

PAID FAMILY & MEDICAL LEAVE INSURANCE AUTHORITY
REVISED POLICY & PROCEDURES FOR AN EMPLOYER TO
APPLY TO USE A PRIVATE PLAN TO MEET ITS OBLIGATIONS UNDER THE CONNECTICUT PAID LEAVE
PROGRAM
Version 2: Adopted November 10, 2021

I. DEFINITION OF A PRIVATE PLAN

In accordance with Section 31-49o of the Connecticut General Statutes, an employer may apply to use a private plan to meet its obligations under sections 31-49e to 31-49t of the Connecticut General Statutes, commonly known as the Connecticut Paid Leave Act.

A. A private plan may consist of either of the following:

1. An insurance policy, the forms of which shall have been approved by the Insurance Commissioner and be issued by an approved insurer, or
2. A self-insured plan, which shall consist of a self-insurance plan document that complies with Authority requirements and a surety bond from an approved surety.

B. Form of an Insurance Policy

1. Form of an Insurance Policy During the Interim Period

a. As set forth in the July 6, 2020 [NOTICE TO ALL INSURANCE COMPANIES AUTHORIZED TO CONDUCT BUSINESS IN CONNECTICUT CONCERNING PAID FAMILY AND MEDICAL LEAVE INSURANCE](#) (hereinafter referred to as the “July 2020 Notice”), the Connecticut Insurance Department (hereinafter referred to as the CID) considered a Carrier-issued Declaration of Insurance as acceptable proof of family and medical leave coverage consistent with the Authority standards provided that:

- Carriers use the appropriate Declaration of Insurance that is included in the attached Appendix A to this Notice;
- Carriers develop and submit to the CID a paid family and medical policy form filing consistent with those Authority standards that will be identified in a forthcoming Policy Filing Guidance Notice to be issued by the CID; and
- Carriers submit a paid family and medical leave insurance policy form filing within 60 days following the CID’s issuance of a forthcoming Policy Filing Guidance Notice defining the contents of an acceptable paid family and medical leave insurance policy.

b. Accordingly, the Authority established an interim period for insured plans during which a CID-approved Declaration of Insurance qualifies as “an insurance policy, the forms of which have been approved by the CID” and shall be accepted as such by the CT Paid Leave Authority as part of the application.

c. The Interim Period for Insured Plans shall be from July 6, 2020, through the later of:

- the 60th day from the date the CID issues an updated Policy Filing Guidance notice defining the contents of an acceptable paid family and medical leave insurance policy; and
- the date the CID approves the carrier’s policy form (provided the carrier files within 60 days of the date the CID issues such notice).

2. Form of an Insurance Policy after the Interim Period Ends

a. As set forth in the updated Policy Filing Guidance Notice that will be issued by the CID (hereinafter referred to as the “2021 CT Paid Leave Policy Filing Guidance Notice”), the Connecticut Insurance Department (CID) will consider Carrier-issued policies as consistent with Authority standards provided Carriers use the policy template that is attached to the 2021 CT Paid Leave Notice; and Carriers submit their own policy forms that offer benefits that are at least as beneficial as the requirements of Sections 31-49e through 31-49t of the Connecticut General Statutes. Such submitted policy forms may include brackets to allow variability for product design but all bracketed items should be explained as part of the filing so that the CID understands that the product will always meet the relevant standards to be considered an Authority-qualified policy. Additionally, unless specified in the instructions within the template, Carriers are allowed to include the provisions in an order that deviates from the template provided. However, CID shall have the right to disapprove if the provisions appear in a manner that is confusing, misleading, or otherwise inconsistent with the purposes of the CT Paid Leave Act.

b. If the CID approves the submitted policy form(s), it shall issue a certified policy form number for each such approved policy form, shall provide the Authority written notice of the name and address of the insurer and the certified policy form numbers that it has approved, and the SERFF Tracking Number and approval date for the policy form filing.

3. **Approved Insurer.** The CT Paid Leave Authority shall accept only insurance policies issued by insurance companies that have received one of the following ratings from AM Best: a-, a, a+, aa-, aa, aa+, aaa.

C. Self-Insured Plan

1. As an alternative to obtaining an insurance policy, an employer can apply for approval to comply with its obligations under the CT Paid Leave Act through a self-insured plan. As part of that application, the employer shall attest that it will provide self-insured coverage to the Employer’s covered individuals for benefits in accordance with the CT Paid Leave Act; that its self-insured plan will comply with all requirements established by the CT Paid Leave Authority; and that it has sufficient financial resources to pay claims and provide adequate benefits claims administration to assure that employees have access to benefits as they would if they participated in the public plan.

2. Self-Insured Plan During the Interim Period

During the Interim Period for self-insured plans, which is defined as the period from July 6, 2020 through October 31, 2021, the CT Paid Leave Authority will accept as an Employer’s self-insured plan a Self-Insurance Declaration Document that conforms with

the Declaration of Self-Insurance template issued by the Authority. As part of the Self-Insurance Declaration Document, the employer shall acknowledge that it shall amend its self-insured plan document to conform to the requirements of a Self-Insurance Plan Filing Guidance Notice that will be issued by the CT Paid Leave Authority and provide a copy of that amended document to the CT Paid Leave Authority.

3. Self-Insured Plan As of November 1, 2021. In order to be eligible for approval as a private plan on or after November 10, 2021, only self-insured plan documents that conform to the requirements of the Self-Insurance Plan Document attached as Exhibit A to this Policy (hereinafter, a “self-insured plan document”) will be eligible for approval as a self-insurance plan by the CT Paid Leave Authority.

