

**EXHIBIT “A”**

**PROPOSED AMENDMENT**

**Allegheny County Health Department Rules and Regulations**

**Article XXIV, Paid Sick and Parental Leave**

## Proposed Article XXIV – **Paid Sick AND Parental Leave Regulation**

Deletions are shown with strikethroughs.

Additions are shown in larger font, bolded, and underlined

### ALLEGHENY COUNTY HEALTH DEPARTMENT

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#### RULES AND REGULATIONS

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## ARTICLE XXIV. PAID SICK AND PARENTAL LEAVE ~~DAYS~~

### Chapter I

#### Section 2401. AUTHORITY AND PURPOSE.

Pursuant to the authority granted to the Allegheny County Health Department under the Pennsylvania Local Health Administration Law, 16 P.S. §§ 12010(f) and 12011(c), this regulation has been promulgated to promote and preserve the health of the residents of Allegheny County. Providing paid sick time to employees will help prevent and control the transmission of illnesses and disease among coworkers and allow employees and their families with the time to recover from the illness and thereby reduce the likelihood of more severe illness, hospitalizations, and loss of work.

#### Section 2402. DEFINITIONS.

The following words, terms and phrases when used in this Article shall be defined as follows, unless the context clearly indicates otherwise:

*Agency.* A Department or other County agency designated by the Allegheny County Manager to effectuate the provisions of this Article.

**Benefits. The monetary allowances payable to a covered individual for Paid Parental Leave during an approved Parental Leave in accordance with this Article.**

*Calendar Year.* A regular and consecutive 12-month period, as determined by an employer and communicated to all employees.

**Claim. The submission of a written request with the employer for the receipt of benefits.**

**Covered individual. An employee, or a self-employed person who elects coverage in accordance with this Article, who meets the following requirements, as applicable:**

- 1. Meets the employment eligibility requirements specified in Chapter II, Section 3303.**
- 2. Meets the requirements of this Article as to the receipt of benefits.**
- 3. Has submitted a claim that is approved by the employer.**

**Domestic partner. An employee in a committed relationship where all of the following are applicable:**

- 1. The individuals must:**
  - a. Be at least 18 years old and able to contract;**
  - b. Not be related in any way that would prohibit a marriage in Pennsylvania;**
  - c. Be each other's sole domestic partner;**
  - d. Not have been in another domestic partnership in the past 6 months (absent death or marriage of the other partner);**
  - e. Agree to share life necessities and be responsible for the welfare of the other; and**
  - f. Share at least one residence together.**

**Eligible employee. An employee who meets the requirements of Chapter II, Section 3303(b)(1) and (2).**

*Employ.* Is as defined in the Act of January 17, 1968, P.L. 11, No. 5, 43 P.S. § 333.103(f).

*Employee.* Is as defined in 43 P.S. Section 333.103 (h). For the purposes of this Article, “employee” shall not include independent contractors, State and Federal employees or seasonal employees.

*Employer.* A person, partnership, limited partnership, association, or unincorporated or otherwise, corporation, institution, trust, government body or unit or agency, or any other entity situated or doing business within the geographical boundaries of Allegheny County and that

employs one (1) or more persons for a salary, wage, commission or other compensation. For the purposes of this Article, “employer” does not include either of the following:

1. The United States Government; and
2. The State of Pennsylvania including any office, department, agency, authority, institution, association or other body of the state, including the legislature and the judiciary.

*Family Member.* Any one of the following:

1. A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands in loco parentis;
2. A biological, foster, adoptive, or step-parent, or legal guardian of an employee or an employee’s spouse or domestic partner or a person who stood in loco parentis when the employee was a minor child;
3. A person to whom the employee is legally married under the laws of any state;
4. A grandparent or spouse or domestic partner of a grandparent;
5. A grandchild;
6. A biological, foster, or adopted sibling;
7. A domestic partner; or
8. Any individual for whom the employee has received permission from the employer to care for at the time of the employee’s request to make use of paid sick time.

