



**DOMESTIC AND FOREIGN INSURERS BULLETIN NO. 158**

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

**RE: NOTICE OF UPDATES TO THE PAID FAMILY AND MEDICAL LEAVE ACT FOLLOWING PASSAGE OF HS 1 FOR HB 128 (153<sup>rd</sup> GA)**

**DATED: October 2, 2025**

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This Bulletin provides notice of updates to the Paid Family and Medical Leave (PFML) Act following the enactment of House Substitute No. 1 for House Bill 128 ([HS 1 for HB 128](#)) by the 153<sup>rd</sup> General Assembly. This legislation, effective July 30, 2025, amends the PFML framework set forth in 19 *Del. C.* Chapter 37.

**Carrier Responsibilities**

Carriers offering PFML coverage through private plans must take the following steps to ensure compliance with the revised statutory framework and maintain plan eligibility:

- Ensure all private plan filings comply with the revised law and are supported by appropriate coverage. Private plans must meet all requirements outlined in 19 *Del. C.* § 3716(a), demonstrating benefit parity with the state program, equal access for eligible employees, and adherence to required administrative standards.
- Revise internal procedures as necessary to align with the statutory changes enacted under HS 1 for HB 128.
- Inform policyholders (employers) of the statutory updates and their potential impact on claims processing, plan approval, and employee rights.
- Coordinate benefits in accordance with 19 *Del. C.* § 3709(a)(5), recognizing PFML as the primary payor. Private plans must not require employees to exhaust accrued paid leave before accessing PFML benefits, though employees may voluntarily supplement PFML benefits with accrued leave if permitted by the employer's policy.
- Protect PFML benefits from assignment or seizure, except as permitted by law. In accordance with 19 *Del. C.* § 3726, carriers must treat PFML benefits as exempt from creditor claims and garnishment, except for child support obligations.

## **Form Filing Guidance**

- Policies with conformity clauses that automatically align with changes in applicable law **do not** require refiling.
- Material changes to policy coverage terms, benefit structures, or eligibility criteria not addressed by a conformity clause must be filed with the Department for approval.
- PFML policy forms must not impose additional conditions or restrictions beyond those authorized by 19 *Del. C.* Chapter 37.

## **Amendments to Policy Form Filings**

If changes to the PFML Act or its regulations require amendments to previously acknowledged policies, carriers must submit a new filing in accordance with the SERFF instructions provided in [Domestic & Foreign Bulletin No. 144](#) (June 26, 2024). Filings must identify the affected policy forms by form number, SERFF tracking number, and the date of the last acknowledgement.

## **Employer Impacts and Responsibilities**

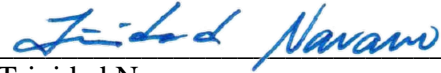
Employers offering PFML coverage through private plans should consult with their carriers to ensure continued compliance. Key updates introduced by HS 1 for HB 128 include:

- Enhanced coordination between carriers, employers, and the Department of Labor (DOL) to support proper plan administration and claims handling.
- Requirements for maximum leave durations in a benefit year or 24-month period, as outlined in 19 *Del. C.* § 3703(a) and (c).
- Rolling application approvals of employers' use of private plans by the DOL, with effective dates of **January 1, April 1, July 1, or October 1**.
- Clarification that employers using private plans are not required to provide claim documentation to the DOL unless the claim is the subject of an appeal, complaint, audit, or specific inquiry from the DOL.
- Employers with fewer than 25 employees who voluntarily elect to provide coverage under Title 19, Chapter 37 are subject to all provisions of the Chapter, including the right of employees to appeal under 19 *Del. C.* § 3711.
- Employers opting for the state-administered plan must provide all mandatory lines of coverage through the state program.

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

*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.*

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

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