4. Surety Bond. In order for a self-insured plan to be approved, the employer shall furnish as part of the application a bond running to the CT Paid Leave Trust Fund with a surety company authorized to transact business in the state as surety in an amount equal to the estimated total yearly contributions that would otherwise be owed by the employer’s employees to the CT Paid Leave Trust Fund.

a. The CT Paid Leave Authority shall accept only surety bonds that have been issued by surety companies that are on the federal Department of Treasury’s Listing of Approved Sureties at the time the application is submitted.

b. The surety bond shall be in the form established by the Authority.

II. REQUIREMENTS FOR THE EMPLOYEE VOTE

A. Section 31-49o of the Connecticut General Statutes mandates that the CT Paid Leave Authority cannot approve a private plan unless it has been approved by a majority vote of the employer’s employees. Accordingly, the employer shall hold the vote on the plan **before** submitting its application to the CT Paid Leave Authority.

B. “A majority vote of the employer’s employees” means that at least 50% + 1 of the total number of employees working in Connecticut for the employer voted in favor the plan. It does **not** mean at least 50% + 1 of the number of employees who participated in the vote.

C. All employees working in Connecticut on the employer’s payroll as of the date or time period of the vote, including full-time, part-time and probationary employees, as well as any regular employees who are on a paid or unpaid leaves of absence (such as vacation, medical, military, educational, disciplinary, etc.) on the day of the vote, shall be afforded the opportunity to vote.

D. At least two weeks before the vote commences, the employer shall provide the employees with a copy of the approved insurance policy or self-insured plan document; a plain language guide describing the plan that includes, at a minimum, the information contained in the Plain Language Template attached as Exhibit B to this policy; and instructions about the voting process. The Employer may provide the insurance policy or self-insured plan document in a sample or draft format, without customer specific information (e.g. employer name, policy number) and with watermarks or other details that establish that it is not yet part of the final policy or plan.

However, such draft must include all substantive language that is intended to be reflected in the policy or plan.

E. The employer may provide additional information about the proposed private plan, including but not limited to information about any benefits provided that exceed the statutory requirements.

F. The employer shall not coerce or threaten the employees in any way in connection with the vote. Evidence that the employer engaged in any coercive or threatening behavior shall be grounds for the CT Paid Leave Authority to deny or revoke the private plan approval.

G. The method of distribution of such documents and information shall be at least as efficient and effective as the manner by which the employer distributes other legally required work-related postings, such as wage & hour, sexual harassment prevention, and workers' compensation information and other benefit information, such as pension/401k summary plan descriptions and open enrollment materials.

H. The employer shall ensure that the documents and information are accessible to employees who are on leave.

I. The employer shall ensure that the documents and information comply with federal and state requirements regarding disability accessibility and language accessibility.

J. The method of voting shall be accessible to employees who are on leave.

K. The method of voting shall comply with federal and state requirements regarding disability accessibility and language accessibility.

L. The question presented to the employees for the vote shall be: "Do you approve the company's private plan to provide benefits required by the CT Paid Family and Medical Leave Insurance Act? Yes or No." There shall be no other form of question posted for voting on the private plan.

M. The method of voting shall be anonymous, unless the employer obtains advance written permission from the Authority for an exception, and the method of voting shall be capable of independent, after-the-fact verification.

1. In order to qualify as an anonymous vote, the method of voting must assure that neither the management of the employer or other employees can determine how any individual employee voted.
2. The Authority, in its sole discretion, may grant permission for an employer to hold a vote that is not anonymous if, in advance of holding the vote, the employer makes a written request to the Authority demonstrating good cause for an exception and explaining its proposed alternative form of voting.
3. Examples of good cause for an exception include, but are not limited to, having only one employee in Connecticut, and needing to establish an alternative to an anonymous voting method in order to comply with federal or state requirements regarding disability accessibility or language accessibility.

4. The CT Paid Leave Authority strongly recommends that employers utilize electronic and/or on-line tools for voting provided the employer assures that all employees have access to such tools.

III. APPLICATION PROCESS

A. EMPLOYERS THAT HAVE RECEIVED PROVISIONAL APPROVAL FOR A PRIVATE PLAN

1. As set forth in the POLICY & PROCEDURES FOR AN EMPLOYER TO APPLY TO USE A PRIVATE PLAN TO MEET ITS OBLIGATIONS UNDER THE CONNECTICUT PAID LEAVE PROGRAM, adopted by the Board in September 2020 (hereinafter referred to as the “September 2020 Policy & Procedures document”), employers were permitted to apply for permission to utilize a private plan to meet their obligations under the CT Paid Leave Act on the basis of a Declaration of Insurance or a Self-Insurance Declaration Document during the “Interim Period.”
2. Pursuant to the September 2020 Policy and Procedures document, the Interim Period was originally defined as the period from July 6, 2020, through the 60th day from the date the CID issues a Policy Filing Guidance notice defining the contents of an acceptable paid family and medical leave insurance policy and any approval of an application for approval of a private plan submitted on the basis of a Declaration of Insurance or a Self-Insurance Declaration Document during this time frame was deemed to be provisional.
3. By December 1, 2021, each carrier approved by the CID to issue paid family and medical leave coverage shall submit to the Authority a list of all of the employers to whom it has issued a Declaration of Insurance. The list shall include the name, address and contact person of each such employer.
4. By the later of December 1, 2021, or 60 days following the date the CID approves the carrier’s policy filing, each employer that received provisional approval on the basis of an insured plan shall supplement its application with a copy of the face sheet of the insurance policy, which shall include the certified policy form number and the unique policy number for the employer.
5. By the later of December 15, 2021 or 30 days following the approval of these policies, each employer that received provisional approval on the basis of a self-insured plan shall supplement its application with a copy of the self-insurance plan document that conforms to the requirements of the Self-Insurance Plan Document attached as Exhibit A to this Policy.
6. Each such supplemented application will be approved unless the CT Paid Leave Authority determines that coverage described in the supplemental documents differs materially from the documents submitted in connection with the provisionally approved application or the CT Paid Leave Authority determines that the employer’s updated application should be denied for one or more of the reasons listed in section IV.

