Maryland DEPARTMENT OF LABOR
Maryland FAMLI FAMILY AND MEDICAL LEAVE INSURANCE

Family and Medical Leave Insurance (FAMLI)
Maryland Department of Labor
100 S. Charles Street, Tower I, Suite #10000
Baltimore, MD 21201-2725

Family and Medical Leave Insurance Self-Insured Equivalent Private Insurance Plans

This document is not the self-insured equivalent private insurance plan (self-insured plan) application. FAMLI is providing it to preview for employers the requirements of the FAMLI self-insured equivalent private insurance plan application, which will open in the summer of 2027. These requirements establish the floor for benefits. An employer's self-insured plan could exceed these minimum requirements and offer more generous coverage to employees.

A. Accessibility and Language Access

	Citation	Description
A1.	COMAR 09.42.03.03(Q)	**Accessibility Requirements** All self-insured plan documents and notices, for example claims forms, must comply with the same accessibility, language access, and translation requirements as the Family and Medical Leave Insurance (FAMLI) Division. For more, see §§ 10-1102 and 10-1103 State Government Article of the Maryland Annotated Code.

B. Required Definitions—Unless the self-insured plan exceeds the requirements of the State Plan, definitions must follow the language shown in FAMLI's laws and regulations verbatim.

	Citation	Description
B1.	§ 8.3-101(a-2) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(3)	Anchor Date
B2.	§ 8.3-101(b) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(4)	Application Year
B3.	COMAR 09.42.01.01B(9)	Claimant
B4.	§ 8.3-101(d) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(13)	Covered Employee
B5.	COMAR 09.42.01.01B(14)	Covered Individual
B6.	§ 8.3-101(g) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(16)	Deployment
B7.	COMAR 09.42.01.01B(18)	Domestic Partner
B8.	COMAR 09.42.01.01B(19)	Domestic Partnership

	Citation	Description
B9.	COMAR 09.42.01.01B(17) and 09.42.01.02	FAMLI Division
B10.	§ 8.3- 101(g-1) Labor and Employment Art., Md. Ann. Code	Eligible Service Member
B11.	COMAR 09.42.01.01B(20)	Employee
B12.	§ 8.3-101(h) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(21)	Employer
B13.	§ 8.3-101(i) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(26)	Family Member
B14.	COMAR 09.42.04.02B(7), 09.42.03.01B(3), and 09.42.05.01B(5)	Good Cause
B15.	COMAR 09.42.01.01B(29)	Incapacity
B16.	COMAR 09.42.01.01B(32)	Kinship Care
B17.	COMAR 09.42.01.01B(33)	Licensed Health Care Provider
B18.	COMAR 09.42.01.01B(36) and 09.42.02.04	Qualified Employment
B198	§ 8.3-101(m) Labor and Employment Art., Md. Ann. Code	Qualifying Exigency
B20.	09.42.04.02B(8)	Recipient
B21.	§ 8.3-101(o) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(40)	Serious Health Condition
B22.	§9-901 State Government Art., Md. Ann. Code	Service Member
B23.	COMAR 09.42.01.01B(41)	Service Member's Next of Kin
B24.	§ 8.3-101(q) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.01.01B(43)	Treatment
B25.	§9-901(l) State Government Art., Md. Ann. Code	Uniformed Services
B26.	§ 8.3-101(r) Labor and Employment Art., Md. Ann. Code	Wages

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C. Coverage Eligibility and Effective Date

	Citation	Description
C1.	COMAR 09.42.03.03A	All employees who perform Qualified Employment must be covered under the self-insured plan.
C2.	COMAR 09.42.03.02B	Benefits under the self-insured plan will be available to all Covered Individuals on or before _____ [fill in effective date].

D. Eligibility for and Duration of Paid Family and Medical Leave Benefits

	Citation	Description
D1.	§ 8.3-702(a) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.05	**Qualifying Leave Reasons**: Covered Individuals are eligible for up to 12 weeks of paid leave per application year for multiple qualifying leave reasons as enumerated below
	COMAR 09.42.04.05B(1)	**Bonding:** leave to welcome a child to the home (birth, adoption, foster care, or kinship care).
	COMAR 09.42.04.05B(2)	**Family:** leave to care for a Family Member with a Serious Health Condition.
	COMAR 09.42.04.03D and .05B(3)	**Military Caregiver:** leave to care for a Service Member with a Serious Health Condition who is the Covered Individual's Next of Kin and the Serious Health Condition resulted from, or was exacerbated by, uniformed service.
	§ 8.3- 701(a)(1)(iii) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.03C	**Medical:** leave for the Covered Individual's own Serious Health Condition.
	§ 8.3-701(a)(1)(v) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.03E	**Qualified Exigency:** leave arising out of the deployment of a Service Member who is a Family Member.
D2.	§ 8.3-702(a) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.05A(1)-(2)	**Duration of Leave**: • Up to 12 weeks per application year. • May receive up to 12 weeks of leave for medical leave and up to an additional 12 weeks for bonding leave, if qualifying events take place in the same application year.

