

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

RULES AND REGULATIONS

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. **Providing paid parental leave similarly promotes and preserves the health of parents, infants, and families by supporting recovery from childbirth, facilitating bonding and caregiving during the first year of a child's life, and reducing adverse maternal, infant, and behavioral health outcomes associated with the absence of adequate parental leave. Paid parental leave also promotes the health, development, and well-being of newborn and newly adopted children by enabling parents to provide necessary medical, physical, and emotional care without the added stress of immediate economic hardship. Paid parental leave also promotes recovery from pregnancy loss, including stillbirth (fetal death), by supporting the physical and behavioral health of affected parents during the postpartum period.**

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. **Initial designation of the Department or County agency shall occur no later than the Effective date of any amendments to this Article.**

***Paid Parental Benefit.* Wages and established employment benefits (including but not limited to medical, vision and dental insurance) payable to a covered individual for Paid Parental Leave during an approved Parental Leave in accordance with this Article. Nothing in this Article shall be construed to eliminate or reduce previously established benefits offered by employer. The weekly paid parental benefit shall not exceed Four Thousand Two Hundred Dollars (\$4,200) per week. The Board of Health may adjust this amount by regulation in the future.**

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 eligible employee who meets the following requirements, as applicable:**

- 1. Meets the employment eligibility requirements specified in Chapter II, Section 2413(a).**
- 2. Has submitted a claim that is approved either by the employer or by the Agency.**

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

- 1. Both partners shall be a minimum of eighteen (18) years of age and;**
- 2. Neither partner shall be married or the domestic partner/common law spouse to another person;**
- 3. The partners are not related by blood to a degree that would bar marriage in Pennsylvania (23 Pa. C.S.A. Section 1304);**

4. **The partners acknowledge that they have entered into the relationship voluntarily, willfully, and without reservation intending the relationship to be the functional equivalent of marriage, including living together as a couple, mutual financial support, mutual caring and commitment, mutual responsibility for each other's welfare;**
5. **The couple has been together for a minimum of twelve (12) months;**

Eligible employee. An employee who meets the requirements of Chapter II, Section 2413(a).

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).~~ **An individual, employed by an Employer, who performs work within the geographic boundaries of the County of Allegheny for at least 80 hours in a Year.**

For the purposes of this Article, “employee” shall not include independent contractors, State and Federal employees, any member of a Construction Labor Union covered by a collective bargaining agreement, as defined in this Article, **temporary employees** or seasonal employees. For the purpose of this Article, the term “Construction Labor Union” shall be a labor union that represents, for purposes of collective bargaining, employees involved in the work of construction, reconstruction, demolition, alteration, custom fabrication or repair work and who are enrolled or have graduated from a “registered apprenticeship program,” as defined below in this Article.

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 fifteen (15) 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~~ **Commonwealth** 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 following the birth, stillbirth (fetal death), or legal permanent placement of a child for adoption or foster care. In the case of a live birth, adoption, or legal permanent placement, parental leave may be used to care for, bond with, and support the physical and emotional well-being of the employee's child and, where applicable, the employee's physical and emotional well-being, during the first twelve (12) months following the qualifying event. In the case of a stillbirth (fetal death), parental leave may be used by either parent to address the physical and behavioral health effects arising from the stillbirth (fetal death), including recovery from childbirth where applicable.

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 the scheduled use of Parental Leave, subject to the maximum weekly Paid Parental Benefit established under this Article. Eligible employees shall be entitled to twelve (12) weeks of Paid Parental Leave. An employer shall not reduce the duration of Paid Parental Leave provided under this Article. For part-time employees, time shall be compensated at the employee's current rate of pay. The amount of leave shall be calculated based on the employee's average weekly hours worked during the six (6) months immediately preceding the date of the

request for benefits. For part-time employees, the Paid Parental Benefit shall be calculated by multiplying the employee's average weekly hours worked during the preceding six (6) months by the employee's current rate of pay. Employers shall not be required to provide more than twelve (12) weeks of Paid Parental Leave. Such leave may be used following the birth, stillbirth (fetal death), adoption, or legal permanent placement of a 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.

Stillbirth. A fetal death, as defined in Article I, Section 105 (4) of the Pennsylvania Vital Statistics Law of 1953. 35 P.S. §450.105(4)

Temporary Employee. A worker hired for a limited, predetermined duration or a specific project which is less than one year, rather than an ongoing,

permanent basis in which the employer has determined at the time of hiring and communicated to the worker in writing.

