



Maryland

DEPARTMENT OF LABOR

FAMLI Informal Regulatory Engagement Session

Phase 6 – Miscellaneous

August 31, 2023



Agenda

- By the Numbers
- Discussion Questions
- Public Comment
- Questions & Answers

Informal Regulatory Process by the Numbers

- This is our 7th meeting
- Meetings average over 100 attendees
- Over 50 comment submissions
- Over 770 subscribers

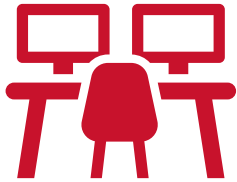
Phase 6 Questions

1. What might the notice requirements be for an employer to notify an employee regarding FAMLI?
2. What will the claim process be for a claimant requesting intermittent leave benefits?
3. How will employers be notified when an employee submits a claim for benefits?
4. How might the federal FMLA work with FAMLI?
5. How might general purpose leave interact with FAMLI leave?

Phase 6 Questions

6. When might an employer require the employee to use employer-provided leave concurrently or coordinated with FAMLI leave?
7. What might qualify as Alternative FAMLI Purpose Leave (AFPL)?
8. How could AFPL be accounted for if a claimant receives 100% of their wages through AFPL and decides not to apply for FAMLI, but later that year files a claim for FAMLI?
9. How might AFPL be coordinated with FAMLI if an employee is receiving wage replacement from both at the same time? (For example, an employee is able to receive benefits from both FAMLI and an employer sponsored short-term disability policy at the same time.)

What might the notice requirements be for an employer to notify an employee regarding FAMLI?



