

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Department of Labor**
(DLS Control No. 25-196)

Overview and Legal and Fiscal Impact

These regulations generally establish the dispute resolution process related to benefits provided by a private employer insurance plan (EPIP) under the Family and Medical Leave Insurance (FAMLI) Program offered by the State in accordance with Chapter 48 of 2022 and its amending laws.

The regulations present no legal issues of concern.

There is no material fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Department of Labor:

Family and Medical Leave Insurance Program:

Dispute Resolution: COMAR 09.42.05.01 – .05

Legal Analysis

Background

Chapter 48 of 2022 established the FAMLI Program, to be administered by the FAMLI Division within the Maryland Department of Labor. Chapters 258 and 259 of 2023, Chapters 266 and 267 of 2024, and Chapters 5, 6, and 363 of 2025 made several modifications to the program, including delaying the program's start date. The program provides up to 12 weeks of benefits to a covered individual who is taking leave from employment due to caring for certain family members, the individual's own serious health condition, or a qualifying exigency arising out of a family member's military deployment. The weekly benefit is based on a covered individual's average weekly wage and is indexed to inflation. Required contributions to the program, which are shared between employers and employees, are also based on a covered individual's wages.

An employer may satisfy the legislative requirements through a private employer plan consisting of employer-provided benefits, insurance, or a combination of both if the plan is offered to all eligible employees and is at least equivalent to the rights, protections, and benefits provided to a covered employee under the FAMLI program. If an employer provides covered employees with a private employer plan approved by the division, those covered employees are exempt from the required contributions.

Summary of Regulations

Chapter 09.42.05 establishes the dispute resolution procedures related to benefits provided by an EPIP under the FAMLII program, including whether the dispute resolution procedures outlined in the chapter control in certain situations versus the procedures of the Maryland Insurance Administration and when each method is preferred. Regulation .01 defines relevant terms including “authorized representative”, “contribution liability”, “final order”, “good cause”, “hearing officer”, and “party.”

Denial or Termination Review: Regulation .02 establishes the process for an employer to request a review after its application to opt-out of the State plan and into an EPIP is denied or involuntarily terminated. More specifically, Regulation .02B establishes that a review request must be filed in writing with the division within 10 days of the application denial or termination (unless good cause for a delay is shown) and must include a description of why the requestor believes the denial or termination was in error. Regulation .02C–D require a review to be conducted by division staff that did not participate in the initial denial or termination decision and a decision to be issued within 20 business days of the review request. Finally, Regulation .02E–F authorizes the division to schedule an informal conference to discuss the review request, but if scheduled, the informal conference must be held within the required 20 business days authorized for issuing a decision.

Claimant and Benefit Disqualification Reconsideration and Appeals: Regulation .03A establishes that a claimant is entitled to request a reconsideration of any determination made by the division on an EPIP administrator. A reconsideration request must be filed in writing within 30 days (unless good cause shown) of a determination by the issuing entity and explain the reason the claimant believes the determination to be in error. The division or EPIP administration with which the request is filed must provide timely notice to all parties and the employer to which the reconsideration request applies. Further, the division or an EPIP administrator, as appropriate (1) must conduct any reconsideration using personnel that did not participate in the adverse determination at issue; (2) must issue a decision within 10 business days of receiving the reconsideration request; and (3) may hold an informal conference to discuss the reconsideration if it is held within 10 business days of receiving the reconsideration request.

Regulation .03B establishes that any claimant (whose claim has been denied or whose benefits have been underpaid and has completed the reconsideration process) or any individual (who has been disqualified from receiving benefits) is entitled to file an appeal of the adverse determination. This provision lays out the appeal process and authorizes an unsuccessful appellant to seek judicial review of a final order.

Contribution Liability Reconsideration and Appeals: Regulation .04 clarifies that an employer is entitled to a request consideration by the division on a determination of the employer’s contribution liability. The regulation details the filing process and the appeals process for an employer who has completed the reconsideration process but still disagrees with the division’s determination.

Statutory Authority and Legislative Intent

The department cites §§ 8.3–101, 8.3–403, and 8.3–906 of the Labor and Employment Article as statutory authority for the regulations. Section 8.3-101 generally provides definitions that mirror those in the regulations. Section 8.3-403 generally establishes procedures for the claim filing process itself, while also requiring the Secretary of Labor to establish procedures regarding various matters, including claim filing procedures and notice requirements. More specifically, § 8.3-403(a)(1) requires the Secretary, in consultation with other State agencies and relevant stakeholders, to adopt regulations necessary to carry out Title 8.3 of the Labor and Employment Article. Section 8.3–906 requires the Secretary to establish an appeals system for covered individuals and also ensure confidentiality of all information related to any claims.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs as the fiscal impact of the regulations was already assumed in the fiscal and policy note for Senate Bill 275 of 2022 (Chapter 48 of 2022), which established the FAMLI Program and required a system for appeals. The FAMLI Program was modified by Senate Bill 828 and House Bill 988 of 2023 (Chapters 259 and 258); Senate Bill 485 and House Bill 571 of 2024 (Chapters 266 and 267), which authorized the Maryland Department of Labor to assess the department’s appeal costs against the employer or insurer; and House Bill 102 of 2025 (Chapter 363), which most recently further delayed the program’s start dates.

Under Chapter 363, employer and employee contributions to the program begin on January 1, 2027, and claims for benefits begin no later than January 3, 2028, as determined and announced by the Secretary of Labor. The 18-month delay in FAMLI contributions means that FAMLI Fund revenues are not available to support the program during that time. The fiscal and policy note for that legislation estimates general fund expenditures for the Maryland Department of Labor increase by \$37.3 million in fiscal 2026 to fund existing personnel, contracts, and related FAMLI expenses that cannot be deferred; the fiscal 2026 budget includes a contingent \$37.3 million general fund appropriation, effectuated by Chapter 363. Additionally, the fiscal and policy note for Senate Bill 485 and House Bill 571 of 2024 states that FAMLI special fund revenues increase minimally from assessing the department’s appeals costs in certain situations.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs as the fiscal and policy note for Senate Bill 485 and House Bill 571 of 2024 already accounted for a meaningful impact on small businesses. There is no new impact due to these regulations.

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