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~~ **seventy-two (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~~ **fifteen (15)** or more employees be permitted to have access to more than ~~40~~ **seventy-two (72)** hours of paid sick time, unless the employer designates a higher amount.
- C. **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 fifteen (15) employees be permitted to have access to more than 48 hours of paid sick time, unless the employer designates a higher amount.**
- D. 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.
- ~~E.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.
- ~~F.E.~~ All employees shall be entitled to use accrued paid sick time beginning on the 90th calendar day following the commencement of their employment.

G.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 ~~seventy-two (72)~~ hours of paid sick time at the beginning of each ~~calendar~~ year. If such employer provides less than 40 ~~seventy-two (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 ~~seventy-two (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 year. If such employer provides less than 48 hours of paid sick time at the beginning of each 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.

H.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.

I.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.

J.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.

K.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.

L.K. **Notwithstanding whether an** ~~Any employer~~ **maintains** ~~with a paid leave policy, including such as a paid time off policy,~~ **that provides paid sick leave in the amount sufficient to satisfy** ~~who makes available an amount of paid sick leave sufficient to meet the accrual requirements of this Section~~ **and** ~~that may be used for the same purposes and under the same conditions as paid sick~~ **leave** ~~time under this Article,~~ **the employer shall provide designated** ~~is not required to provide additional paid sick~~ **leave** ~~time~~ **and designated paid parental leave. Only designated paid**

sick leave is subject to the accrual requirements of this Section. Paid parental leave is not subject to the accrual requirements of this Section. Nothing in this paragraph shall be construed to entitle employees to additional paid sick leave or paid parental leave than provided for in this Article.

- M.I.** 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 leave **and/or paid parental leave** 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~~ leave **and paid parental leave** 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 **or Section 2413**.
- 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~~ **leave** **and paid parental leave**, the amount of paid ~~sick time~~ leave, and the terms of its use guaranteed under this Article, that retaliation against employees who request or use paid ~~sick time~~ **leave** is prohibited and that each employee has the right to file a complaint with the Agency if paid ~~sick time~~ **leave** as required by this Section is denied by the employer or the employee is retaliated against for requesting or taking paid ~~sick time~~ **leave**.
- 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 **per day, per violation**.

Section 2407. EMPLOYER RECORDS.

- A. Employers shall retain records documenting hours worked by employees and paid sick **and/or paid parental leave** ~~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 **and/or parental** ~~time~~ **leave** under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and paid sick **and/or parental** ~~time~~ **leave** 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 **per day, per violation** 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 leave** ~~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 an 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 **and/or parental leave** ~~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 **and/or parental leave** ~~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 **and/or parental leave** ~~time~~ or use of paid **sick and/or parental** ~~sick-leave~~ ~~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 **and/or parental leave** ~~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 **and/or parental leave** ~~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 **and/or parental leave** ~~time~~ so long as such ordinance **does not contain** less generous benefits ~~less stringent~~ **than those provided** for 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 **and/or parental leave** ~~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 **and/or parental leave** ~~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.

CHAPTER II

PAID PARENTAL LEAVE

Section 2413. 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, stillbirth (fetal death), adoption or legal permanent placement of a child of the Employee, and the Employee is caring for their child during the first year after the live birth, adoption or legal permanent placement of that child. In the case of a stillbirth (fetal death), leave may be used for recovery from childbirth, where applicable, and for the physical and behavioral health needs of the employee arising from the stillbirth (fetal death).

2. Has been employed with the Employer at least one hundred and eighty (180) continuous days. In the case of a part-time employee, they must have been employed with the Employer for one hundred and eighty days (180) and worked at least six hundred and twenty-five (625) hours during that period of time.

