

Mass. guarantees workers up to 26 weeks of paid medical leave. But many don't know that.

By **Katie Johnston** Globe Staff, Updated August 9, 2023, 5:56 a.m.



Mirta Barillas lost her job at a laundry for taking sick time that was covered by a state program. ERIN CLARK/GLOBE STAFF

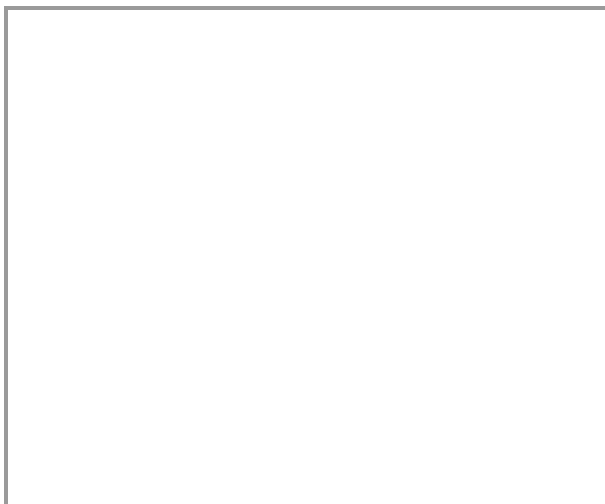
Mirta Barillas had worked for an industrial laundry in Haverhill for 17 years when the company stopped giving her time off for frequent migraines. After missing numerous shifts in early 2022, she was eventually put on unpaid leave for five weeks to recover, she said — with only a few days of paid vacation to make up for lost wages.

The human resources manager then told her she could only come back if she stopped calling in sick, Barillas said, and when she produced a doctor's note stating that the migraines could continue causing her to miss work, she was fired.

Massachusetts [has a safeguard for workers](#) who need to take time off for medical reasons or to care for a family member, guaranteeing them up to [26 weeks of paid time off](#), in addition to employer-provided sick days, [funded through a payroll tax](#) and issued by the state. But more than two years after benefits were launched in January 2021, many workers still aren't aware of [their rights](#), and some companies are punishing them for taking time off for health or family reasons.

Hundreds, perhaps thousands, of workers are believed to be in the dark about the law, and some companies appear to be doing the minimum to let them know — with little help from the state.

ADVERTISING



Greater Boston Legal Services alone has helped more than 100 people apply for Paid Family and Medical Leave since December 2021, many of them low-wage workers in factories, cleaning companies, and restaurants whose employers hadn't informed them of their rights or helped them apply for leaves. GBLS also handled about 55 cases of interference or retaliation by employers, a handful of which resulted in lawsuits or referrals to private attorneys.

Numerous other workers have sought help from community organizations that the legal services firm has trained how to apply for the benefit. At twice-monthly “know your rights” sessions held at the social services agency La Colaborativa in Chelsea, the majority of attendees are unaware of the paid family and medical leave benefit, said community engagement director Yessenia Alfaro.

Employers are required to inform new workers about their right to [apply](#) to the state for paid leave and put up posters about the law in workers’ primary language, if at least five speak that language — but they don’t have to do anything further. A [bill](#) scheduled for a hearing in October would require employers to again notify workers about paid leave at the time they need it. Another [separate bill](#) would ensure that independent contractors are eligible to take paid leave in companies where the majority of the workforce are contractors.

The paid leave benefit provides around 60 to 80 percent of a person’s salary, although the Legislature just approved allowing workers to use company-provided sick and vacation time to “top off” their benefit to get their full salary. Former governor Charlie Baker [vetoed](#) a similar proposal last year.

Two prominent employer groups, the Retailers Association of Massachusetts and the state chapter of the National Federation of Independent Business, are opposed to changing the law unless the business community’s needs are taken into account. The proposals will add “complexity and red tape to what is already a very complex law,” said Jon Hurst, president of the retailers’ group.