7. The CT Paid Leave Authority will revoke the provisional approval if the employer fails to update its application in accordance with sections III.A.4 or III.A.5 as applicable.

8. An employer that has received provisional approval for its private plan from the CT Paid Leave Authority is exempted from the obligation to remit contributions, unless the employer fails to update its application as required or the CT Paid Leave Authority denies the employer's updated application for one or more of the reasons listed in section IV.

9. If the CT Paid Leave Authority revokes the provisional approval or if, for any other reason, an employer that has received provisional approval does not have an approved insurance policy or approved self-insurance plan in effect on January 1, 2022, the employer will be responsible for all contributions its employees would have paid to the CT Paid Leave Authority pursuant to Conn. Gen. Stat. § 31-49g, retroactive to January 1, 2021. The employer is prohibited from collecting retroactive contributions from covered employees to satisfy this requirement.

B. APPLICATION PROCESS AFTER THE INTERIM PERIOD ENDS

1. Employer (hereinafter, all references to "employer" shall include the employer's authorized representative, including Third-Party Administrator if applicable) registers with the CT Paid Leave Authority on its portal, ctpaidleave.org, providing or verifying employer's name, address, contact information, industry code and total number of employees working in Connecticut.
2. Employer completes the CT Paid Leave Authority's application for a private plan:
 - a. Employer specifies whether the plan is in the form of self-insurance or provides for insurance.
 - b. Employer provides the CT Paid Leave Authority with a copy of the plain language guide provided to its employees and one of the following:
 - i. The face sheet of the approved insurance policy form (or draft as described in Section II.D above)
 - or
 - ii. The approved self-insured plan document
 - c. The CT Paid Leave Authority will verify with CID that the CID has approved the form of the insurance policy.
 - d. If the Employer is applying on the basis of a self-insured plan, it shall furnish the required surety bond in an amount equal to the estimated total yearly contributions that would otherwise be owed by its employees as part of its application.
 - e. Employer shall attest that the plan has been approved by a majority vote of its employees working in Connecticut and that the vote complied with the CT Paid Leave Authority requirements.
 - f. Employer shall report on the application the total number of employees employed by the Employer who are working in Connecticut, the total number of employees who voted and the numbers of votes for and against the plan.
 - g. The Employer shall attest that it complied with the voting requirements described in Section II. The CT Paid Leave Authority shall have the authority to audit an employer's voting process for compliance with the statute and the Authority's requirements.

6. If an employer seeks to make a material change to its private plan, it may submit a new application to the CT Paid Leave Authority, following a vote by its employees in accordance with Section II of this policy. Such new application shall not terminate the approved status of the previously approved plan.
 - a. The factor to consider in determining whether a new application is required is whether the change is material, from the perspective of covered employees.
 - b. The following is a non-exclusive list of changes that are considered material:
 - i. Changes to the plan design related to benefit amounts or durations
 - ii. Changes to the insurance carrier or claims administrator
 - iii. Changes to the class of covered employees, including eligibility rules and waiting period for coverage
 - iv. Changes to the rate of contribution for the employee
 - v. Changes to the method of determination of the 12 month benefit period
 - vi. Changes in how accruals (paid time off, sick bank, etc) are utilized
 - c. The following changes are not considered to be material:
 - i. Cosmetic changes to the plan, for example logos, fonts, branding
 - ii. Changes to the legal name or legal address of the employer, assuming no changes to the actual ownership of the employer
 - iii. Changes to the contact information or method for filing claims
 - iv. Changes that are the result of changes in an employee's status
 - v. Changes to correct grammatical or typographical errors.
7. Changes made in order to comply with the law, including but not limited to the Connecticut Paid Leave Act and related policies, will not require a new vote or a new application, even if material.
8. If the CT Paid Leave Authority approves the proposed new private plan, the date the new plan is approved will begin a new three-year approval period.
9. Each employer that has been approved for a self-insured plan shall be required to update its surety bond on a yearly basis.
10. Pursuant to Section 31-49o, the CT Paid Leave Authority may deny applications for a private plan option if it determines based upon actuarial principles that the solvency of the Trust may be jeopardized. The CT Paid Leave Authority shall draft a policy identifying the factors it will consider and the procedures it will follow in order to make such a determination

IV. TERMINATION OF PRIVATE PLAN

- A. Employer's Responsibility for Coverage.** In the event an employer is utilizing a private plan to provide PFML benefits, it is the employer's responsibility to keep PFML coverage in force for all covered employees.
 1. If an Employer's **plan is terminated during** the term of a CT Paid Leave Authority-approved exemption period, and the Employer does not obtain approval from the CT Paid Leave Authority to provide private plan coverage from another source (either its own self-insured private plan or another fully insured private plan) the Employer may be (a) required to remit contributions that its employees would have paid to the CT Paid Leave Authority pursuant to Conn. Gen. Stat. § 31-49g, retroactive to either the later of January 1, 2021 or the start date of the Employer's approved exemption; (b) required to repay to the CT Paid Leave Trust Fund ("Trust Fund") the cost of total amount of

benefits paid to Covered Employees who received benefits from the Trust Fund; and (c) subject to additional interest and penalties established by the CT Paid Leave Authority for not maintaining a private plan.