Time of Hire



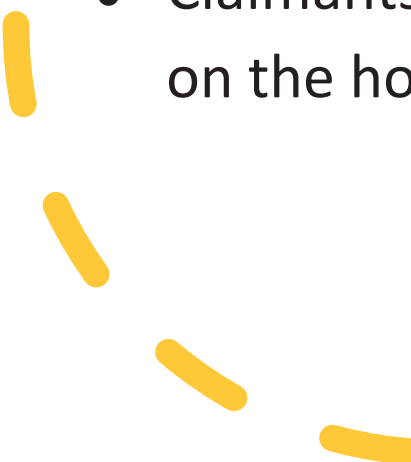
Annually

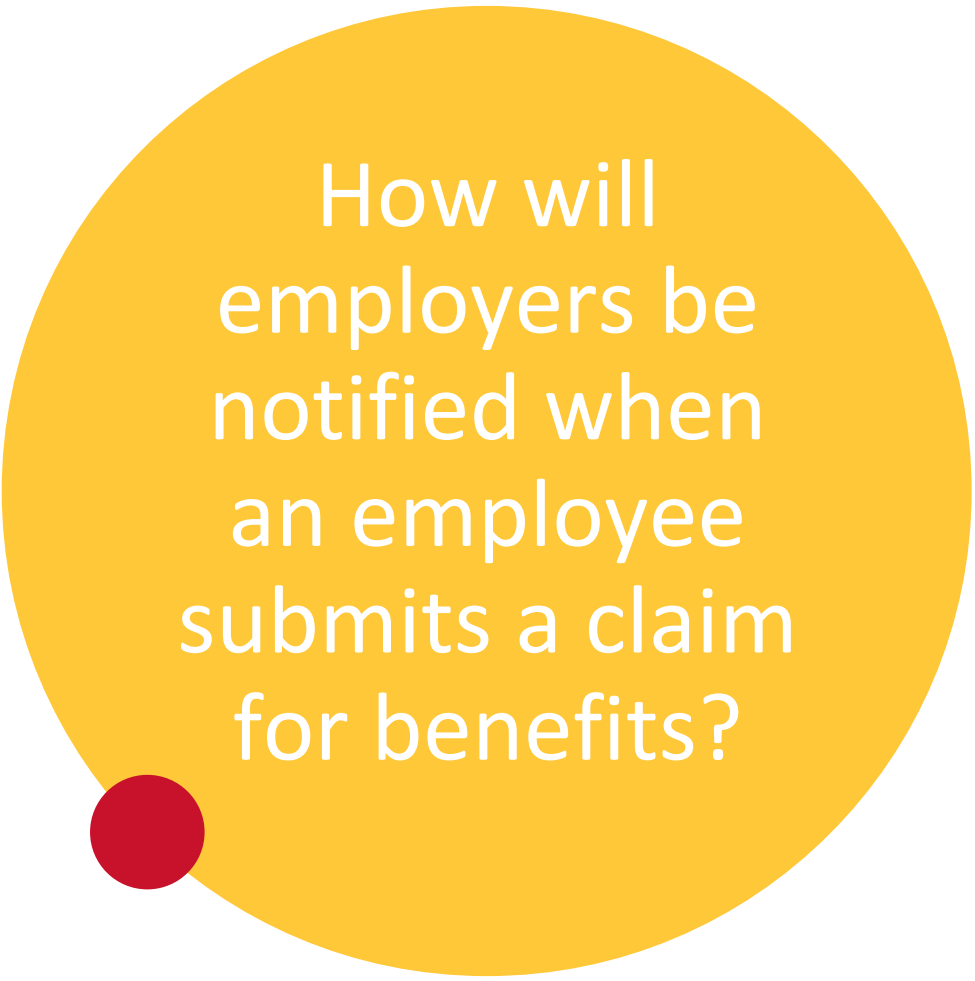


Aware of
need




What might the claim process be for a claimant requesting intermittent leave benefits?

- Claimants receiving intermittent leave may need to submit *weekly requests* including number of hours taken for leave during the week.
 - Claimants may be subject to random auditing of intermittent leave claims based on the hour and wage data the Division receives from employers.
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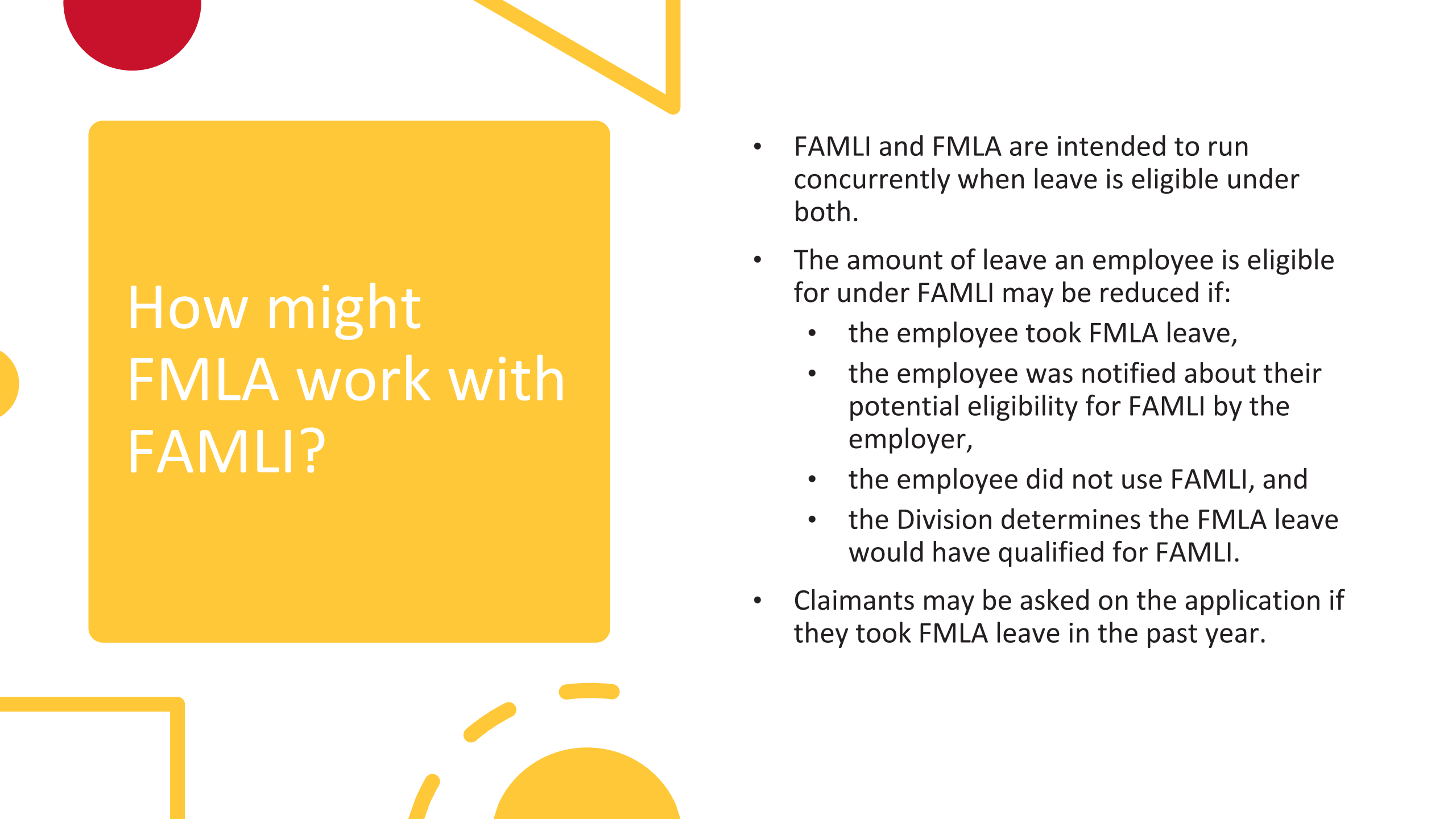


