



# Maryland

**DEPARTMENT OF LABOR**

## FAMLI Informal Regulatory Engagement Session

Phase 5 – Claims

August 21, 2023



# Agenda

- Key Dates
- Claims Considerations
- Public Comment
- Questions & Answers

# 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	9/14/23	9/21/23
5	Claims	8/11/23	8/21/23	9/14/23	9/21/23
6	Misc.	8/29/23	8/31/23	9/14/23	9/21/23

# Claims Questions

1. How might “domestic partner” be defined?
2. How might “good cause” within the context of untimely filed claim be defined?
3. How might “covered employee” be defined?
4. How might “serious health condition” be defined?
5. Should the Division consider both informal and formal kinship care in the definition of kinship care?
6. How should “next of kin” be defined?
7. How might a claimant prove an individual is their family member?
8. What is the timeline for employees to submit claims?

# Claims Questions

9. What if an individual needs to update a claim for leave?
10. What information/documentation might be required to file a claim for family leave?
11. What information/documentation might be required to file a claim for medical leave?
12. What might be the process if an employer suspects employee fraud?
13. What is the base period for a benefit calculation?
14. How might the benefit amount be calculated?
15. For covered individuals who take intermittent leave, how might prorated benefits be calculated?
16. What might happen if benefits are overpaid to employees?

# How might “domestic partner” be defined?

## Based on COMAR 31.10.35.03 Domestic Partner Coverage.

- Both individuals are 18 years old or older;
- Neither individual is related to the other by blood or marriage within four degrees of consanguinity under civil law rule;
- Neither individual is married or in a civil union or domestic partnership with another individual;
- Both individuals have been financially interdependent for at least 6 consecutive months prior to application in which each individual contributes to some extent to the other individual's maintenance and support with the intention of remaining in the relationship indefinitely; and
- Both individuals share a common primary residence



# Previous Employees

- A covered employee could be an individual who worked 680 hours or more in position(s) localized in Maryland over the past 12 months.
  - A covered employee could include a “previous employee,” an individual who is currently unemployed and not connected to any employment or self-employment but who worked in positions localized in Maryland for at least 680 hours over the past 12 months.
    - Previous employees may not be able to receive both unemployment insurance and FAMI benefits for the same time period.
    - They also may not be employed in non-covered employment (i.e. a position with the federal government, a position outside of Maryland, etc...) during the period for which they are seeking benefits.
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How might  
“serious health  
condition” be  
defined?

The Division may consider using the Family and Medical Leave Act’s regulations regarding the definition of a serious health condition.



# How should “next of kin” be defined?

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The Division could use the FMLA definition



Could allow an aunt, uncle, first cousin to take leave



Allows a covered service member to designate their next of kin.



How might a claimant prove an individual is their family member?

The Division may require the claimant and the family member to sign a certification under the penalties of perjury attesting to the familial relationship.

The Division may also receive formal proof of familial relationship such as a birth certificate or marriage license.

What might be  
the process if an  
employer  
suspects  
employee fraud?

The Division could develop a form for employers and other members of the public to submit if they suspect a fraudulent claim.

The Division could investigate based on the submission.