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	Citation	Description
D3.	COMAR 09.42.04.05A(3)	**Approved Leave Duration Limitation:** Leave may be approved for the lesser of: ● 12 weeks; ● The remaining FAMLI leave balance for the Covered Individual for the application year; ● The length of time requested; or ● If applicable, the length of time supported by any required documentation.
D4.	COMAR 09.42.04.05B(2)(b)	FAMLI leave and benefits cessation when a Covered Individual is on leave and receiving benefits to care for a Family Member and that Family Member dies.
D5.	§ 8.3-701(c)(1) Labor and Employment Art., Md. Ann. Code	**Continuous vs. Intermittent Leave:** Leave may be continuous or intermittent.
	§8.3-701(c)(3); COMAR 09.42.04.07B	**Intermittent Leave Duration:** Intermittent Leave may be taken in increments of not less than 4 hours unless the Covered Individual's scheduled shift is fewer than four (4) hours or the self-insured plan allows intermittent leave for less than 4 hours.
D6.	§ 8.3- 702(b) Labor and Employment Art., Md. Ann. Code	**Federal Family and Medical Leave Act (FMLA) Coordination:** FAMLI leave shall run concurrently with eligible leave that may be taken by the Covered Individual under FMLA.
D7.	§ 8.3- 702(c) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.09A	Leave under FMLA may count against the maximum duration for leave for benefits under the self-insured plan if: ● The employer designates the leave under FMLA would also qualify for benefits under the self-insured plan; ● The employer informs the Covered Individual of their eligibility for benefits under the self-insured plan; and ● The Covered Individual declines to submit a claim for benefits under the self-insured plan.

E. Calculation of Weekly Benefit Amount

	Citation	Description
E1.	§ 8.3-703(b)(3) Labor and Employment Art., Md. Ann. Code and COMAR 09.42.03.03F	**Minimum and Maximum Benefit Level:** Benefits under the self-insured plan must be ***at least equal to*** the benefits under the State Plan, with a statutory minimum of $50 per week and capped at a maximum of $1,000 per week, including any weekly benefit increases determined by MD Labor. The employer may choose to continue regular wages if higher than benefits under the State Plan.

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	Citation	Description
E2.	§ 8.3-705(a)(2)(i), § 8.3-703(a)(2) Labor and Employment Art., Md. Ann. Code	**Average Weekly Wage (AWW) Calculation:** Unless the self-insured plan exceeds the benefit amount of the State Plan, the amount of FAMLI benefits will be based on the Covered Individual's Average Weekly Wage.
	§8.3-705(a)(2)(i) Labor and Employment Art., Md. Ann. Code	Average Weekly Wage is based on wages earned from the employer/policyholder.
	§ 8.3-703(a)(1) and § 8.3-705(a)(2)(ii) Labor and Employment Art., Md. Ann. Code	**Portability of Benefit and Average Weekly Wage Determination:** If the Covered Individual has recently switched employment and has worked less than 680 hours at their current employer, the plan must indicate that the Covered Individual is still eligible if they met the 680 hour requirement at a previous Maryland employer within the application year. If so, Average Weekly Wage would also be determined through the previous employer's average weekly wage. The employer will contact FAMLI to collect and verify data on the Covered Individual's hours worked at a previous Maryland employer.
	COMAR 09.42.04.06A(2)	Average Weekly Wage if Covered Individual's wages are not on the employer's Quarterly Wage and Hour Reports for at least 2 quarters.
E3.	§ 8.3-703(c)(1) Labor and Employment Art., Md. Ann. Code	**State Average Weekly Wage Adjustments:** Changes to the State Average Weekly Wage and maximum benefit amount only apply to an application year with an Anchor Date that occurs on or after the date the increase becomes effective.
E4.	§ 8.3- 703(b)(2) Labor and Employment Art., Md. Ann. Code	**Maximum Combined Payments:** The benefit paid under the self-insured plan and any additional paid leave cannot total more than 100% of the Covered Individual's Average Weekly Wage.
E5.	§ 8.3-703(b) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.06B	Benefit calculation for continuous leave.
E6.	COMAR 09.42.04.06C and D	Benefit calculation for intermittent leave.
E7.	COMAR 09.42.04.06D(4)	**Payment Calculations for Open Claims:** For intermittent leave, on or before the first day of January, the benefit amount of every open and active claim shall be readjusted based on the new maximum weekly benefit amount.