A national bus tour campaign supporting Paid Leave for All stopped in Copley Square in 2021. PAT GREENHOUSE/GLOBE STAFF

“The solution to the issue of an employer’s failure to notify employees is state enforcement of these existing penalty provisions,” he said in an email, “not adding yet another costly compliance burden on responsible employers.”

For companies with fewer than 50 employees that aren’t covered by the longstanding federal family medical leave program — which is unpaid but allows workers to use company sick and vacation time during their leave — the state law is a “new paradigm,” said Greater Boston Legal Services staff attorney David McKenna, noting that the law also guarantees that people can return to their jobs with the same pay.

“We can’t always count on employers doing the right thing,” he said. “These are employers who are not used to their employees having rights when they get cancer or have a baby or when their parents get ill.”

The state can fine employers that don’t inform employees about the paid leave benefit, but workers who face retaliation for missing work have to go to court to recover lost

wages or get their jobs back. “It’s a big barrier,” McKenna said.

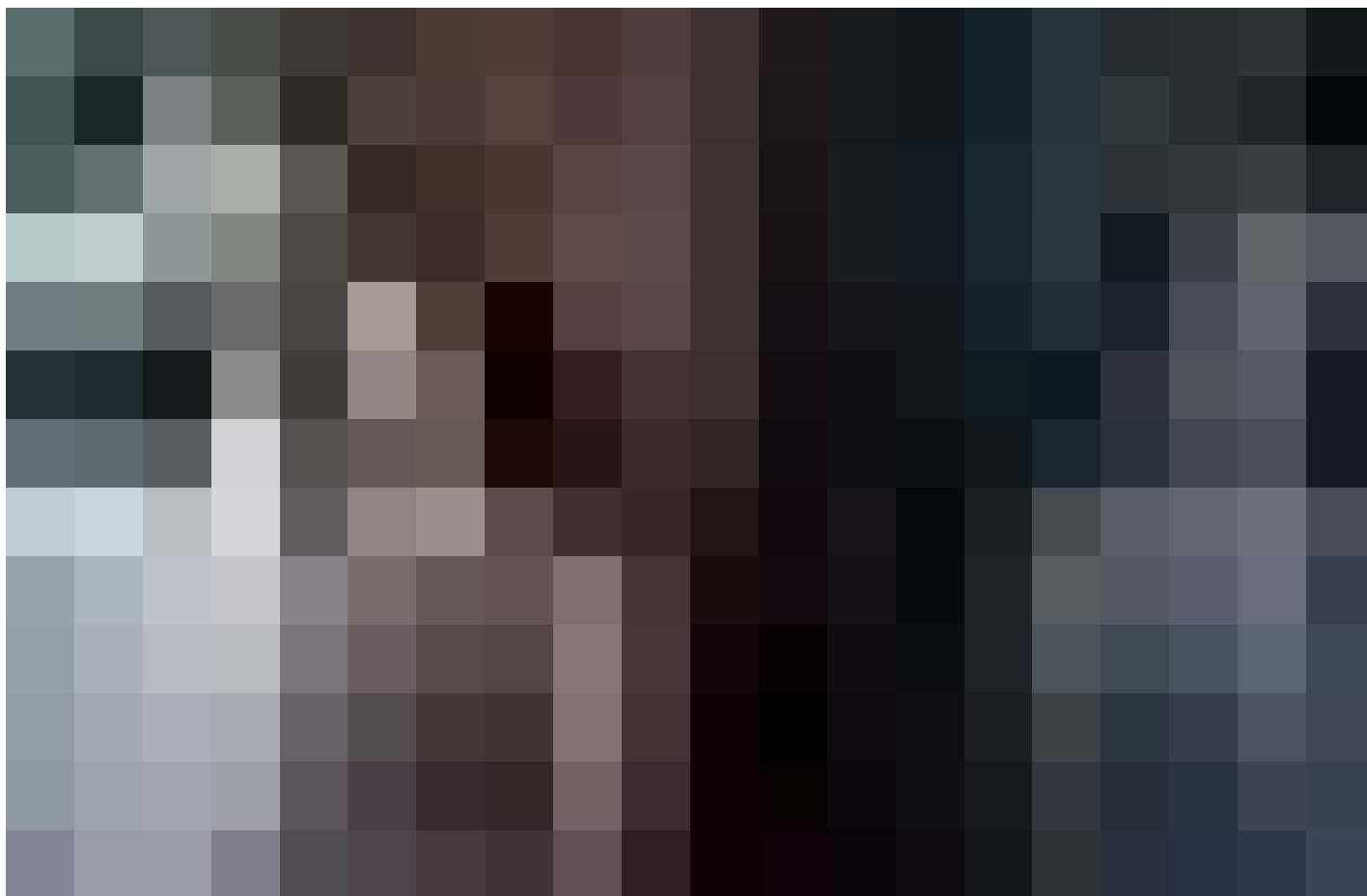
One factory worker in Chelsea waited months, in pain, to have dental surgery because she didn’t think she could get paid time off until her company vacation policy kicked in after a year on the job, McKenna said. When she finally got the surgery and took time off to recover, she was fired, he said. McKenna got her reinstated, with back pay, but said the company is treating her like a new employee without benefits.