2. The employer is prohibited from collecting retroactive contributions from covered employees to satisfy this requirement

B. Voluntary Termination of Private Plan. If an employer voluntarily elects to terminate coverage in force with a private plan, and instead move coverage to the program administered by the CT Paid Leave Authority (hereinafter the “public plan”), the following requirements shall apply:

1. *Employee Contributions.* Upon transition to the public plan, the employer must remit to the Authority all funds remaining in their possession or control that have been collected from employees for the purpose of providing private plan coverage. Funds that were collected and are owed to a carrier or Third Party Administrator for the period of time that the plan was in force shall be remitted to the carrier or TPA rather than the Authority.
2. *Termination at End of Approved Period – Notice Required.* If the transition occurs at the end of the approved period for the private plan, the employer shall provide notice to the Authority no less than 90 days from the date coverage will end under the private plan. If such notice is not provided, the Authority shall have the right to assess a penalty up to an amount equal to the first full calendar quarter of contributions its employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g. The penalty must be paid by the employer by the end of the first full calendar quarter that coverage is in force under the public plan, and the employer may not deduct from employees’ earnings in order to pay the penalty. Coverage under the public plan will begin immediately following the last day that coverage is in force under the private plan.
3. *Termination During the Approval Window.* Private plans are expected to remain in force for the full period of time that is approved. In order to ensure the Paid Leave Trust Fund is able to support additional covered employees, a fee may be charged for employers who are moving from the private plan to the public plan. If the transition occurs prior to the end of the approved period for a private plan, notice should be provided as soon as possible. In addition:
 - a. Reasonable Effort Made to remain under a private plan: If alternative private plan coverage was reasonably sought, but unable to be acquired, for example, due to denial of coverage from insurance carriers or the failure to receive a majority of employee votes in favor of a replacement plan, coverage under the public plan will begin immediately following the last day that coverage is in force under the private plan. The Authority shall be the sole determiner as to whether attempts to obtain coverage were reasonable.
 - i. The Authority shall have the right to assess a penalty up to an amount equal to 200% of the cost of the first full calendar quarter of contributions its employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g.
 - ii. The penalty must be paid by the employer by the end of the first full calendar quarter that coverage is in force under the public plan, and the

employer may not deduct from employees' earnings in order to pay the penalty.

- b. Reasonable Effort not made to remain under a private plan: If alternative private plan coverage was not sought, or the employer is unable to provide evidence that the Authority finds to be reasonable of an attempt to acquire alternative coverage, coverage under the public plan will begin immediately following the last day that coverage is in force under the private plan.
 - i. The Authority shall have the right to assess a penalty up to an amount equal to 300% of the cost of the first full calendar quarter of contributions its employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g.
 - ii. The penalty must be paid by the employer by the end of the first full calendar quarter that coverage is in force under the public plan, and the employer may not deduct from employees' earnings in order to pay the penalty.
4. *Penalties are in Addition to Regular Contributions*. Any penalties assessed will be independent of contributions employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g related to on-going coverage under the public plan and amounts remitted to the Authority that were collected from employees while the private plan was in force.
 5. *Reconsideration of Penalties*. If the Authority assesses a penalty to the employer, the employer shall be allowed to request reconsideration from the Authority. The employer may provide any evidence in support of a waiver or reduction in the penalty amount. The Authority may waive, in whole or in part, the amount of such penalty if such payment would be against equity and good conscience.

C. Involuntary Termination of a Private Plan

1. The CT Paid Leave Authority may deny or withdraw approval for a private plan if the CT Paid Leave Authority determines that the employer has:
 - a. Threatened or coerced employees in connection with the private plan vote;
 - b. Failed to pay benefits;
 - c. Failed to pay benefits timely and in a manner consistent with the public plan;
 - d. Failed to maintain an adequate surety bond as required by the CID; misused private plan funds;
 - e. Failed to submit reports as required;
 - f. Provided materially false information to the CT Paid Leave Authority of the CID or failed to comply with sections 31-49e to 31-49t, inclusive of the Connecticut General Statutes or
 - g. Has directed its insurer or Third-Party Administrator to engage in such actions.
2. If the Authority terminates the private plan for any of the reasons listed in Sec. 31-49o (b) or for failure to meet any other requirements or policies promulgated by the Authority, coverage will terminate on a date indicated by the Authority.

- a. Coverage will begin under the public plan immediately following the last day that coverage is in force under the private plan.
- b. The Authority shall have the right to assess a penalty up to an amount equal to 400% of the cost of the first full calendar quarter of contributions the employer's employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g. The penalty must be paid by the employer by the end of the first full calendar quarter that coverage is in force under the public plan, and the employer may not deduct from the employees' earnings in order to pay the penalty.
- c. Upon transition to the public plan, the employer must remit to the Authority all funds remaining in their possession or control that have been collected from employees for the purpose of providing private plan coverage. Funds that were collected and are owed to a carrier or Third Party Administrator for the period of time that the plan was in force shall be remitted to the carrier or TPA rather than the Authority.