F. Prohibited Provisions, Limitations and Exclusions

	Citation	Description
F1.	§ 8.3-702(d) Labor and Employment Art., Md. Ann. Code, COMAR 09.42.04.02B(1) and COMAR 09.42.04.09B(1)	**Paid Leave Usage Protections and PTO Top-Off of Benefit:** Plan may not require a Covered Individual to use or exhaust paid vacation, paid sick leave, or other paid time off before or while receiving benefits under the self-insured plan. A Covered Individual and employer may agree to allow other paid time off to be used while benefits are paid under the self-insured plan to the extent that the Covered Individual will be covered for up to 100% of his average weekly wages. An employer may require benefit payments be made concurrently or otherwise coordinated with payments made or leave that is allowed under the terms of a separate employer-provided leave policy due to parental care, family care, or military leave or under a disability policy.
F2.	§ 8.3-702(e) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.09C(1)-(2)	**Disqualifying Income:** Covered Individuals receiving unemployment insurance benefits are not eligible for benefits under the self-insured plan. Covered Individuals receiving workers compensation wage replacement benefits, except for compensation for a permanent partial disability, are not eligible for benefits under the self-insured plan.
F3.	COMAR 09.42.04.09	**No Additional Barriers Provision:** The self-insured plan may not offset or reduce employee benefits beyond what is explicitly permitted under COMAR 09.42.04.09; employers may offer more generous terms or fewer offsets, but cannot impose stricter benefits coordination rules against the employee. For example, the employer cannot impose waiting periods or require claim documentation beyond what the State Plan requires.
F4.	§ 8.3-705(a)(1) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.03.03	The self-insured plan may not impose additional conditions, restrictions, or barriers on the use of FAMLI leave beyond those explicitly authorized by the FAMLI Program and shall meet or exceed the rights, protections, and benefits provided under the FAMLI Program.

G. Termination of Plan/Contribution Requirements

	Citation	Description
G1.	COMAR 09.42.03.09A	**Voluntary Termination by Employer:**
		Provided an employer has joined the State Plan or is approved for a different equivalent private insurance plan, an employer may voluntarily terminate a self-insured plan after it has been in effect for at least one (1) year:
		• The employer must notify the FAMLI Division at least thirty (30) days before the effective date of the termination.

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	Citation	Description
		• The employer must notify its employees no later than thirty (30) days before the termination effective date.
		• Coverage shall continue through the termination's effective date.
		• Termination shall become effective on the first date of the calendar quarter following the expiration of the 30-day period.
G2.	§ 8.3-705(d) Labor and Employment Art., Md. Ann. Code	**Employee Contribution Limit:** Employee contributions to the self-insured plan may not exceed the maximum contribution amount set by the Maryland Department of Labor. For 2027, the maximum contribution amount is 0.45% of weekly wages.

H. Family and Medical Leave Benefits Claims Procedures and Notice Requirements

	Citation	Description
H1.	COMAR 09.42.04.08B(1)(a)	**Employee to Employer Foreseeable Leave Notice Requirements:** If the employer requires 30 days notice of foreseeable leave, that requirement must be in the self-insured plan.
H2.	§ 8.3-801 Labor and Employment Art., Md. Ann. Code, COMAR 09.42.04.08A(1)	**Employer to Employee Notice Requirements:** Employers must provide written Notice of the employer's FAMLI plan to employees: • 6 months prior to the commencement of benefits, either through an equivalent private insurance plan or with the State plan; • At hire; • Annually; • 30 days before any changes to the employer's FAMLI procedures or the plan go into effect; and • When the employer knows that an employee's leave or leave request may be eligible for FAMLI.
H3.	COMAR 09.42.04.08B(1)(b)	**Employee to Employer Notice Unforeseeable Leave Notice Requirements:** If not possible or practicable to provide 30 days notice, then Covered Individuals must provide notice as soon as practicable.
H4.	COMAR 09.42.04.08B(1)(c) and (d)	Employer may waive, or be deemed to have waived, the notice requirements in certain situations. Plan should detail whether or not the employer has waived employee notice requirement.
H5.	COMAR 09.42.04.08B(2)	Notice requirements for intermittent leave.
H6.	§ 8.3-701(b) Labor and Employment Art., Md. Ann. Code, COMAR 09.42.04.04A(1), COMAR 09.42.04.12A,	**Claim Filings Process and Deadlines**

