

TRINIDAD NAVARRO  
COMMISSIONER



STATE OF DELAWARE  
DEPARTMENT OF INSURANCE

**DOMESTIC AND FOREIGN INSURERS BULLETIN NO. 144**

**TO: INSURANCE CARRIERS WHO ISSUE PRIVATE PAID FAMILY AND MEDICAL LEAVE PLANS IN DELAWARE**

**RE: PAID FAMILY AND MEDICAL LEAVE FILING GUIDANCE**

**DATED: December 14, 2023**

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The purpose of this Bulletin is to provide filing guidance as carriers look to develop paid family and medical leave plans to satisfy private plan coverage standards established under 19 Del.C. § 3716.

**Background**

Senate Substitute No. 2 for Senate Bill No. 1, as amended by House Amendment No. 1, of the 151st General Assembly, the Healthy Delaware Families Act (“the Act”), was signed by the governor on May 10, 2022. The Act creates a statewide paid family and medical leave (“PFML”) insurance program that becomes effective January 1, 2025.

**Policy Form Filings**

The Department requests that carriers complete and submit concurrently with any PFML filing the checklist attached to this Bulletin, which will aid in the Department’s review to confirm that the policy forms comply with the standards required by 19 Del.C. § 3716.

Please note that submitted policies may include brackets to allow variability for product design but all bracketed items should be explained as part of the filing so that the Department understands that the product will always meet the standards to be considered a PFML-qualified policy.

Please also note that if a carrier wishes to offer separate paid family leave policies and paid medical leave policies, as well as PFML policies, each of these policies must be filed as separate products with separate form identifiers.

*NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.*

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All carriers shall submit their policy filings via the System for Electronic Rate and Form Filing ("SERFF"), under the H2 1 Health-Other Type of Insurance and the H2 1.000 Health-Other Sub-Type of Insurance.

The SERFF filing should include:

- A filing description field beginning with the phrase "PFML INSURANCE POLICY"
- A completed PFML checklist (attached to this Bulletin and available on the Department's "Forms" page)
- A copy of the certification to be provided to the Delaware Department of Labor pursuant to 19 **Del.C.** § 3716(a)(2)d., certifying that the benefits of the PFML policy meet the obligations of 19 **Del.C.** Ch. 37; and
- A filing fee pursuant to 18 **Del.C.** §§ 701(34) and 714.

Costs to employees covered by a private plan may not exceed the costs charged to employees under the State PFML program for the same coverage. (19 **Del.C.** § 3716(a)(1)l.).

PFML policy forms shall impose no additional conditions or restrictions on the use of covered leave beyond those explicitly authorized by 19 **Del.C.** Ch. 37 or regulations issued thereunder. (19 **Del.C.** § 3716(a)(1)j.).

#### **Amendments to Policy Form Filings**

If there are any changes, amendments, or regulatory clarifications to the provisions of 19 **Del.C.** Ch. 37 and regulations that require amendments to the policy after it has been acknowledged by the Department of Labor, carriers should submit such changes, amendments or clarifications in a new filing according to the above-noted SERFF filing instructions. Carriers shall indicate the affected policy forms, identified by form numbers, SERFF tracking numbers and dates on which the policies last were acknowledged.

Questions about this Bulletin should be emailed to [doi\\_rate@delaware.gov](mailto:doi_rate@delaware.gov).

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

  
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Trinidad Navarro  
Delaware Insurance Commissioner

## DELAWARE PAID FAMILY MEDICAL LEAVE PRIVATE PLAN CHECKLIST

**Private plans may provide benefits greater than those required under 19 Del.C. Ch. 37.**

This checklist must be completed and submitted together with PFML policy filings via the System for Electronic Rate and Form Filing (SERFF).