**Parental Leave. Any leave taken by an employee from work to care for the physical and emotional well-being and bond with the employee's child during the first eighteen months after the child's birth, or the first eighteen months after the placement of the child for adoption [or foster care].**

*Health Care Professional.* Any person licensed under Federal or Pennsylvania law to provide medical or emergency services, including but not limited to doctors, nurses, and emergency room personnel.

**Paid Parental Leave. Time that is compensated at the same base rate of pay and with the same benefits, as an employee would have earned at the time of their use of Paid Parental Leave. Paid Parental Leave shall extend for a period of not less than eighteen (18) weeks and may be used solely for the care of the new child.**

*Paid Sick Time.* Time that is compensated at the same base rate of pay, and with the same benefits, including health care benefits, as an employee would have earned at the time of their

use of the paid sick time. In no case shall the hourly wage with which an employee making use of paid sick time is compensated be less than that provided under 43 P.S. § 333.104(a). Employees making use of paid sick time shall not be entitled to compensation for lost tips or commissions, and compensation shall only be required for hours that an employee was scheduled to have worked.

*Registered Apprenticeship Program.* An apprenticeship program that is registered with and approved by the United States Department of Labor and which meets not less than two of the following requirements: (A) has active, employed, registered apprentices; (B) has graduated apprentices to journey worker status during a majority of the years that the program has been in operation; or (C) has graduated apprentices to journey worker status during three of the immediately preceding five years, provides each trainee with combined classroom and on-the-job training under the direct and close supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade and meets the program performance standards of enrollment and graduation under 29 C.F.R. Part 29, section 29.63.1.

**Retaliatory personnel action. As follows:**

**1. Any threat, discipline, discharge, suspension, demotion, reduction of hours or other adverse action taken against an employee for exercising the rights and protections afforded by this Article.**

**2. The term includes interference with or punishment for participating in or acting on a complaint or civil action under this Article.**

*Seasonal Employee.* A person who has been hired for a temporary period of not more than sixteen weeks during a calendar year and has been notified in writing at the time of hire that the individual's employment is limited to the beginning and ending dates of the employer's seasonal period, as determined by the employer.

**Section 2403. ACCRUAL OF PAID SICK TIME.**

- A. All employees shall be entitled to accrue paid sick time, as provided under the terms of this Article.
- B. All employees of employers with ~~twenty-six (26)~~ **fifteen (15)** or more employees shall accrue a minimum of one (1) hour of paid sick time for every ~~35~~ **30** hours worked within the geographical boundaries of Allegheny County unless the employer provides a faster accrual rate, and shall be permitted to accrue no more than ~~40~~ **72** hours of paid sick time in a calendar year, unless the employer designates a higher amount. At no point shall an employee of an employer with ~~26~~ **15** or more employees be permitted to have access to more than ~~40~~ **72** hours of paid sick time, unless the employer designates a higher amount. **All employees of employers with fewer than fifteen (15) employees shall accrue a minimum of one (1) hour of paid sick time for**

**every thirty (30) hours worked within the geographical boundaries of Allegheny County unless the employer provides a faster accrual rate, and shall be permitted to accrue no more than forty-eight (48) hours of paid sick time in a calendar year, unless the employer designates a higher amount. At no point shall an employee of an employer with fewer than 15 employees be permitted to have access to more than 48 hours of paid sick time, unless the employer designates a higher amount.**

- C. Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work 40 hours in each workweek for purposes of paid sick time accrual, unless their normal workweek is less than 40 hours, in which case paid sick time accrues based upon that employee's normal workweek.
- D. The accrual of paid sick time, as provided in this Article, shall begin on the effective date as provided in Section 2413, as to an employee who is employed as of such effective date. All employees who become employed after such effective date shall begin to accrue paid sick time at the commencement of their employment.
- E. All employees shall be entitled to use accrued paid sick time beginning on the 90th calendar day following the commencement of their employment.
- F. Accrued paid sick time shall be carried over to the following calendar year, except when:
  - (1) an employer that employs ~~twenty-six (26)~~ fifteen (15) or more employees provides at least 40 72 hours of paid sick time at the beginning of each calendar year. If such employer provides less than 40 72 hours of paid sick time at the beginning of each calendar year, then the employee may carry over accrued paid sick time so long as the total paid sick time available does not exceed 40 72 hours.**
  - (2) an employer that employs fewer than fifteen (15) employees provides at least 48 hours of paid sick time at the beginning of each calendar year. If such employer provides less than 48 hours of paid sick time at the beginning of each calendar year, then the employee may carry over accrued paid sick time so long as the total paid sick time available does not exceed 48 hours.**
- G. An employer shall not be obligated to provide financial or other reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment for unused paid sick time that has been accrued.
- H. If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all paid sick time accrued at

the prior division, entity or location and is entitled to use all paid sick time as provided in this Section.

