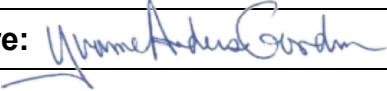




PAID FAMILY AND MEDICAL LEAVE (PFML) –

FAMILY CAREGIVING & QUALIFYING EXIGENCY LEAVE POLICY AND PROCEDURES

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1. Policy Purpose Statement

In compliance with the provisions of the Healthy Delaware Families Act, [19 Del. C. Ch. 37](#) (the Act), the State of Delaware (State) establishes this policy to outline the framework for the Paid Family and Medical Leave (PFML) Insurance Program (Delaware Paid Leave) for Executive Branch agencies, specifically the Family Caregiving and Qualifying Exigency (FCG and QE) income replacement benefit for eligible State employees. By offering this benefit, the State aims to support employees' well-being, specifically caregivers and military members and their families, retain a skilled workforce, and ensure compliance with State law.

2. Scope

This policy applies to eligible full-time and part-time Executive Branch employees in a position that qualifies for leave, excluding all casual seasonal employees and board members. This policy specifically governs the Family Caregiving and Qualifying Exigency (FCG and QE) income replacement benefit for eligible State employees.

This Statewide Executive Branch policy supersedes any Executive Branch agency policy, procedure or guideline pertaining to or otherwise related to PFML. Elected Officials and Judiciary Members may elect to adopt and administer the policy at their offices and with their employees.

3. Definitions and Acronyms

- **Agency HR** – The designated Human Resources representative responsible for leave administration for the agency or the HR Business Partner assigned to the agency.
- **Application Year** – The 12-month period of leave measured forward from the first date an employee utilizes FMLA leave. The next 12-month period would begin the first time FMLA leave is taken after completion of the prior 12-month period. For example, the employee's FMLA leave begins on November 6, 2025, so the 12-month FMLA period is November 6, 2025, through November 5, 2026.
- **Average Weekly Wage¹** – The employee's average gross earnings, as determined under the Federal Insurance Contribution Act, 26 U.S.C. Chapter 21 ("FICA"), prior to any payroll deductions or withholdings, which consists of all income received from an employer including base salary, commissions, tips, and bonuses.
- **Continuous Leave** – Consecutive span of absence, from the date the employee begins leave through the date returning to work.
- **DDOL Delaware LaborFirst System** – A unified enterprise system developed by the Delaware Department of Labor, Division of Paid Leave where FCG or QE claims are filed and processed.
- **Eligible Employee** – An employee in a position that qualifies for leave who has worked for the State for 12 months (or 52 weeks) and at least 1,250 hours in the 12 months prior to the start

¹ For full definition, refer to [19 DE Admin. Code 1401](#).

of the leave. An eligible employee does not include employees covered under [29 Del. C. § 5903\(17\)a](#), even if they meet other eligibility requirements.

- **Family Caregiving (FCG) Leave** – Under the Act, this is a paid and job-protected leave an eligible employee may apply for in the event of a serious health condition of a family member.
- **Family Medical Leave Act (FMLA)** – A federal law that entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage, if applicable, under the same terms and conditions as if the employee had not taken leave.
- **Family Member** – Means a parent, child, or spouse, as defined under the FMLA.
- **Intermittent Leave** – Leave taken in separate blocks of time (sporadically) due to a single qualifying reason.
- **Grandfathered** – A grandfathered paid leave benefit is an approved written private benefit that was in existence on May 10, 2022, and provides comparable benefits to those offered by the Delaware Paid Leave plan for any of the four (4) types of leave required by the Act. By submitting a grandfathering application, an employer seeks to use their existing benefits to meet the paid leave obligations created by the Act.
- **Medical Leave** – Leave authorized under the Act for eligible employees in the event of a serious health condition that renders the employee unable to perform the functions of their position. For the Medical Leave line of coverage under the PFML, the State is grandfathered under the existing comparable Disability Insurance Program (DIP) - Short Term Disability (STD) Plan. Note: employees hired prior to January 1, 2006 who waived coverage in the State of Delaware's DIP, as well as employees hired into a position covered by the New State Police Pension Plan or the Revised Judicial Pension Plan, are not enrolled in the DIP and are also grandfathered.
- **Parental Leave** – Leave authorized under the Act for eligible employees to take up to 12 calendar weeks of paid leave for the purposes of caring for or bonding with a newborn child or caring for or bonding with a newly adopted child or a child placed through initial foster placement. For the Parental Leave line of coverage under the PFML, the State is grandfathered under the existing comparable Paid Parental Leave Policy.
- **Qualifying Exigency (QE)** – Under the Act, an eligible employee may apply for paid job-protected leave, for certain reasons related to a family member who is a covered military family member on active duty, called to covered active duty status, or has been notified of an impending call or order to covered active duty. Covered active duty for members of the Regular Armed Forces is duty during deployment to a foreign country. Covered active duty for the National Guard and Reserves is duty during deployment to a foreign country under a call or order to active duty in a contingency operation. Deployment to a foreign country means deployment to areas outside of the United States, the District of Columbia, or any Territory or possession of the United States. It also includes deployment to international waters.
- **Reduced Leave Schedule** – Means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
- **Serious Health Condition** – An illness, injury, impairment, or physical or mental condition where at least one (1) of the following shall be satisfied: inpatient hospital care; absence from work or school for more than three (3) consecutive calendar days that involves continuing treatment by a health care provider; continuing treatment for a chronic serious health condition; continuing treatment for a serious health condition that, if not treated, would result in incapacity for more than three (3) consecutive calendar days; and any period of incapacity due to prenatal care. The three (3) day requirement does not apply to pregnancy, chronic serious health conditions, or for multiple treatments.

