

Informal Regulatory Stakeholder Engagement Process
Phase 4
Discussion Document –FAMLI Appeals

The Division of Family and Medical Leave Insurance (the “Division”) anticipates appeals will be filed by certain individuals and entities for a number of discrete agency actions related to the FAMLI system. The Division’s considerations for setting up the various processes are described on the following pages. The Division seeks feedback from stakeholders on the questions presented on the following pages.

Comments can be submitted by offering oral remarks at the August 7, 2023, informal regulatory stakeholder meeting and/or by submitting written comments via email to FAMLI.policy@maryland.gov. The Division would prefer to receive written comments by August 9, 2023.

1. Who might be able to request a review of a decision by the Division?
 - a. The following claimants and applicants may have an established dispute resolution process with the Division.
 - i. Benefit claimants – this would include participants in the State Plan, Optional Self-Insured Plan (OSEP) and Employer Provided Insurance Plans (EPIP) who are appealing a benefit determination.
 - ii. OSEP applicants – this would include self-employed individuals whose application to participate in the OSEP was denied.
 - iii. EPIP applicants – this would include employers whose application to opt-out of the State Plan and into an EPIP was denied.
2. What decisions might be appealable?
 - a. Per 8.3-906, claimants for benefits may appeal
 - i. Denial of benefits
 - ii. Determinations of benefit amount
 - iii. Determinations of duration of leave
 - b. Self-employed individuals may be able to appeal
 - i. A denial of a request to opt in
 - ii. A denial of a request to opt out
 - iii. An involuntary termination
 - c. An employer may be able to appeal
 - i. A denial of an EPIP application
 - ii. A denial of a request to voluntarily terminate an EPIP
 - iii. An involuntary termination of an EPIP by the Department
3. Will State Plan claimants, OSEP claimants and EPIP claimants follow the same dispute resolution processes?

All three groups may have the opportunity for a reconsideration of the decision by the Division and also a separate appeal hearing.

4. What rules should govern appeals hearings?

The Division is exploring options for how to handle appeal hearings. We are interested in hearing from stakeholders about appeals hearing models that have worked both in Maryland and in other states.

5. What might the dispute resolution process be for a State Plan claimant (including OSEP participants)?

The first level of reconsideration for State Plan and OSEP participants may be conducted by the Division's Claim Unit.

6. What might the dispute resolution process be for a commercial plan claimant enrolled in a commercial plan?

For EPIP claimants enrolled in a commercial plan, the reconsideration may be conducted by the EPIP administrator. As to the appeals process, the Division is still exploring the intersection of the Insurance Code with the Time to Care Act. We are interested in hearing from stakeholders about processes other states have used to reconcile the potential overlapping jurisdictions.

7. Should EIPs using a self-insured plan have a different process than EIPs using a commercial plan?

As EIPs using a self-insured plan are not governed by the Maryland Insurance Code, it may be necessary to create a separate dispute resolution process for these EIPs. One option is to allow the EIP administrator to conduct a reconsideration of the initial decision and then allow the claimant to avail themselves of State review of the decision through an appeal.

8. What may be the timeline requirements for submitting an appeal request?

Appeal requests may be required to be submitted within 30 days of receiving an adverse decision. For State Plan and OSEP claimants, the 30-day clock may begin with the most recent decision. For EPIP claimants, the 30 days may begin after the reconsideration decision is received by the claimant. The 30-day deadline may be waived for good cause.¹

9. What might the process be if an employer EPIP Applicant or OSEP Applicant wants to appeal a denial of an application?

When an application is denied, the Division may issue a written decision to the employer listing the reasons for the denial. The applicant may resubmit their application addressing the deficiencies in the application. If the applicant believes their application was incorrectly denied, they may request a reconsideration by the Division. The Division

¹ The Division anticipates having a discussion question on good cause in Phase 5 – Claims.

may issue a written response following a reconsideration. The applicant may be able to cure any remaining deficiencies.

10. What might the process be if an OSEP or EPIP participant is denied a voluntary termination or issued an involuntary termination?

If a participant disagrees with a decision of the Division such as denying an involuntary termination or issuing a voluntary termination, the decision will be in writing and include the rationale for the decision. A participant may accept the determination, attempt to cure the deficiency or may request a reconsideration by the Division. The Division will issue a written response of the reconsideration.