3. Notice to Employer of Potential Violation.

- a. The Authority shall provide written notice to an employer of a potential violation of the policies relating to private plans, which notice shall include a statement of the alleged violation, a summary of the information upon which the Authority relied in making its determination that a potential violation occurred, and the penalty or penalties the Authority is considering.
- b. Not later than twenty days after the date the notice was mailed or sent by electronic mail, the employer may submit additional information to the Authority with a request for reconsideration.
- c. The Authority shall issue a final determination regarding the alleged violation not later than sixty calendar days after the date the Authority mailed or sent by electronic mail the notice of the potential violation, which sixty-day period may be extended for an additional period not to exceed sixty days if (1) the Authority gives written notice to the employer that it requires additional time, and (2) such notice is mailed or sent by electronic mail during the initial sixty-day period.

4. Request for Reconsideration. An employer who has received notice of a potential violation may request reconsideration with the Authority.

- a. Such request shall include the employer's response to the alleged violation and potential penalty.
- b. the response shall include all information the employer wants the Authority to consider in reaching a final determination.
- c. Such request for a reconsideration shall be received no more than twenty calendar days from the date after the notice was mailed or sent by electronic mail.
- d. If no request is received, the employer will be deemed to have admitted to the violation and accepted the penalty.

- e. If the Authority determines that a hearing is necessary to address the request for reconsideration, it shall advise the employer of the date and time of such hearing.
5. **Hearing.** In the event that a hearing is requested by the Authority, the Chief Executive Officer of the Authority, or his or her designee, will act as the Hearing Officer. Such Hearing Officer shall not be the same person or persons who investigated or made the initial determination that the alleged violation occurred. The Hearing Officer may set a date, time, and place for the hearing. Such hearing may be in-person, via telephone, or other electronic-meeting means.
- a. *Process.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances and in accordance with due process principles. The employer and/or their representative shall be present as well as a representative of the Authority other than the Hearing Officer. Hearings may be recorded, but need not be transcribed. An oral or written statement may be provided by the employer or their representative and by the Authority representative. Physical evidence may be presented and witnesses may be called by either party. All witnesses shall testify under oath or affirmation, and may be subject to cross-examination.
 - b. *Evidence.* Formal rules of evidence shall not apply to the hearing. The Hearing Officer shall have the discretion to attach as much weight to evidence presented as he or she deems appropriate and reasonable. The Hearing Officer shall have the power to request additional evidence from either party, after the hearing, if he or she deems necessary. If a request is made, such evidence shall be provided to both parties and may be contested by the opposite party within 5 days.
 - c. *Decision.* The Hearing Officer shall issue a final determination in writing. In the written determination, the Hearing Officer shall state the facts relied upon in order to make the determination of whether or not the employer violated the policies relating to private plans. The Hearing Officer may recommend a penalty or waiver of a penalty, in whole or in part. However, the assessment of such a penalty will remain within the power of the Chief Executive Officer of the Authority, or his or her designee.
6. **Penalties are in Addition to Regular Contributions.** Any penalties assessed will be independent of amount of contributions employees must pay to the Authority pursuant to Conn. Gen. Stat. § 31-49g related to maintaining on-going coverage under the public plan and amounts remitted to the Authority that were collected from employees while the private plan was in force.
7. **Reconsideration of Penalties.** If the Authority assesses a penalty to the employer, the employer shall be allowed to request reconsideration from the Authority. The employer may provide any evidence in support of a waiver or reduction in the penalty amount. The Authority may waive, in whole or in part, the amount of such penalty if such payment would be against equity and good conscience.

D. Requirements Relating to Data Transfer Upon Any Termination of a Private Plan

1. Data Transfer upon transition from a private plan to the public plan

- a. The employer, carrier or administrator of the private plan shall provide benefits utilization data to the Authority or its claims administrator in the file layout specified by the Authority or, if such layout is not feasible, in an alternative layout approved by the Authority.
- b. Data elements that shall be required to be provided shall include, but may not be limited to the following:
 - i. claimant demographics (inclusive of all active employees within 12 weeks prior to public plan start date)
 - ii. time used per claimant in weeks
 - iii. minimum leave start date (within 12 months of transition date to public plan)
- c. The employer, carrier or administrator of the private plan shall not be required to transfer financial data or claim documents to the Authority or its claims administrator.
- d. The employer, carrier or administrator of the private plan shall provide complete data requested through final date of private plan administration through 2 separate files:
 - i. First file due to 30 days in advance of private plan end date, unless otherwise agreed by the Authority.
 - ii. Second file due 14 calendar days after private plan end date, unless otherwise agreed by the Authority.

2. Data Transfer upon transition from a private plan to another private plan

- a. The data transfer requirements from a terminating private plan to a new private plan shall be determined by the employer and the carriers or administrators, if applicable, of the terminating and new plans. The employer is responsible for ensuring that the transition from the terminating private plan to the new private plan occurs with minimal inconveniences and disruption to its covered employees.

V. AUDITS OF PRIVATE PLANS

- A. The employer shall maintain and shall require its carrier or administrator, as applicable, to maintain accurate and complete records relating to the private plan and shall make all such records available at all reasonable hours for audit and inspection by the Authority, upon reasonable advance written notice. Such records may include, but are not limited to, payroll records; employee schedules and timecards; tax forms, and claim files. Such records shall be kept at least three years from the termination of the plan.
- B. The Authority shall make all requests for any audit or inspection in writing and shall provide the employer, carrier or administrator with reasonable advance notice prior to the requested audit and inspection date, provided, however, if the Authority suspects fraud or other abuse, or if the

Authority determines that the need for the audit or inspection is urgent, the Authority is not obligated to provide any prior notice.