How will employers be notified when an employee submits a claim for benefits?

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- An employer may be notified electronically when:
 - an employee has applied for benefits
 - a decision is made on the application
 - if an appeal on the decision is filed,
 - and if a change is made to a decision regarding benefits.

FAMLI and Other Leave Types

	Family and Medical Leave Act (FMLA)	Alternative FAMLI Purpose Leave (AFPL)	General Purpose Leave
Description	Provides job protection	Employer provided leave that is specifically designed to cover at least one of the FAMLI purposes (such as parental leave, short term disability)	Employer provided leave that can be used for non-FAMLI purposes (sick days, annual days, personal days)
Can the employer require the leave to run concurrently with FAMLI?	Yes, under certain circumstances.	Yes, under certain circumstances.	No.
Can the leave be used to supplement the FAMLI wage replacement?	No.	Yes.	Yes, with the agreement of the employee.



How might FMLA work with FAMLI?

- FAMLI and FMLA are intended to run concurrently when leave is eligible under both.
- The amount of leave an employee is eligible for under FAMLI may be reduced if:
 - the employee took FMLA leave,
 - the employee was notified about their potential eligibility for FAMLI by the employer,
 - the employee did not use FAMLI, and
 - the Division determines the FMLA leave would have qualified for FAMLI.
- Claimants may be asked on the application if they took FMLA leave in the past year.



How might general purpose leave interact with FAMLI leave?

- A covered individual may not be required to use or exhaust paid vacation, paid sick leave, or other paid time off under an employer policy before, or while, receiving benefits under this title (there is an exception for AFPL discussed later).
 - A worker and an employer may agree to use general purpose leave while the worker is also receiving partial wages through FAMLI to reach up to 100% of the worker's weekly wage.
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What formula could an employer use to determine how to convert general purpose leave into a supplement?

Sarah has an average weekly wage of \$900 (an hourly rate of \$22.50). Her weekly FAMI benefit is \$810 (i.e. 90% of \$900, since her wage is 65% of the state average weekly wage). Sarah has 10 days of annual leave (general purpose leave), which is equal to 80 hours.

- Sarah and her employer **agree** to use general purpose leave to supplement her FAMI benefit up to her average weekly wage.
- The difference between Sarah's benefit and her AWW is \$90.
 - $\$900 - \$810 = \$90$
- The \$90 weekly supplement is converted from a dollar amount into hours by dividing the supplement amount by Sarah's hourly rate. The \$90 supplement is equivalent to 4 hours of leave (based on Sarah's hourly wage).
 - $\$90 / \$22.50 = 4$ hours
- 4 hours of general purpose leave can be deducted for every week she receives paid leave from her employer to supplement the FAMI benefit.