- I. When there is a separation from employment and the employee is rehired within 6 months of separation by the same employer, previously accrued paid sick time that had not been used shall be reinstated. The employee shall be entitled to use accrued paid sick time and accrue additional paid sick time at the re-commencement of employment.
- J. When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all paid sick time accrued when employed by the original employer and are entitled to use all paid sick time previously accrued.
- K. **Notwithstanding whether** an employer **has** with a paid leave policy, such as a paid time off policy, **and** who **claims to** makes available an amount of paid sick leave sufficient to meet the accrual requirements of this Section that may be used for the same purposes and under the same conditions as paid sick time under this Article, **that employer** is ~~not~~ required to provide additional **designated** paid sick **and parental time leave- that accrues and is calculated separately from other paid leave offered by the employer.**
- L. Any employer with a collective bargaining agreement that makes available a sufficient amount of paid sick leave to meet the accrual requirements of this Section that may be used for the same purposes and under the same conditions as paid sick time under this Article is not required to provide additional paid sick time.

#### **Section 2404. USE OF PAID SICK TIME.**

- A. The paid sick time accrued by an employee may be used for:
  - 1. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care;
  - 2. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care; or
  - 3. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the

family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

- B. A request shall be provided to the employer by the employee upon the use of paid sick time. The request shall include the anticipated duration of the absence when possible. An employer shall be permitted to maintain its own notification policy that shall dictate how soon before an employee's shift the employee must make their oral request to make use of paid sick time, provided:
  - 1. The employer's notification policy shall be reasonable and shall not obstruct an employee's use of paid sick time.
  - 2. If an employer does not maintain its own notification policy, an employee shall provide their request for the use of paid sick time to the employer at least one (1) hour prior to the start of their shift.
  - 3. In the event such need for paid sick time is not foreseeable by the employee, the employee shall make a good faith effort to notify the employer as soon as possible.
- C. In the event that the need for the use of paid sick time is known to the employee in advance, such as a scheduled appointment with a health care provider, the employer may require reasonable advance notice of the intention to use such paid sick time not to exceed seven days prior to the date such paid sick time is to begin. The employee shall make a reasonable effort to schedule the use of paid sick time in a manner that does not unduly disrupt the operations of the employer. In the event of such need for paid sick time is not foreseeable by the employee, or should an employee be unable to meet the seven-day requirement contained herein, an employee shall make a good faith effort to notify the employer as soon as possible of the need to use paid sick time in such a situation.
- D. An employee may use their paid sick time in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.
- E. For the use of paid sick time that lasts three (3) or more full consecutive days, an employer may require the employee to present reasonable documentation that the paid sick time has been used for a purpose covered and protected by the terms of this Article. For the purposes of this Section, documentation signed by a health care professional indicating that paid sick time is necessary shall be considered reasonable documentation. An employer may not require that the documentation explain the precise nature of the illness.
- F. An employer may not require that an employee making use of accrued paid sick time search for or find a replacement worker to cover the hours during which the employee is on using paid sick time as a condition for providing paid sick time.