- C. The employer shall preserve and maintain, and shall require its carrier or administrator as applicable to preserve and maintain any records relating to an audit or inspection until the audit and any audit-related proceedings are concluded.
- D. The employer shall cooperate fully with the Authority in connection with an audit or inspection, and shall require its carrier or administrator to cooperate fully with an audit or inspection.
- E. **Reasons for Audits.** Audits may be triggered for any number of reasons, including but not limited to, the following:
 - 1. Random Audits
 - 2. As a result of a complaint
 - 3. As the result of deviations in data collected
 - 4. As a result of any other information received by the Authority that has a direct bearing on the ability or integrity of the private plan administrator, the plan's compliance with state law, or the solvency of plan.
- F. **Categories of Audits.** Categories of Audits for Private Plans (can include any combination in a single audit)
 - 1. Related to Establishment of a private plan
 - 2. Related to Contributions
 - 3. Related to Claims
 - 4. Related to Record-keeping
- G. **Scope of Audits.** Typically, the audit will specify the scope of an audit to be for a specific number of plans or specific time period of claims; however, the Authority also reserves the right to review any and all claims. The Authority may request a list of all plans or claims and choose a random number of files to review or it may request specific files.
- H. **Subject of Audits.** If necessary, the Authority may contact other parties in connection with the audit. For example, if auditing an insurance carrier, the Authority may request information from an employer whose private plan is administered by the carrier.
- I. **Remedies and Penalties.** The Authority has the discretion to determine the appropriate remedies or penalties that may be appropriate in the event of audit findings, including but not limited to requiring the employer, carrier or administrator to cure any errors; rescission of private plan approval; or monetary fines.

VI. RECORDS RETENTION AND REPORTING REQUIREMENTS

- A. Not later than May 1, 2022 and annually thereafter, each Employer shall submit, in a manner and form to be determined by the Authority, the following information about its plan:
 - 1. the projected and actual participation in the plan
 - 2. the reasons claimants are receiving family and medical leave compensation;

3. de-identified demographic information of claimants, including gender, age, town of residence and income level;
4. the total number of claims made and claims denied; and
5. the reasons for any denials.

B. Record Retention Obligations

1. The employer shall keep and preserve, or cause the carrier or administrator, as applicable, to keep and preserve a record of all plan-related documents including but not limited to:
 - a. the essential details of the private insurance or self-insured plan coverage that applies to Covered Employees, which may include wage or payment history if the Covered Employee's wages are used to determine the benefit amount and/or premium amount
 - b. financial data including records relating to the collection, retention and use of employee contributions and benefit payments
 - c. Records relating to the contract between the employer and the carrier or administrator claims documents
2. Such records shall be kept at least three years from the termination of the plan.
3. The Employer shall furnish these records to the CT Paid Leave Authority upon request.

EXHIBIT A

SELF-INSURANCE PLAN DOCUMENT

SELF-INSURANCE PLAN

1. Employer's Name, Address, and Contact:

- a. [name of employer]
- b. [address]
- c. Contact:
 - i. [name]
 - ii. [email address]
 - iii. [phone number]

2. The Administrator of the self-insured plan will be

- a. [name of employer or third-party administrator]
- b. [address]
- c. Contact:
 - i. [name]
 - ii. [email address]
 - iii. [phone number]
- d. TPA Contract Number if applicable: [insert]

3. Certification by Employer

The Employer certifies that it will provide self-insured coverage to the Employer's covered individuals for benefits under CT PFML Law.

The Employer certifies that it has sufficient financial resources to pay claims and adequate benefits claims administration to assure that employees have access to benefits as they would if they participated in the public plan.

The Employer certifies that the self-insured plan document that is filed will comply with all requirements of the CT PFML Law including but not limited to the self-insured plan requirements listed below.

The Employer agrees that it will furnish a surety bond to the CT Paid Leave Authority in an amount and form required by the Ct Paid Leave Authority

4. Acknowledgement by Employer

The Employer acknowledges and understands that if this self-insured plan document is not in force on January 1, 2022, the employer will be responsible for contributions pursuant to Conn. Gen. Stat. § 31-49g, retroactive to January 1, 2021, and furthermore, the Employer may not collect retroactive contributions from covered employees to satisfy this requirement.

[Employer]

By its duly authorized representative,

[Name]

[Title]

[Date]

Notices

(Employers are allowed to utilize modifications to the language in order to fit the employer's plan document format – e.g. replacing "Employer" with the actual employer's company name or claims' administrator's name, as applicable, or "We" - only as long as they do not alter the intent of the required notice)

The first page should include a statement that the plan is intended to cover paid leave benefits that comply with the Connecticut Paid Family and Medical Leave Insurance Authority ("CT Paid Leave Authority" or "Authority") standards. The provisions of this Plan must conform with the requirements of sections 31-49e through 31-49t of the Connecticut General Statutes and the policies promulgated by the CT Paid Leave Authority (hereinafter respectively referred to as "the CT Paid Leave Act and policies"). If any Plan provisions do not conform to the requirements of the CT Paid Leave Act and policies, then the Employer is required to administer paid benefits consistent with the CT Paid Leave Act and policies. If there are any conflicts between the plan and the CT Paid Leave Act and policies, the CT Paid Leave Act and policies will be the controlling requirements, unless the plan provisions are more advantageous to the Covered Employee in which case the plan terms as to those more advantageous provisions will prevail.