	Citation	Description
	COMAR 09.42.04.04A	Claims can be accepted up to 60 days prior to or 60 days after taking leave that would qualify as FAMLI leave.
H7.	COMAR 09.42.04.04C(2)-(3)	Updates to claims.
H8.	COMAR 09.42.04.04D(1)-(2)	Cancellation of claims.
H9.	COMAR 09.42.04.08C	**Employer Claims Review Process and Timelines:**
	COMAR 09.42.04.08C(1)	• Employer shall notify the claimant that the claim was received.
	§ 8.3-703(d)(2) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.08C(2)	• Notice of incomplete claim must be sent to claimant within five (5) business days of the date of the claim.
	§ 8.3-703(d)(1) Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.08D(1)	• Once received, the employer will notify the relevant claim review parties of the claim.
	COMAR 09.42.04.08C(3)	• Once received, the employer will notify the claimant that the relevant claim review parties have been notified of the submitted claim.
	COMAR 09.42.04.04B(7)(a)-(b)	• Employer will have 5 business days to respond to the claim. Claim will be considered complete after the 5 business days, even if the employer does not respond within 5 business days.
	COMAR 09.42.04.08C(4); COMAR 09.42.04.04B(7)(c)-(d)	• If the employer responds within 5 business days and challenges the Covered Individual's eligibility, the employer will notify the Covered Individual, and may request a response from the Covered Individual to confirm eligibility for benefits. • Once the employer receives a response from the Covered Individual, the employer will consider the claim complete.
H10.	COMAR 09.42.04.04B(7)(g)	Covered Individual determined not eligible after benefits are approved and issued.
H11.	COMAR 09.42.04.04B(7)(h)	Retroactive Approval of a claim.
H12.	COMAR 09.42.04.04B(1)-(6)	Requirements for Completed claim.
H13.	§ 8.3-703(d)(3) Labor and Employment; COMAR 09.42.04.08C(5)-(6)	**Claim Decision Timelines and Notices:** Employer to approve or deny complete claim within 10 business days of receipt of complete claim.
H14.	COMAR 09.42.04.08C(5)	Notice of approved claim.
H15.	COMAR 09.42.04.08D	Notice to Employer.

	Citation	Description
H16.	COMAR 09.42.04.08C(6)	**Denial of claim:** If a claim is denied the Covered Individual's reconsideration and appeal rights shall be identified in the denial.
H17.	COMAR 09.42.04.10A	**Payments, Overpayments, and Fraud:** Payment of Benefits: First benefit payments must be issued within five (5) business days of claim approval or leave start, whichever is later, and continue at least biweekly.
H18.	§ 8.3-902 Labor and Employment Art., Md. Ann. Code; COMAR 09.42.04.10B.	**Overpayments Notice:** Written notice sent to the claimant on learning of overpayment of benefits.

I. Family and Medical Leave Benefits Reconsideration and Appeals

	Citation	Description
I1.	§ 8.3-906 Labor and Employment Art., Md. Ann. Code; COMAR 09.42.05.03; COMAR 31.10.30	**Claimant and Benefit Disqualification Reconsideration and Appeals:** Rights of covered individuals and disqualified individuals to challenge any denied claims or benefit underpayments.
I2.	COMAR 09.42.05.03A	Right to request reconsideration.
	COMAR 09.42.05.03A(1)	● Manner of Filing, the reconsideration request shall be o filed within 30 days of the denial or underpayment, unless good cause can be shown; o in writing; and o include why the requestor believes the denial or underpayment to be in error.
	COMAR 09.42.05.03A(2)	● Notice of Reconsideration.
	COMAR 09.42.05.03A(3)	● Review of Denied Claim.
	COMAR 09.42.05.03A(4); COMAR 09.42.05.03A(5); COMAR 09.42.05.03A(6)	● Decisions on reconsideration requests.
I3.	COMAR 09.42.05.03B	**Appeals Process:** The self-insured plan shall include language identifying a claimant's right to appeal the self-insured plan's reconsideration decision to the FAMLI Division.
I4.	§ 8.3-905 Labor and Employment Art., Md. Ann. Code	**Right to File Complaint:** If an employee believes their employer or an insurer administering the self-insured plan has violated this title or COMAR 09.42, the employee may file a written complaint with the FAMLI Division.

J. Operational Requirements

	Citation	Description
J2.	COMAR 09.42.03.05K(3)	**Separate Account:** If the employer is withholding contributions from employees for funding, the employer must establish a distinct account exclusively for the self-insured plan contributions and benefit disbursements