**Section 2405. EXERCISE OF RIGHTS PROTECTED; RETALIATION PROHIBITED.**

- A. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under the terms of this Article.
- B. An employer shall not retaliate or discriminate against an employee because the employee has exercised rights protected under the terms of this Article. Such rights include but are not limited to the right to use paid sick time pursuant to this Article; the right to file a complaint with the Agency or a court; the right to inform any person about any employer's alleged violations of this Article; and the right to inform any person of his or her potential rights under this Section.
- C. It shall be a violation of this Article for any employer's absence control policy to count paid sick time taken under this Article as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action unless the Employee does not follow the applicable notification and documentation procedures in Section 2404.
- D. The protections afforded pursuant to the terms of this Section shall apply to any person who mistakenly but in good faith alleges violations of this Section.
- E. There shall be a rebuttable presumption of unlawful retaliation under this Section whenever an employer takes adverse action against a person within 90 days of when that person:
  - 1. Files a complaint with the Agency or a court alleging violation of any provision of this Section;
  - 2. Informs any person about an employer's alleged violation of this Section;
  - 3. Cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this Section;
  - 4. Opposes any policy, practice, or act that is unlawful under this Section; or
  - 5. Informs any person of his or her rights under this Section.

**Section 2406. NOTICE.**

- A. Employers shall give written notice that employees are entitled to paid sick time, the amount of paid sick time, and the terms of its use guaranteed under this Article, that retaliation against employees who request or use paid sick time is prohibited and that each employee has the right to file a complaint with the Agency if paid sick time as required by this Section is denied by the employer or the employee is retaliated against for requesting or taking paid sick time.
- B. The Agency shall have the power to determine the mechanism by which employers comply with this Section and shall make this determination before the effective date of this Article.

- C. The Agency shall promulgate all material relevant to this Section and necessary for an employer to comply with the requirements of this Section, making said material available through the County website.
- D. All County Departments shall allow the Agency, with appropriate notice and at a mutually agreeable time, to access the records necessary to enforce compliance under this Section.
- E. An employer who willfully violates the notice requirements of this Section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

**Section 2407. EMPLOYER RECORDS.**

- A. Employers shall retain records documenting hours worked by employees and paid sick time taken by employees, for a period of two years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of the Article.
- B. When an issue arises as to an employee's entitlement to paid sick time under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated the Article, absent clear and convincing evidence otherwise.

**Section 2408. ENFORCEMENT.**

- A. An employer, employee, or authorized representative may report to the Agency any suspected violation of this Article. The complaint shall be filed within six months of the date the complainant knew or should have known of the alleged violation.
- B. The Agency shall have the authority to enforce this Article and may adopt appropriate policies or guidelines relating to the confidentiality of the complainant and to implement and enforce this Article.
- C. An employer who willfully violates the rules of this Article shall be subject to a fine or penalty in an amount not to exceed \$100 for each separate offense, provided, however, that no fines or penalties shall be levied by the Agency against any employer within one calendar year of the effective date of this Article.

**Section 2409. CONFIDENTIALITY AND NONDISCLOSURE.**

- A. An employer may not require disclosure of details relating to an employee's or an employee's family member's medical condition as a condition of providing paid sick **or parental** time under this Article.
- B. If an employer possesses health information about an employee or an employee's family member, such information shall be treated as confidential and not disclosed, except to the affected employee or with the written permission of the affected employee in accordance

with applicable Federal and State medical privacy provisions. **The employer, when required to disclose information received from employee under this Article, must provide the employee with written notice prior to any authorized disclosure.**

**Section 2410. EFFECT ON OTHER LAW, POLICY, REGULATION OR CONTRACT.**

- A. Nothing in this Article shall be construed to discourage or prohibit an employer from the adoption or retention of a paid sick time policy more generous than the one required herein.
- B. Nothing in this Article shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employee benefit plan or other agreement providing more generous paid sick time to an employee than required herein.
- C. Nothing in this Article shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Pennsylvania.

**Section 2411. EFFECT OF ARTICLE; MINIMUM STANDARDS; APPLICABILITY.**

- A. This Article provides minimum requirements pertaining to paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, ordinance, regulation, requirement, policy or standard that provides for greater accrual or use by employees of paid sick time or that extends other protections to employees.
- B. Except as provided in Subsection C, this Article shall not apply to any municipality within Allegheny County that has enacted an ordinance on paid sick time so long as such ordinance is not less stringent than the requirements under this Article.
- C. The Agency shall have the authority to enforce this Article in a municipality within Allegheny County that has enacted an ordinance on paid sick time if the Agency determines that the municipality is unwilling or unable to enforce its ordinance.