The first page should acknowledge that if there are any changes, amendments, or regulatory clarifications to the provisions of the CT Paid Leave Act and policies then the plan will be administered consistent with the relevant changes, amendments, or clarifications and all claims practices will be updated to be in compliance with the new requirements. The plan should be reviewed and updated at least annually to comply with any changes, amendments or clarifications.

The following notice should be on the first or second page of the plan: An employee covered under the plan shall retain all rights under Conn. Gen. Stat. §§ 31-51kk to 31-51qq, inclusive.

The following notice should be on the first or second page of the plan if the Employer requires contributions from Covered Employees: Contributions from Covered Employees cannot exceed the maximum employee contributions as described in the CT Paid Leave Act and policies. This maximum contribution percentage is subject to an annual adjustment by the CT Paid Leave Authority as specified in Conn. Gen. Stat. §31-49g(b). The amount of wages withheld or diverted from employees for contributions shall not be increased, except on an anniversary of the effective date of private plan or within thirty days after the state adjusts the contribution rate.

Employer Obligations:

Records -Information to Be Furnished

The Employer is required to keep a record of the essential details of the self-insured plan that applies to Covered Employees, which may include wage or payment history if the Covered Employee's wages are used to determine the benefit amount and/or premium amount. The Employer is to keep a record of all details of the plan, including records relating to its Claims Administrator, if any, for a minimum period of

three years after termination of the plan. The Employer shall furnish these records to the CT Paid Leave Authority upon request.

Covered Employee Right to Review Policy

Covered employees shall either be given a copy of the plan or have the right to examine the plan upon request, at a reasonable time and location.

Effective Date of Plan Coverage:

The plan should explain the coverage relevant to the eligibility dates as follows:

Effective Date for Employer [Effective date of coverage]

Employee Eligibility

The plan should indicate that all employees who qualify as Covered Employees under the CT Paid Leave Act and policies will be covered as of the plan effective date. The plan should also indicate the effective date of coverage for any new hires or newly eligible employees. Such time must be no later than the date required under the CT Paid Leave Act and policies.

Benefit Provisions

The plan should describe the following items:

Payment Period: The maximum payment period under the plan.

[Variable by Employer, but the minimum durations of paid leave allowable for qualifying reasons are 12 weeks in a 12-month period for all leave reasons except (1) an eligible employee may receive an additional 2 weeks of leave for incapacitation during pregnancy and (2) only 12 days of the 12 weeks may be used for family violence leave.

The plan should state specifically how it is determining the 12-month period, which must correspond to one of the approved options under the CT Family and Medical Leave Act and regulations issued by the CT Department of Labor. The plan must provide the same method for determining the 12-month period for all leaves, with two exceptions allowed if the plan intends to mirror the measurement method indicated under such act and regulations:

- For military caregiver leaves, the plan may provide for a 12 month period measured forward from the first day of leave compensation;
- For leave related to family violence, the plan may provide for utilization on a calendar year basis.

The use of separate methods of calculation is optional. Either or both of the above leave reasons may match the method of measurement for all other leaves.

Definition of a work week: The Employer shall calculate the Covered Employee's work week in accordance with the section 31-51qq-16 of the Regulations of State Agencies, as may be amended from time to time by the Connecticut Department of Labor regarding the calculation of a variable work week.

Waiting Period: The Employer may not impose any waiting period on the payment of leave benefits.

How Payments Start: This provision must meet or exceed the minimum qualifying eligibility conditions consistent with the CT Paid Leave Act and policies.

If the Employer intends to match the minimum requirements of CT Paid Leave Act and policies, it is recommended that it does not attempt to specifically redefine all the exact reasons for leave in the policy, in order to avoid any unintended inconsistencies between the plan and the CT Paid Leave Act and policies. Instead, it is preferable that the plan incorporate by reference the location of the specific reasons as defined in the CT Paid Leave Act and policies. However, in order to aid in understanding, the plan may reference the broad categories of leave:

- Birth, adoption, or placement of child for foster care
- Serious Health Condition of Employee, including pregnancy
- Care for Family Member's Serious Health Condition
- Employee serving as organ or bone marrow donor
- Military caregiver leave
- Qualified exigency tied to family member's active duty military service
- Family violence suffered by employee

When Payments End: This provision must meet or exceed the minimum qualifying eligibility conditions consistent with CT Paid Leave Act and policies. It may state that this occurs when the Covered Employee is no longer eligible for paid family or medical leave, no longer has a qualifying reason for leave, or the person has completed the maximum payment period under the plan.

The plan should state that termination of the plan will have no impact on eligibility for benefits under any approved leaves that began while the plan was in force (whether block, intermittent, or reduced leaves), including any approved extensions for the same leave regardless of whether or not the plan was in force at time of extension. If a paid leave compensation continues beyond the termination date of the plan, the plan may terminate such benefits at the earlier of:

- The date that a new medical certification is required due to the expiration of the previously submitted certification; or
- 12 months from the date paid leave benefits were initially provided for that leave.

Intermittent Leave or Reduced Leave Schedule: The plan must indicate that intermittent leave shall be taken in increments consistent with the established policy the Employer uses to account for use of leave under the CT Family and Medical Leave Act, Conn. Gen. Stat. §31-51kk et seq and CT Family Violence Leave Act, Conn. Gen. Stat. §31-51ss. The plan must also describe any limits on payments, including when payments may be made, provided that for intermittent leave and reduced leave schedule absences of less than 4 hours per day, the plan must issue payments for such absences no less frequently than either every two weeks or semi-monthly. As Employers' plans may vary, in order to provide benefits that are more generous than the CT Paid Leave Act and policies, the language of the plan may include options to account for these variations.