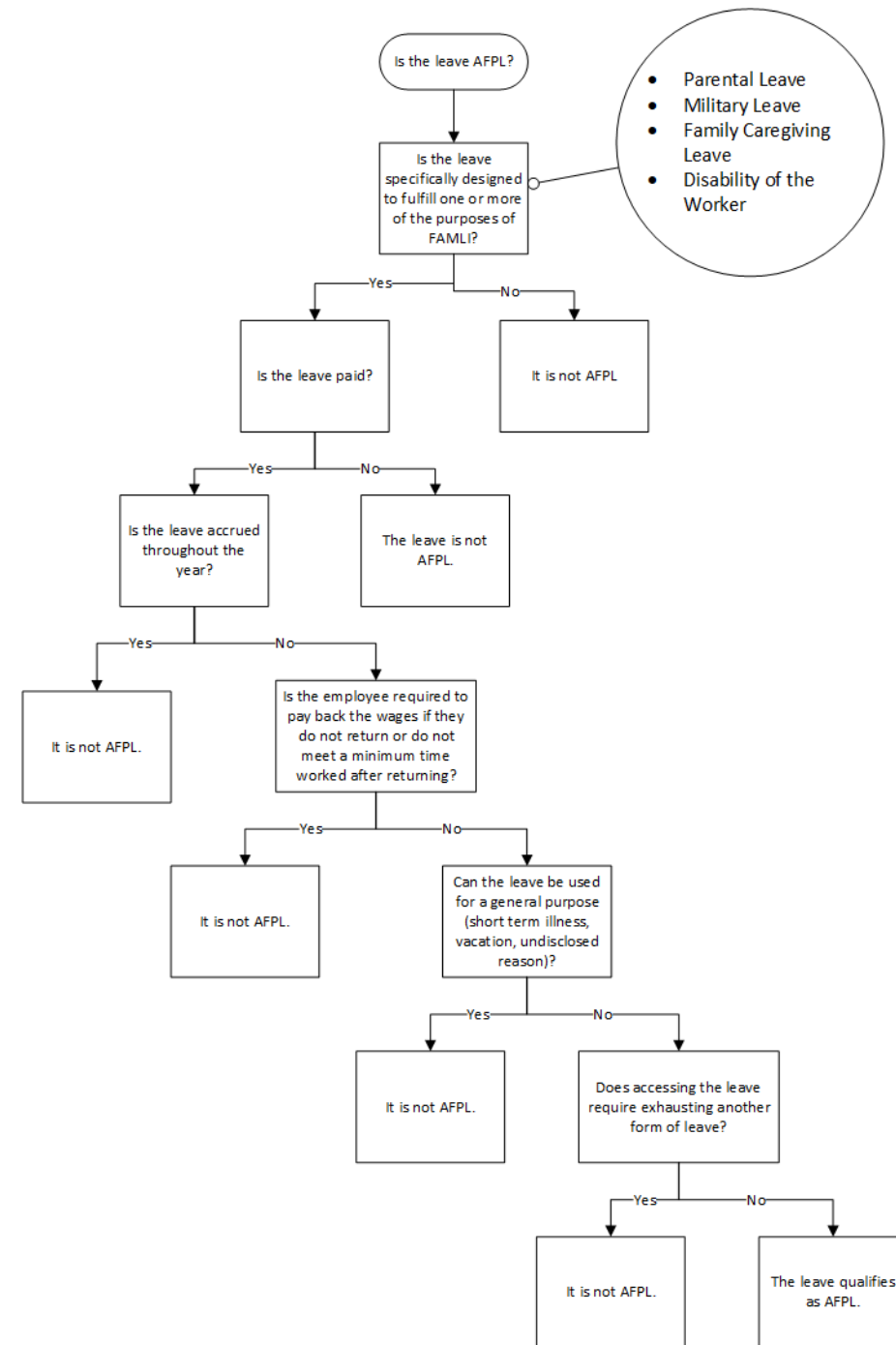
Alternative FAMLI Purpose Leave

Under the statute, an employee can be required by their employer to coordinate their FAMLI benefits with any AFPL provided by their employer.

Alternative FAMLI Purpose Leave (AFPL) refers to employer-sponsored leave policies designed to cover one of the purposes of FAMLI:

- Parental leave
- Military leave
- Family Caregiving leave
- Disability leave

What might qualify as Alternative FAMLI Purpose Leave (AFPL)?



How might AFPL be coordinated with FAMLI if an employee is receiving wage replacement from both at the same time?

- The FAMLI benefit could be primary. The AFPL benefit could then be used to supplement the employee's wage to equal 100% of their average weekly wage.
- An employer could then choose to deduct **the full amount** of time taken under both policies from the AFPL policy even if the employee only received partial wage replacement from the employer.

How could AFPL be accounted for if a claimant receives 100% of their wages through AFPL and decides not to apply for FAMLI, but later that year files a claim for FAMLI?

- The employer may have the ability to alert the Division that an employee already took AFPL that year when they apply file for FAMLI.
- The employer may be asked to demonstrate that the employee received notification that AFPL and FAMLI leave eligibility run concurrently.



Housekeeping

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

Upcoming Dates

9/14/23 – Draft regulatory outlines

10/1/23 – Deadline to release contribution rate

TBD - FAMLI Presentations