- **Short Term Disability (STD)** – A State plan that provides employees enrolled in the Disability Insurance Program (DIP) with partial income replacement for up to 182 calendar days should the employee become disabled due to a covered accident, illness, or pregnancy.

4. Policy

a. General Provisions

1. The State, in compliance with the Act, provides Paid Family and Medical Leave (PFML) to eligible Executive Branch employees. An employee may be eligible for the following leave benefits:
 - **Paid Parental Leave and Paid Medical Leave are grandfathered under existing state policy provisions.** Employees eligible for Parental Leave or Medical Leave under the current policies may continue to access these benefits consistent with their respective existing terms and conditions through December 31, 2029. Prior to the end of the grandfathering period, the State will communicate to eligible employees any updates or changes related to Paid Parental Leave and Paid Medical Leave.
 - **Paid Family Caregiving (FCG) Leave** to care for a family member with a serious health condition.
 - **Paid Qualifying Exigency (QE) Leave** for qualifying exigencies related to the foreign deployment of a family member who is a military servicemember.
2. Eligible employees may apply for FCG or QE paid leave benefits through the Delaware Department of Labor (DDOL) Division of Paid Leave to care for an employee's family member who has a serious health condition or injury, or for a qualifying exigency arising out of the employee's covered military family member on covered active duty or called to covered active duty status to a foreign country.
 - Employees cannot utilize FCG or QE at the same time as Paid Parental Leave, Paid Medical Leave, or Workers' Compensation.
 - Employees may utilize available and accrued leave while their FCG or QE Leave claim is pending approval by the DDOL Division of Paid Leave.
3. Eligible employees applying for FCG or QE paid leave benefit shall also apply for FMLA as required by the Act. FCG and QE paid leave benefits shall run concurrently with FMLA. An employee may be eligible for FCG and QE even if the employee has exhausted their FMLA time. If an employee becomes eligible for FMLA while on FCG or QE Leave, the employee's leave will also be designated as FMLA by Agency HR.
4. The total number of weeks during which FCG leave benefits are payable is six (6) weeks in any 24-month period. The total number of weeks during which QE leave benefits are payable is six (6) weeks in any 24-month period. Meaning, employees may be eligible for a maximum of 12 weeks (six (6) weeks for FCG and six (6) weeks of QE Leave) within a 24-month period.
5. An eligible employee with a covered military family member who is on covered active duty, or called to active duty to a foreign country, may apply for QE leave benefits for the following: (1) short notice deployment, (2) military events and related activities, (3) certain childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, (8) parental care, and (9) additional activities, where the agency and employee agree to the leave.
6. FCG or QE Leave may be taken as a continuous leave. When medically necessary (FCG) and supported by the required certification, leave may also be taken intermittently in separate blocks of time, or on a reduced leave schedule (e.g., working fewer hours per day

or week). Intermittent FCG and QE leave benefits are not payable for less than one (1) workday of covered leave taken in one (1) work week.

7. Eligible employees on approved FCG or QE leave will receive 80% of their average weekly wage, up to a maximum of \$900.00 per week during the approved leave period.
8. Payments will be made by the DDOL Division of Paid Leave and will be paid to the employee based on the account information provided during the claim filing process.
9. Total income replacement benefits from any source shall not exceed 100% of the eligible employee's average weekly wage prior to the filing of the claim.
10. The State shall pay the 0.04% employer contribution and eligible employees will pay the 0.04% employee contribution for the FCG and QE line of coverage through a payroll deduction. Payroll deductions will be reflected on the January 9, 2026, paycheck.
11. An eligible employee who fails to return to work after the FCG or QE leave has been exhausted shall be responsible for repayment of the State Share under the group health plan, unless they fail to return to work due to their eligible family member's serious health condition, or for some other reason beyond their control.
12. It is unlawful for an employer to interfere with, restrain, or deny the exercise of any right provided for the use of PFML.
13. An eligible employee shall be disqualified from family and medical leave benefits for three (3) years if the employee is determined by the DDOL Division of Paid Leave to have willfully made a false statement or misrepresentation regarding a material fact, or willfully failed to report a material fact, to obtain benefits under this chapter.
14. Violations of this policy may be subject to discipline, up to and including dismissal, pursuant to the standards set forth in the Merit Rules, any applicable collective bargaining agreements, or other relevant laws, rules, or policies.