Barillas, the laundry worker, also contacted McKenna and has a case pending against her employer, Metropolitan Linen Services, in US District Court for wrongful suspension and termination.

The company did not respond to requests for comment.

Barillas, 45, was relieved to find out she was entitled to back pay, but angry that the company where she’d worked most of her adult life hadn’t informed her or her co-workers about their rights.

“I was very upset because I’d given so much time and commitment to the job,” she said in Spanish, through McKenna.



Mirta Barillas was fired after working at an industrial laundry in Haverhill for 17 years. ERIN CLARK/GLOBE STAFF

So far, the state has paid out more \$1.7 billion for just over 268,000 family or medical leaves and noted it would “continue to work with its community partners and the Legislature to ensure the law is enforced and strengthened to best serve our constituents.” Before the program launched, the state issued public service announcements about it online, on the radio, and on the MBTA, in addition to hosting town halls and meeting with employers and other stakeholders. No employers have been penalized for failing to notify employees, a spokesperson said, but nearly 100 companies currently being audited, most for previous noncompliance, will be fined if they are found to still be in violation.

Maria Lucia De Sousa, a cleaner in the maintenance department at Encore Boston Harbor, took more than a month off to recover from several surgeries in late 2021 and then took another month the following summer for unrelated health issues. Both absences were unpaid, throwing her life into financial turmoil. Encore said it had

informed her about the state benefit as required, but De Sousa, a 62-year-old native of Brazil, said neither her employer nor her medical provider told her she could apply.

De Sousa sought legal guidance and was awarded benefits retroactively but had to move out of her apartment in Everett because she could no longer afford it. Physically unable to resume her old duties, she's now struggling to pay rent for a room in Medford and trying to find another job.

“My life now is so complicated,” she said in Portuguese through an interpreter.

“Everything has changed for the worse since then.”

Yolanda Tirado was also unaware she was entitled to paid medical leave from her job at a large Boston social services nonprofit. Tirado, 41, had a hysterectomy in early 2020 that led to multiple complications. She took her company-paid time off, but it wasn't enough to properly recover, she said.

Then, earlier this year, her mother had surgery that resulted in months of follow-up care, and Tirado, still suffering from her own health issues, asked for two weeks off, unpaid, to help her. Tirado's supervisor informed her that her repeated absences would count against her, Tirado said, and dinged her for her “poor attendance” on her annual performance review.

The stress was overwhelming: “At one point I almost had a mental breakdown because it was just so much for me,” Tirado said.

After seeking legal guidance, she was able to get six paid weeks off starting in late April but said it would have been much more helpful years earlier — if only her supervisor, or her medical team, had told her.

“I honestly feel that a lot of my absences would have been limited,” said Tirado, who no longer works at the agency, “because I would have had time to mentally, physically, emotionally gather myself.”

Katie Johnston can be reached at katie.johnston@globe.com. Follow her [@ktkjohnton](https://twitter.com/ktkjohnton).

[Show 62 comments](#)

©2023 Boston Globe Media Partners, LLC