



Maryland

DEPARTMENT OF LABOR

FAMLI Informal Regulatory Engagement Session

Phase II – Optional Self-Employed Plan

July 6, 2023





Agenda

- FAMLI Leadership Team
- Key Dates
- Self-employed Individual Considerations
- Public Comment
- Questions & Answers

FAMLI Leadership Team



**Elliot
Schreur**

Assistant
Secretary



**Daniel
Newberger**

Deputy Assistant
Secretary



**Jessica
Praley**

Assistant Attorney
General



**Regan
Vaughan**

Director,
Policy



**Jamie
Fragale**

Manager,
Strategic
Communications

Informal Regulatory Process Key Dates

| Phase | Topics | Discussion Document Issued | Public Meeting | Draft Outline Issued | Draft Outline Comments Due |
|-------|---------------|----------------------------|----------------|----------------------|----------------------------|
| 1 | EPIPS | 6/8/23 | 6/15/23 | 7/6/23 | 7/13/23 |
| 2 | OSEP | 6/22/23 | 7/6/23 | 7/20/23 | 7/27/23 |
| 3 | Contributions | 7/13/23 | 7/20/23 | 8/10/23 | 8/17/23 |
| 4 | Appeals | 7/27/23 | 8/7/23*** | 8/17/23 | 8/24/23 |
| 5 | Claims | 8/11/23 | 8/21/23 | 9/5/23 | 9/12/23 |
| 6 | Misc. | 8/24/23 | 8/31/23 | 9/14/23 | 9/21/23 |

***Date Change

Statute

MD Code, Labor and Employment

§ 8.3-201. Self-employed individuals

(a) In this section, “self-employed individual” includes an individual that:

(1) is the sole owner of a sole proprietorship, limited liability company, C corporation, or S corporation; and

(2) is the only individual employed by the sole proprietorship, limited liability company, C corporation, or S corporation.

(b)(1) A self-employed individual may elect to participate in the Program by filing a written notice of election with the Secretary in accordance with regulations adopted by the Secretary.

(2) An election made under paragraph (1) of this subsection becomes effective on the date the written notice is filed.

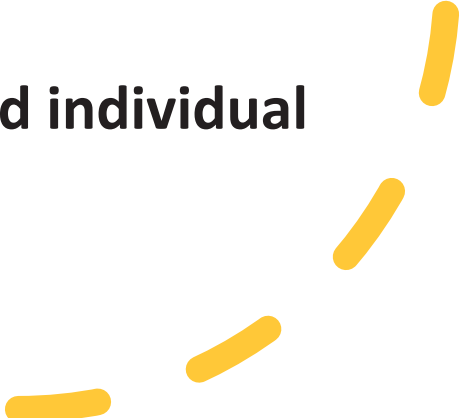
(c)(1) If a self-employed individual elects to participate in the Program under subsection (b) of this section, the individual shall participate for an initial period of not less than 3 years.

(2) Once the initial participation period expires, the self-employed individual may renew participation in the Program for a period of not less than 1 year.

(3) If the self-employed individual does not wish to renew participation in the Program under paragraph (2) of this subsection, within 30 days before the participation period expires, the self-employed individual shall notify the Secretary in writing of the self-employed individual's withdrawal from the Program.

(d) During the period a self-employed individual participates in the Program, the self-employed individual shall pay the contribution required under § 8.3-601 of this title.

OSEP Questions

1. **How could a self-employed individual (SEI) be qualified to elect to participate in the Optional Self-employed Program (OSEP)?**
 2. **How might self-employment income be defined for the purposes of assessing mandatory contributions on participating SEIs?**
 3. **What might the process be for an SEI to elect coverage?**
 4. **How often might a participating self-employed individual be required to report earnings? And what amounts would they report?**
 5. **At what rate would a self-employed individual make contributions?**
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OSEP Questions

6. **What consequences might there be for non-payment of mandatory contributions or failure to report income?**
7. **When would approved elective coverage become effective?**
8. **How would benefits be calculated for a self-employed individual?**
9. **How might the annual reconciliation process to calculate net self-employment income (profit) work?**
10. **How might SEIs end their participation in the OSEP?**

Should we use self-employed income earned only in Maryland or everywhere?

Maryland

Easier communication
with tax collector

Only Maryland Income
(potential lower liability)

Everywhere

Definition from statute

Covers all Maryland
residents

All income (potential
greater benefit)

Established self-employed
line on tax forms

How Might We Resolve this Inconsistency in the Statute?

Self-employed Income – 8.3-101

“Wages” means all compensation that is due for employment that is:

(2) for a self-employed individual, self-employment income, as defined in 26 U.S.C. § 1402(b).

Self-employed – 8.3-201

In this section, “self-employed individual” includes an individual that:

(1) is the sole owner of a sole proprietorship, limited liability company, C corporation, or S corporation; and

(2) is the only individual employed by the sole proprietorship, limited liability company, C corporation, or S corporation.