b. Leave Provisions

1. Eligible employees may supplement the FCG or QE paid leave benefit with available and accrued leave, not to exceed 100% of an employee's average weekly wage. Employees will apply for the available leave according to each Policy or Program's provisions.
2. If the need for FCG or QE leave extends beyond the maximum of six (6) weeks of paid leave, an eligible employee may request to use available and accrued leave in accordance with the specific leave Policy or Program's provisions. An employee must meet the eligibility criteria of such leave at the time of the request.
3. FCG and QE leave benefits for intermittent or reduced leave schedules shall be prorated.
4. Holidays will be handled in accordance with the Merit Rules.
5. The State may require the eligible employee to obtain subsequent recertifications on a reasonable basis, as authorized by the Act.
6. The eligible employee's supervisor or manager must be informed of the frequency and duration of the episodes of incapacity due to the serious health condition.
7. In the event that two (2) employees of the State of Delaware are eligible for FCG or QE for the same qualifying event, each eligible employee may be paid up to 6 weeks of FCG Leave and 6 weeks of QE Leave in a 24-month period.
8. The State shall restore eligible employees to their same or equivalent position at the conclusion of their PFML leave, barring any unforeseen circumstances unrelated to the employee's taking of the leave (i.e., workforce reduction).

c. Deductions and Benefits

1. Under the Act, deductions for pension, benefit premiums, Deferred Compensation Retirement Plan, union dues, State Employee Charitable Campaign (SECC),

overpayments, etc. are **not** permitted to be withheld from the DDOL Division of Paid Leave claim payments for FCG and QE Leave. These deductions will come out of the eligible employee's paycheck if they use leave to supplement and have enough in their paycheck to cover the deductions. No partial deductions are taken.

2. Refer to the [PFML – FCG and QE Leave Payroll Deductions and Benefits](#) document for specific information related to deductions, benefits, and the leave supplement.

d. Appeal Process

1. If an eligible employee's claim is denied, an appeal process is available by following the instructions outlined in the Denial Letter issued by the DDOL Division of Paid Leave.
2. The eligible employee can request the DDOL Division of Paid Leave to review their claim within 60 days of the issuance of the determination.
3. The DDOL Division of Paid Leave will review and issue a determination to the employee.
4. The DDOL Division of Paid Leave will not override an employer's claim decision, unless fraud is involved, or new information is provided that warrants a change in the initial decision.

5. Procedures

a. Notice and Application Requirements

1. Eligible employees shall notify their supervisor/manager of their need to file for FCG or QE leave and provide at least 30 days' notice when leave is foreseeable.
2. Supervisors/managers shall refer the eligible employee to their Agency HR for next steps.
3. The eligible employee shall reach out to their Agency HR with their intent to file for FCG or QE Leave. The Agency HR will provide the employee with important documents to review, including the [Paid Family Medical Leave \(PFML\) - Family Caregiving & Qualifying Exigency Employee Checklist](#).
4. Agency HR meets with the eligible employee to review important information and respond to questions the employee may have, prior to the employee initiating an FCG or QE claim in the DDOL Delaware LaborFirst system. Agency HR must follow the [Paid Family Medical Leave \(PFML\) - Family Caregiving & Qualifying Exigency Human Resource Checklist](#).
5. After receiving relevant information from Agency HR, the eligible employee filing for FCG or QE will initiate and complete their claim through the DDOL Delaware LaborFirst system. If the employee requires assistance with filing their claim in the DDOL Delaware LaborFirst system, they may contact the DDOL Division of Paid Leave at (302) 761-8375 or they may reach out to their Agency HR.
6. Agency HR will access the DDOL Delaware LaborFirst system within three (3) business days of the eligible employee's claim filing for FCG or QE to provide initial claim review and additional information to assist in the processing of the employee's claim, as applicable.
7. If an eligible employee's claim is for FCG, the DDOL Delaware LaborFirst system will provide the eligible employee with instructions for their family member's health care provider. The family member's healthcare provider is responsible for accessing, completing, and submitting the Certification of Serious Health Condition to DDOL Division of Paid Leave. The healthcare provider has to complete the Certification of Serious Health Condition within 90 calendar days before DDOL Division of Paid Leave issues an automatic denial of the claim.
8. Once the family member's healthcare provider completes and submits the Certification of Serious Health Condition, Agency HR will be notified by the DDOL Delaware LaborFirst system of the recommended duration of leave.

