth members may also avail of benefits like Maternity Care Package (MCP) if they have paid at least nine (9) months of premium contributions within the twelve (12) months prior to the first day of avilment/confinement (including the confinement month). The other conditions for the grant of the PhilHealth benefits are as follows:

- The maximum number of days of confinement (45 days for the member or a total of 45 days shared among all qualified dependents) per year has not yet been consumed; and
- Procedure/operation must be done in a PhilHealth-accredited hospital/facility and attended by a PhilHealth-accredited doctor or must be admitted for at least 24 hours in a PhilHealth-accredited hospital/ facility and attended by a PhilHealth-accredited doctor.



What are the penalties for the violation of the EML?

Employers or agencies that violate RA 11210 shall be fined from P20,000.00 to P200,000.00; or shall be imprisoned for at least 6 years and 1 day or not more than 12 years. Moreover, their business permits shall no longer be renewed. - (Sec. 1, Rule X, RA 11210 IRR)



References:

- Civil Service Commission. (2019). Guidelines on Republic Act No. 11210. Retrieved here on July 22, 2020
- Department of Labor and Employment. (2019). Implementing Rules and Regulations of Republic Act No. 11210 (An Act of Increasing the Maternity Leave Period to One Hundred Five (105) Days for Female Workers with An Option to Extend for An Additional Thirty (30) Days Without Pay, and Granting an Additional Fifteen (15) Days for Solo Mothers, and for Other Purposes). Retrieved here on July 22, 2020.
- Bureau of Internal Revenue. (2019). Revenue Memorandum Circular No. 105-2019: Clarifies the Proper Tax Treatment of Maternity Leave Benefits Under Republic Act No. 11210 Otherwise Known as the "105-Day Expanded Maternity Leave Law. Retrieved here on July 22, 2020.
- Official Gazette. (2019). Republic Act No. 11210: An Act Increasing the Maternity Leave Period to One Hundred Five (105) Days for Female Workers with an Option to Extend for an Additional Thirty (30) Days Without Pay, and Granting an Additional Fifteen (15) Days for Solo Mothers, and for Other Purposes. Retrieved here on July 22, 2020.
- Philippine Health Insurance Corporation (2015). PhilHealth Circular 22-2014: Social Health Insurance Coverage and Benefit for Women About to Give Birth Taken from PhilHealth. Retrieved here on July 22, 2020.
- Philippine Health Insurance Corporation (2014). Tamang Sagot PhilHealth Circular 22-2014 Social Health Insurance Coverage and Benefit for Women About to Give Birth. Retrieved here on July 22, 2020

For more information please contact:

Government Sector

Civil Service Commission - Central office

Human Resource Policies and Standards Office
Phone: (02) 8951-4629 | Email: hrpso@csc.gov.ph

Private Sector

Department of Labor and Employment

Bureau of Workers with Special Concerns (BWSC)

Women Workers Development Division
Hotline: (02) 8404-3336 and 8527-2558
Email: mail@bwsc.dole.gov.ph / womendivision@gmail.com
DOLE 24/7 Hotline: 1349
Website: <https://query.dole.gov.ph/queires/submit>

Social Security System (SSS)

Hotline: 1455 | Toll-Free No.: 1-800-10-2255777
Email: member_relations@sss.gov.ph
Website: <https://www.sss.gov.ph/>
Membership Portal: <https://member.sss.gov.ph/members/>

(Maternity Package)

Philippine Health Insurance Corporation (PhilHealth)

Call Center Hotline 8441-7442
(Office hours, weekdays only)
Callback Channel: 0921-630-0009
Email: actioncenter@philhealth.gov.ph



For more information, please contact the:

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