Benefit Calculation for New Participants

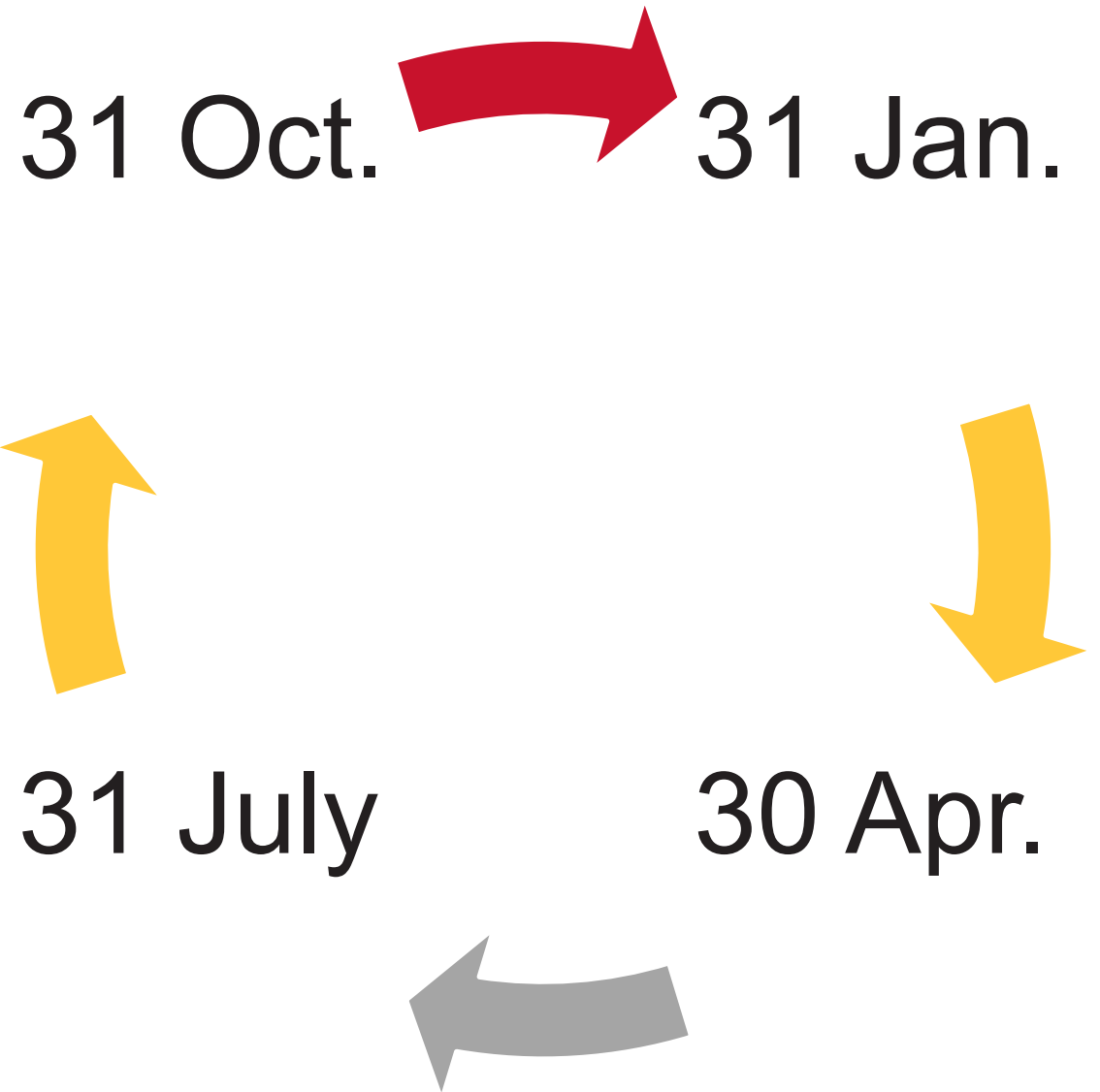
Consideration #1

- It is possible that the applicant for benefits could be allowed to report past self-employment income that was earned before participating in the program and be charged unpaid contributions for those retroactive earnings.

Consideration #2

- It is possible that the benefit calculation would take into account only on income reported since the quarter in which the SEI opted in, but the full base period would still be used for calculation, including any quarters in the benefit base period before participation, which would be reported as quarters of \$0 earnings.

Quarterly
Reporting &
Hold Harmless
Provisions



Housekeeping

Written Comments can be sent to:
FAMLI.policy@maryland.gov

Upcoming Dates

- Phase 1 (EIPs) Draft Outline Released – emailed Thursday, July 6
- Phase 3 (Contributions) Discussion Document Released – Thursday, July 13
- Phase 2 (OSEP) Draft Outline Released – Thursday, July 20
- Phase 3 (Contributions) Public Meeting – Thursday, July 20