9. The DDOL Delaware LaborFirst system will provide a recommended FCG or QE claim decision based upon the information provided on the employee's claim.
10. Agency HR will access the DDOL Delaware LaborFirst system to review the recommended FCG or QE claim decision and provide final approval or denial within five (5) business days.
 - o For FCG Leave, this five (5) business day period begins upon receipt of the completed Certification of Serious Health Condition or required documentation.
 - o For QE Leave, the five (5) business day period begins once the initial review has been completed.
11. DDOL Delaware LaborFirst system will send either an approval or denial letter to both the eligible employee and the Agency HR who shall confirm that the eligible employee received the notification.
12. The first payment of benefits will be made as soon as possible following the approval sent to DDOL Division of Paid Leave, but no earlier than the qualifying event or the requested start date for the leave.
13. Eligible employees shall follow their agency's standard call-in procedures when taking an intermittent day of FCG or QE. The Agency HR will record each intermittent leave day taken in the DDOL Delaware LaborFirst system.
14. The current leave application process shall be followed for leaves that run concurrently with and to supplement FCG or QE.

b. Documentation and Leave Coordination Requirements

- Family Caregiving Leave - Certification must identify the family member, their condition, and the care required. The eligible employee may be required to provide documentation verifying familial relationship.
- Qualifying Exigency Leave - Proof of active-duty orders to a foreign country will be required. The eligible employee may be required to provide documentation verifying familial relationship.
- Eligible employees must provide the required documentation by both the State and the DDOL Division of Paid Leave, in a timely manner, to establish and maintain eligibility.
- An eligible employee must provide notification to their supervisor/manager and Agency HR as soon as practicable of any changes to their approved leave or intended return to work date.

c. Overpayments

- If an FCG or QE claim is determined to have been paid in error, the DDOL Division of Paid Leave shall take appropriate corrective action to recover or disburse funds as necessary to resolve the error.
- Overpayments while awaiting claim approval or from supplementing FCG or QE with available and accrued leave offered by the State shall be recouped by the paying Agency, in accordance with the [State's Wage Overpayment Policy](#).

6. Exclusions or Exceptions

- Employees hired under [29 Del. C. § 5903\(17\)a](#). are excluded from the PFML Program.
- The Department of Education (DOE) is responsible for the development of policies in compliance with the Federal Code, applicable State Code, and Title 14 of the Delaware Code and applicable regulations.

- Delaware State Housing Authority (DSHA) is responsible for the development of policies in compliance with Federal Code, applicable State Code, and 29 Del. C. Chapter 86 and authority in 31 Del. C. § 4013.

7. Dissemination and Training

- Employees must read and acknowledge receipt of this policy in the Delaware Learning Center (DLC), or if not applicable by other means, within designated time frame.
- Employees must read and acknowledge receipt of the Healthy Delaware Families Act – Notice of Employee Rights in the Delaware Learning Center (DLC), or if not applicable by other means, within designated time frame.
- In accordance with 19 Del. C. §3710, employers are required to provide written notice to eligible employees of their rights. All eligible employees shall receive the Healthy Delaware Families Act – Notice of Employee Rights at least 30 days prior to the start of the benefits and contributions, upon hire, upon requesting leave, when an employer has knowledge that an employee's leave may be a qualifying event under the Act, or when the contribution rate changes. The required written notice may be distributed to employees electronically to either their business or personal email address.

8. Data Reporting

- N/A

9. Associated Policy/Regulations/Information

- [Family and Medical Leave ACT \(FMLA\) Policy and Procedure](#)
- [GHIP Eligibility and Enrollment Rules](#)
- [Healthy Delaware Families Act – Notice of Employee Rights](#)
- [Paid Medical Leave \(DIP – STD Plan\)](#)
- [Paid Parental Leave Policy and Procedures](#)
- [Wage Overpayment Policy](#)

10. Appendices and Forms Associated with this Policy

- [Paid Family and Medical Leave \(PFML\) - Family Caregiving & Qualifying Exigency Leave - Employee Checklist](#)
- [Paid Family and Medical Leave \(PFML\) - Family Caregiving & Qualifying Exigency Leave - HR Checklist](#)
- [Paid Family and Medical Leave \(PFML\) – Family Caregiving & Qualifying Exigency Leave Payroll Deductions & Benefits Document](#)
- [Paid Family and Medical Leave \(PFML\) – Family Caregiving & Qualifying Exigency Leave – Potential Overpayment Form](#)
- [PFML – FCG & QE Leave Toolkit](#)

11. Policy Owner

- Division Name: Division of Talent Management
- Policy Owner: Employee Engagement Administrator
- Website: [DHR - Employee Engagement \(delaware.gov\)](#)

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with, i.e., the law or regulation and this policy, the law and/or regulation govern.