# What is the base period for a benefit calculation?

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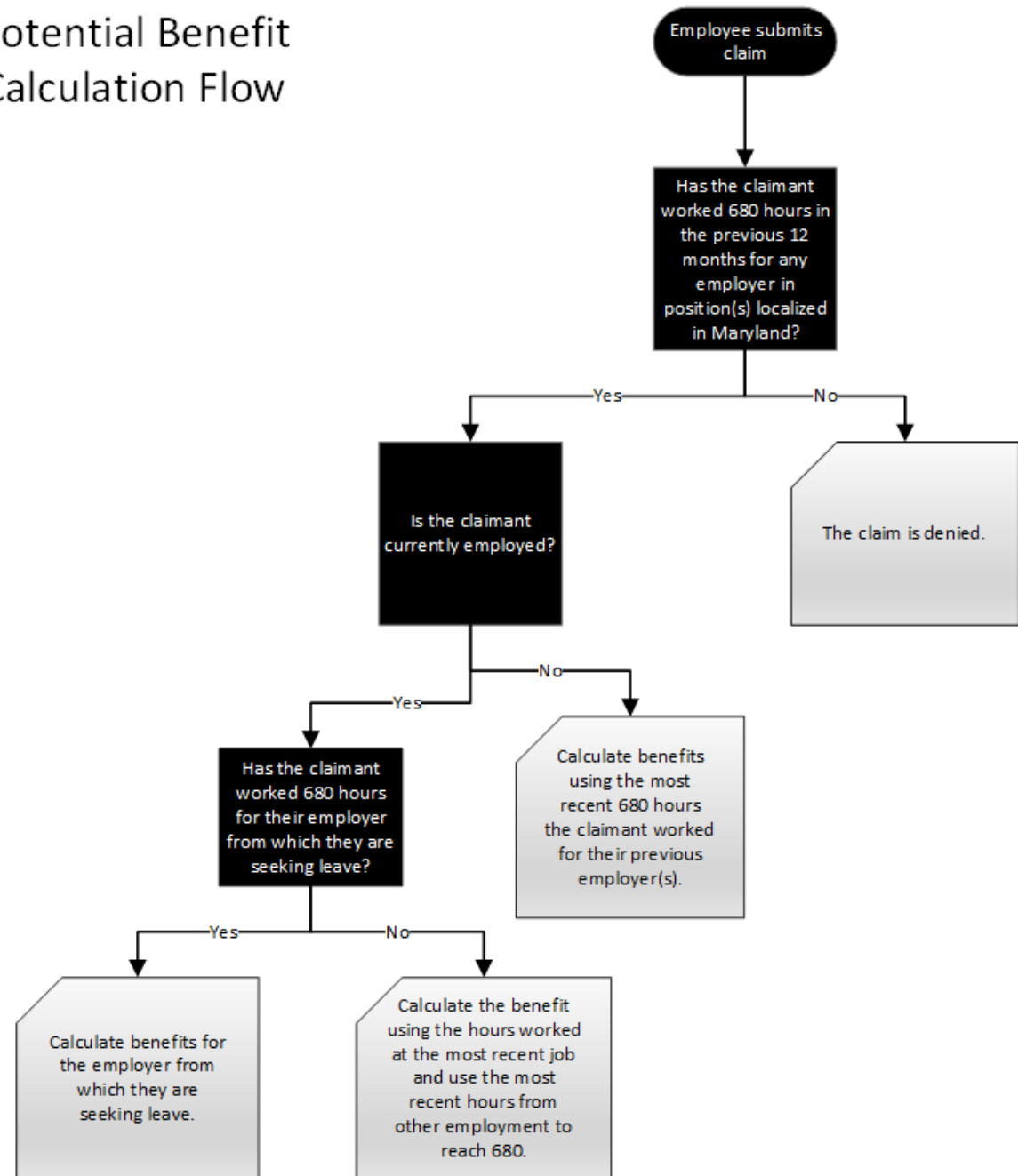
Under § 8.3-101(d), the benefit calculation is based on the wages earned during the calendar weeks containing the most recent 680 hours the employee worked.

This will require the Department to have access to the wage and hour data for the claimant for the most recent 680 hours.

# How might the benefit amount be calculated?

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## Potential Benefit Calculation Flow



# For covered individuals who take intermittent leave, how might prorated benefits be calculated?



For intermittent leave an *hourly benefit amount* could be calculated by dividing the weekly benefit amount by the average number of hours worked per week by the employee for the employer during the qualifying period. The benefit amount to be disbursed could be calculated by multiplying the hourly benefit amount by the number of hours of intermittent leave taken in a week.



The claimant cannot take intermittent leave in increments of less than 4 hours a day.



The claimant may be prohibited from taking intermittent leave for more hours in a workweek than the average number of hours worked in the base period.

# Housekeeping

Written Comments can be sent to:  
[FAMLI.policy@maryland.gov](mailto:FAMLI.policy@maryland.gov)

## Miscellaneous Phase

- Suggest outstanding questions