**Section 2412. PUBLIC EDUCATION/OUTREACH.**

The Agency shall develop multilingual informational materials to inform employers and employees about the availability of paid sick time under this Article. This program shall include the development of notices and other written materials in English and in other languages and outreach to employers and employees for whom English is not a first language and/or who may otherwise have difficulty interpreting or understanding the provisions of this Article when expressed in written English.

**Section 2413. EFFECTIVE DATE.**

The provisions of Section 2406 shall become effective immediately upon final approval. The remaining provisions of this Article shall take effect on the 90th calendar day following the posting of the notice information for employers by the Agency, pursuant to the terms of Section 2406.

## **CHAPTER II**

### **PAID PARENTAL LEAVE**

#### **Section 3303. Eligibility for Paid Parental Leave benefits.**

**(a) Basis for receipt of benefits.—An employee is eligible to receive benefits if the employee:**

**1. Files a claim with the employer based on the birth or adoption of a child of the Employee, and the Employee is caring for their child during the first year after the birth of that child.**

**2. Has worked with the Employer at least 30 days.**

**3. The required documentation to support the claim, including any necessary documentation in support of the employee's claim.**

**(b) Determination of eligibility claim.--**

**(1) Within 10 business days of receipt of a claim and all necessary documentation to support the claim, the Employer shall determine whether the employee has met all of the eligibility requirements under subsection (a).**

**(2) If the Employer determines that the eligibility requirements under subsection (a) have been met, the Employer shall approve benefits for requested amount of parental leave, subject to section 3304(a).**

**(c) interaction with workers' compensation act and unemployment compensation law.--to be eligible to file a claim and receive benefits, an employee may not receive benefits for the same day under the workers' compensation act or the unemployment compensation law.**

**(d) Married or domestic partners Employed by same Employer.--individuals who are legally married or domestic partners under the laws of any state or political subdivision and employed by the same Employer shall both be eligible for benefits, even when the leave runs concurrently.**

**Section 3304. Duration of benefits.**

**(a) Maximum leave duration of 18 weeks.--The maximum number of weeks during which benefits are payable under section 3303(a) in an application year is 18 weeks.**

**(b) Initial payment of benefits.--The first payment of benefits shall be made to a covered individual no later than one week:**

- 1. after the claim is submitted to employer; or**
- 2. from the date the leave is scheduled to commence.**

**(c) Payment of benefits.--After the initial payment of benefits, subsequent payments shall be made in the same manner as the employee was compensated prior to taking leave and for the duration of the approved leave.**

**(d) Limit on taking of benefits and nonsequential leave.-- Under this section and Section 3307, benefits are not payable for less than eight hours of leave taken in one work week.**

**Section 3307. Reduced leave schedule.**

**(a) Taking of nonsequential leave.--A covered individual shall be entitled to utilize the leave authorized under this Article on a reduced leave schedule in which all of the leave authorized under this act is not taken sequentially. Paid Parental Leave benefits for intermittent or reduced leave schedules shall be prorated.**

**(b) Impact on duration of leave.--Nonsequential leave taken under this section may not result in a reduction in the total amount of Paid Parental Leave to which a covered individual is entitled beyond the amount of leave actually taken.**

**(c) Total amount of leave allowed.--Nothing in this section shall be construed to enable a covered individual to take more leave than allowed under Section 3304.**

**Section 3308. Employment protections.**

**(a) Restoration of employment position.--A covered individual who takes leave in accordance with this Article shall, upon the expiration of that leave, be**

restored by the employer to the position previously held by the covered individual when the leave commenced, or to a position with equivalent seniority, status, employment benefits, pay and other terms and conditions of employment.

(b) Health care benefits maintained.--

1. For the duration of a leave approved under this Article, the employer shall maintain any health care benefits the covered individual had prior to taking leave as if the covered individual had continued in employment continuously from the date leave commenced until the date the leave terminates.

2. A covered individual shall continue to pay the covered individual's share of the cost of health benefits as required prior to the commencement of the leave.

(c) Interference with benefits.--It shall be unlawful for an employer or any other person to interfere with, restrain or deny the exercise of, or the attempt to exercise, a protection afforded under this Article.