3. Provides the required documentation to support the claim, including but not limited to any of the following:

(a) The child's birth certificate;

(b) A document stating the child's birth date issued by the health care provider of the child or the health care provider of the person who gave birth;

(c) A document issued by the health care provider of the child, an adoption agency involved in the adoption, or by other individuals, as determined by the Department, that confirms the adoption or anticipated adoption and the date of adoption or anticipated adoption;

(d) A document issued by the health care provider of the child, a foster care agency involved in the legal permanent placement, or by other individuals, as determined by the Department, that confirms the legal permanent placement or anticipated legal permanent placement

and the date of the legal permanent placement or anticipated legal permanent placement;

(e) A court order reflecting the child's date of birth and employee as that child's parent, or

(f) A voluntary acknowledgement of paternity, or

(g) A certificate of stillbirth (fetal death) issued pursuant to the Pennsylvania Vital Statistics Law, or a document issued by the health care provider of the employee or of the individual who gave birth confirming the occurrence and the date of the stillbirth (fetal death). If the employee is not the individual who gave birth, the employer may require reasonable documentation establishing the employee's relationship to the pregnancy.

4. Is currently employed by the Employer through which Employee seeks benefits as provided under this Article.

5. Provides a written schedule reflecting how the Employee will utilize leave, if approved, as well as the anticipated date(s) of leave.

6. Is not a temporary employee or seasonal employee.

(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 the requested amount of paid parental leave, subject to Section 2414(a). If the Employer determines the eligibility requirements have been met, the Employer shall notify the Employee, in writing, of their eligibility and indicate the amount of benefit to be received by Employee.

(3) In the event that the Employer fails to proffer a determination within the time required or rejects a claim that the employee believes

meets the eligibility requirements under subsection (a), employee may file a complaint with the Agency.

(4) Upon receipt of a complaint from an employee, the Agency shall have three (3) business days to evaluate the employee's claim and any rationale offered by Employer for the rejection or failure to approve the employee's claim. If the Agency determines that employee is eligible for paid parental leave, it shall direct the Employer, in writing, to ensure the employee receives the lawful amount of paid parental leave as determined by the Agency. Such determination shall constitute a final agency action for purposes of appeal.

(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 the same Employer.-- individuals who are legally married or domestic partners under the laws of Pennsylvania or as defined herein and employed by the same Employer shall both be eligible for benefits, even when the leave runs concurrently.

Section 2414. Duration of benefits.

(a) Maximum leave duration of twelve (12) weeks.--The maximum number of weeks during which benefits are payable under section 2413(a) is twelve (12) weeks per claim as approved by Employer.

(b) Initial payment of benefits.--The first payment of benefits shall be made to a covered individual no later than the pay cycle following the date the leave is scheduled to commence during the benefit period and shall be subject to the maximum weekly Paid Parental Benefit established under this Article.

(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, subject to the maximum weekly Paid Parental Benefit, and for the duration of the approved leave.

Section 2415. 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) Established Employment benefits maintained.--

1. For the duration of a leave approved under this Article, the employer shall maintain any established 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 established 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, filing a claim 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, or file 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 2416. 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) 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.

(c) 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.

(d) 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.

(e) Impact on Public Employee 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 Employee 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 Employee Relations Act.

Section 2417. Employer's use of a private plan.

(a) An employer may meet the employer's obligations under this chapter through the use of 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 including the maximum weekly Paid Parental Benefit established under this Article.

ADMINISTRATION AND PROCEDURES

Section 2418. 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 approved duration of leave and the amount of benefits payable, including application of the maximum weekly Paid Parental Benefit where applicable.

3. Provisions on job protection and benefits continuation under Section 2415.

4. The prohibition on employer discrimination and retaliatory personnel action against a person for requesting, or using leave as provided in Section 2415.

5. The employee's ability to file a claim with the Agency or file a civil action alleging a violation of this Article.

(c) Employer certification—Beginning one year after the effective date, Employer shall file with the Agency a certification that it has complied

with the provisions of this Article during the preceding year.
Certification must be filed annually.

(d) Employee notice to employer.--

1. When the need for leave is known to the employee at least thirty (30) days in advance, the employee shall provide written notice to the employer of the need and schedule for taking leave at least thirty (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 2419. Violations.

An employer that violates the requirements of Sections 2415, 2416, or 2418 shall be subject to the penalty of no more than \$100 per day, per violation.

Section 2420. 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 2415, 2416, or 2418 may be maintained against an employer in a court of competent jurisdiction in the Commonwealth of Pennsylvania 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.

Section 2421. Effective Date

(a) The amendments to this Article shall become effective no fewer than one hundred and eighty (180) days following passage thereof.
Employers shall implement the amendments required by this Article no later than one hundred and eighty (180) days from the 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.

End of Regulation Changes