PFML form filings must be submitted using the following category types in SERFF:

- H2 1 Health-Other Type of Insurance
- H2 1.000 Health-Other Sub-Type of Insurance

The following minimum standards are required to qualify to meet private plan PFML requirements under 19 Del.C. §3716:

Citation 19 Del.C.	<b>FAMILY CAREGIVING</b>	Provide pg. no. of where applicable coverage is listed in policy
§3702(a)(2): §3702(a)(4):	<b>Eligibility:</b> Caring for a family member with a serious health condition. Has a qualifying exigency.	
§3716(a)(1)a.1. §3716(a)(1)b.	<b>Duration of coverage:</b> 6 weeks in any 24-month period (aggregate number of weeks during which family caregiving leave benefits are payable in an application year).	
§3716(a)(1)f.	Provide a wage replacement rate during all covered leave of at least the amount required under §3704(a)(1) of Title 19.	
§3716(a)(1)g.	Provide a weekly benefit during all covered leave of at least the amount specified under §3704(a)(3) of Title 19.	
§3716(a)(1)h.	Provide a minimum weekly benefit during all covered leave of at least the amount specified under §3704(a)(2) of Title 19.	
§3716(a)(1)i.	Allow covered leave to be taken intermittently or on a reduced schedule as authorized under §3706 of Title 19.	
§3716(a)(1)k.	Allow employees who are eligible to take covered leave under 19 Del.C. Ch. 37 to take covered leave under the private plan.	
§3716(a)(2)(c)	Policy must be issued by an admitted insurer, as defined under §1904 of Title 18.	

## DELAWARE PAID FAMILY MEDICAL LEAVE PRIVATE PLAN CHECKLIST

Citation 19 Del.C.	MEDICAL LEAVE	Provide pg. no. of where applicable coverage is listed in policy
§3702(a)(3)	<b>Eligibility:</b> Has a serious health condition that makes the covered individual unable to perform the functions of the covered individual's position.	
§3716(a)(1)a.2. §3716(a)(1)b.	<b>Duration of coverage:</b> 6 weeks in any 24-month period (aggregate number of weeks during which medical leave benefits are payable in an application year).	
§3716(a)(1)f.	Provide a wage replacement rate during all covered leave of at least the amount required under §3704(a)(1) of Title 19.	
§3716(a)(1)g.	Provide a weekly benefit during all covered leave of at least the amount specified under §3704(a)(3) of Title 19.	
§3716(a)(1)h.	Provide a minimum weekly benefit during all covered leave of at least the amount specified under §3704(a)(2) of Title 19.	
§3716(a)(1)i.	Allow covered leave to be taken intermittently or on a reduced schedule as authorized under §3706 of Title 19.	
§3716(a)(1)k.	Allow employees who are eligible to take covered leave under 19 Del.C. Ch. 37 to take covered leave under the private plan.	
§3716(a)(2)(c)	Policy must be issued by an admitted insurer, as defined under §1904 of Title 18.	

## DELAWARE PAID FAMILY MEDICAL LEAVE PRIVATE PLAN CHECKLIST

Citation 19 Del.C.	PARENTAL LEAVE	Provide pg. no. of where applicable coverage is listed in policy
§3702(a)(1):	<b><u>Eligibility:</u></b> Because of a birth, adoption, or placement through foster care of a child, is caring for the child during the first year after the birth, adoption, or placement of the child.	
§3716(a)(1)a.3 §3716(a)(1)b.	<b><u>Duration of coverage:</u></b> 12 weeks of benefits payable in an application year.	
§3716(a)(1)f.	Provide a wage replacement rate during all covered leave of at least the amount required under §3704(a)(1) of Title 19.	
§3716(a)(1)g.	Provide a weekly benefit during all covered leave of at least the amount specified under §3704(a)(3) of Title 19.	
§3716(a)(1)h.	Provide a minimum weekly benefit during all covered leave of at least the amount specified under §3704(a)(2) of Title 19.	
§3716(a)(1)i.	Allow covered leave to be taken intermittently or on a reduced schedule as authorized under §3706 of Title 19.	
§3716(a)(1)k.	Allow employees who are eligible to take covered leave under 19 Del.C. Ch. 37 to take covered leave under the private plan.	
§3716(a)(2)(c)	Policy must be issued by an admitted insurer, as defined under §1904 of Title 18.	