(d) Retaliation prohibited.--An employer, temporary help company, employment agency, employee organization or other person may not take retaliatory personnel action or otherwise discriminate against a person because the person took action in accordance with this Article, including:

1. Submitting a request for or using benefits or taking leave under this Article.

2. Communicating to the employer or another person or entity an intent to submit and act on a claim, a complaint in a court of competent jurisdiction.

(e) Consideration of absence.--It shall be unlawful for an employer to count leave taken under this Article as an absence that may lead to or result in a retaliatory personnel action.

(f) Good faith protection.--Protections under this section shall apply to a person who mistakenly but in good faith alleges a violation of this Article.

Section 3309. Coordination of benefits.

**(a) Leave concurrent with Federal law.--Leave taken under this Article that also qualifies as leave under 29 U.S.C. Ch. 28 (relating to family and medical leave) shall run concurrently with leave taken under 29 U.S.C. Ch. 28.**

**(b) Coordination with other paid leave.--**

**1. An employee may elect to utilize paid leave available under Chapter I of this Article, any other Federal or State law, collective bargaining agreement or employer policy prior to receiving benefits under this Chapter, provided that the paid leave does not conflict with Federal or state law.**

**2. An employer shall provide its employees with written notice of the opportunity to make the election, and inform employees how leave will be coordinated absent an election.**

**(3) ) The amount of paid leave taken under any other federal or state law, collective bargaining agreement or employer policy shall be counted against the paid leave benefits under this regulation.**

**(c) Employer's obligation.--This Article does not diminish an employer's obligation to comply with any of the following that provides more generous leave:**

**1. A collective bargaining agreement.**

**2. An employer policy.**

**3. Any other Federal or State law.**

**(d) Prohibition on subsequent collective bargaining agreement or employer policy.--**

**1. An individual's right to leave and the payment of benefits under this Article may not be diminished by a collective bargaining agreement entered into or renewed, or an employer policy adopted or retained, after the effective date of this section.**

**2. An agreement by an individual to waive the individual's rights under this Article is void as against public policy.**

**(e) Impact on Workers' Compensation Act.--Nothing in this Article shall be construed to impact the provisions of the Workers' Compensation Act with regard to work-related injuries.**

**(f) Impact on Public Employe Relations Act.--Nothing in this Article shall be construed to supersede or preempt:**

**1. the rights, remedies and procedures afforded to employees or labor organizations under Federal or State law, including the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act; or**

**2. any provision of a collective bargaining agreement negotiated between an employer and an exclusive representative of the employees in accordance with the Public Employe Relations Act.**

**Section 3310. Employer's use of a private plan.**

**(a) An employer may meet the employer's obligations under this chapter through the use a private plan.**

**1. A lawful private plan under this Article shall comply with the requirements of this Article if:**

**(i) a private plan confers at least all of the same rights, protections and benefits provided to employees under this chapter; and**

**(ii) the employer can provide evidence that it has in effect a self-funded plan governed under the Employee Retirement Income Security Act of 1974 (Public Law 93-406, 88 Stat. 829) or an insurance policy issued by an entity that has a certificate of authority to do the business of insurance as required by section 208 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.**

**2. The private plan shall comply with all of the requirements under this chapter, including the following:**

(i) Benefits to a covered individual under section 3303(a)(1) and (3) for the maximum number of weeks required under section 3304(a) in a benefit year.

(ii) Covered individuals, in the aggregate, the maximum number of weeks of benefits in a benefit year as required under section 3304(c).

(iii) The allowance of leave and benefits to be taken intermittently or on a reduced schedule as authorized by section 3307.

(iv) That no additional conditions or restrictions on the use of leave or benefits beyond those explicitly authorized by this Article shall be imposed.

(v) An employee who is covered under the private plan and eligible to receive benefits under this Article, is provided the benefits under the private plan.

(vi) Eligibility requirements under section 3303(b) (1) and (2).

(b) Construction.--Nothing in this Article shall prohibit an employer from providing benefits greater than those listed in this Article.

(c) Additional employer duties.--An employer shall meet all of the following requirements:

1. If the private plan is in the form of self-funded coverage, an employer must furnish a bond running to the County, issued by an entity authorized to transact surety business in this Commonwealth under Article VI(e) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. The form of surety shall be on a form approved by the Insurance Department and in an amount required by the Department.

2. The private plan shall provide for all eligible employees throughout the employee's period of employment.

3. An employer that provides a private plan under this section shall provide each employee with a notice of the availability of the program.

The notice shall be provided to each employee within five days of receipt of a bond running to the County, and then upon hire and annually thereafter.

(d) Additional documentation to be retained for inspection.—Upon receipt of a bond under (c)(1), above and employer elects to provide benefits under this subsection or having a self-funded plan, the employer shall retain any documentation as satisfactory evidence of maintenance of the form of surety as required by the department under subsection (c)(1).

## ADMINISTRATION AND PROCEDURES

### Section 3501. Notice.

(a) Employer notice to employees.--Upon initial hiring of an employee, and annually thereafter, an employer shall provide written notice of the requirements of this Article.

(b) Employer acknowledgment of leave request.--An employer shall provide written acknowledgment to an employee when the employee requests leave under this Article. The acknowledgment shall include:

1. An explanation of the employee's right to benefits under this Article and the terms for the use of the benefits.

2. The amount of benefits.

3. The procedure for submitting a benefits claim with the employer.

4. Provisions on job protection and benefits continuation under section 3308.

5. The prohibition on employer discrimination and retaliatory personnel action against a person for requesting, or using leave as provided in section 3308.

6. The employee's ability to file a civil action alleging a violation of this Article.

(d) Employee notice to employer.--

**1. When the need for leave is known to the employee at least 30 days in advance, the employee shall provide written or verbal notice to the employer of the need and schedule for taking leave at least 30 days prior to taking leave.**

**2. The employee shall make a reasonable effort to schedule leave in a manner that does not unduly disrupt the operations of the employer.**

**3. For all other absences, the employee shall notify the employer as soon as practicable, including if the need arises immediately before or after the employee has reported for work.**

#### **Section 3503. Elective coverage.**

**(a) Self-employed option.--A self-employed person, including a sole proprietor, partner or participant in a joint venture, may elect coverage under this Article for an initial period of not less than three years upon meeting all of the following requirements:**

**1. Retaining and being able to demonstrate all income information sufficient to demonstrate coverage necessary for the maximum period of coverage (18 weeks).**

**2. Compliance with all eligibility, employment and income requirements specified in **Section 3303.****

**(b) Withdrawal from coverage.--A self-employed person who has elected coverage may withdraw from coverage within 30 days after the end of the three-year period of coverage. The self-employed person's withdrawal from coverage shall take effect no later than 30 days after retaining employment with an employer.**

#### **Section 3504. Violations.**

**An employer that violates the requirements **of Sections 3308, 3309 or 3501** shall be subject to the penalties as specified in 29 U.S.C. § 2617 (relating to enforcement).**

#### **Section 3508. Public education.**

**(a) Outreach campaign.--**

**1. The Department shall conduct a public education campaign to inform employees and employers regarding the availability of paid family leave benefits under this Article.**

**2. Outreach information shall be available in English, Spanish and other languages as determined by the Department.**

**(b) Community outreach.--The department may utilize outreach money to identify and assist appropriate community organizations in educating hard-to-reach populations or industries, including low-income employees, employees and employers in industries that do not typically provide paid family leave and employees and employers whose primary language is not English.**

**Section 3511. Right of action.**

**(a) Civil action by employee.--An action to recover damages or other appropriate civil or equitable relief for a violation of Section 3308, 3309 or 3501 may be maintained against an employer in a court of competent jurisdiction in the Commonwealth by one or more employees.**

**(b) Fees and costs.--The court, in an action under this section, shall, in addition to any judgment awarded to the plaintiff, allow reasonable attorney fees and other costs of the action to be paid by the defendant.**

## **MISCELLANEOUS PROVISIONS**

**Section 3601. Effective date.**

**This Chapter shall take effect in 180 days.**

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*End of Regulation Changes*