- For leave to bond with a Child during the first twelve months after the Child's birth, Adoption, or Foster Care placement, the plan may state that income replacement compensation may be

provided on an intermittent or reduced leave schedule only if the Employer and the Covered Employee mutually agree.

- For leave to care for a Family Member's Serious Health Condition or to care for a Family Member who is a Covered Service Member, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The plan may require that the employee provide a certification from Health Care Provider that the intermittent leave schedule is medically necessary as a condition of coverage. If the plan requires this Health Care Provider certification, this must be stated in the plan.
- For leave due to Family violence suffered by employee or a Qualifying Exigency arising out of a Family Member's active duty or impending call to active duty in the Armed Forces, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule.
- For leave due to the Covered Employee's own Serious Health Condition, including acting as an organ/bone marrow donor, the plan must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The plan may require that an employee provide a certification from a Health Care Provider that the intermittent leave or reduced leave schedule is medically necessary as a condition of coverage. If the plan requires this Health Care Provider certification, this must be stated in the plan.

Extension of Paid Leave Benefits:

The plan must indicate that the Covered Employee may submit a request for extension of paid family or medical leave beyond the initial approved duration.

The Employer may require the Covered Employee to provide notice to the Employer requesting an extension of leave. This notice period may not be greater than 14 calendar days prior to the date of expiration of the original approved leave. If the Employer requires a notice period, it must state that there is a provision allowing a late filed request for an extension for good cause shown.

The Employer may require that a request for an extension of leave include the following information:

- The reason for the extension;
- The requested duration of the extended leave;
- The date on which the Covered Employee provided notice of the request for the extension and
- A newly completed or updated health care certification or supporting document consistent with the provisions applicable to the rights of employers as set forth in Conn. Gen. Stat. 31-51mm.

Employer-Provided Paid Leave

This section should state whether the Employer requires or permits the Covered Employee to use any sick or other accrued paid leave or paid time off prior to initiating a claim under the plan or while on approved leave. In the event that an Employer requires the use of sick or other accrued paid leave or

paid time off, an employee who is taking leave pursuant to Conn. Gen. Stat. §§ 31-51kk et seq. is able to retain not less than two weeks of such paid time off, as required by Conn. Gen. Stat. § 31-51ll(e).

When a Covered Employee's earned or accrued paid leave with the employer is not substituted for the entire period of unpaid leave to which the employee is entitled under Conn. Gen. State 31-51kk et seq, the employee shall receive income-replacement benefits under the policy for all or part of any unpaid federal FMLA or CT FMLA leave.

When the earned or accrued paid leave is equal to the Covered Employee's regular rate of compensation, such that the Employee does not qualify for benefits under the policy, such day or days shall not count against the Employee's maximum allotment of income replacement benefits in a 12-month period.

When the earned or accrued paid leave is less than the Covered Employee's regular rate of compensation, such that the Employee elects to utilize such paid leave to supplement the benefits received under the policy, such day or days shall count against the Employee's maximum allotment of income replacement benefits in a 12-month period.

Benefits for Former Employees

For Covered persons who have been separated for any reason from an Employer for fewer than 12 weeks:

- If the covered person remains unemployed or otherwise not covered by the CT Paid Leave Program or a private plan approved by the CT Paid Leave Authority on the date that a requested leave begins, the Covered Employee shall submit an application for benefits with their former Employer.
- If an individual submitting an application for benefits identifies themselves as a former Employee, the plan may inquire as to whether the individual has obtained Connecticut paid leave coverage with another employer following separation from the Employer or is receiving unemployment insurance benefits. An affirmative answer to any of these questions may be grounds for denial of a claim. If such denial is due to separate Connecticut paid leave coverage, the communication of the denial shall include a notification for the former employee to contact the Authority or their current employer for more information on how to file a claim for paid leave compensation.

Verification of Wages

The plan may require the employee to meet financial eligibility requirement set forth in the definition of "covered employee" set forth in subsection (4) of 31-49e of the Connecticut General Statutes.

The plan is allowed to only utilize wages received from the Employer for the purposes of determining eligibility under the plan and the calculation of paid leave compensation. Alternatively, the plan may consider earnings from additional employers in order to determine eligibility or compensation amount, or both. The plan shall identify which wage sources are factored into the plan.

Calculation of Weekly Benefit Amount and Use of Wages

This section should clearly state how the Weekly Benefit Amount payable to the Covered Employee is calculated. Such provisions should indicate the manner in which benefits may be reduced for other income that the employee may be receiving, and how benefits are calculated for reduced/intermittent leave or when leave begins or ends during a work week. The benefit calculation must be at least equal to the benefits the benefit calculation that would be paid to Covered Employees if participating in the state plan.

Payments

This section will set forth the timing and manner of benefit payments to Covered Employees. Benefits should be paid to Covered Employees only. Benefits cannot be assigned unless such assignment is required by operation of law, such as child support. Benefits that are owed but unpaid at time of death shall be paid to the employee's estate. Except in the case of self-employed individuals or sole proprietors who are both employee and employer, benefits are not allowed to be paid to the employer.

The Employer agrees that it will comply with the time periods and other requirements related to processing and payment of claims that are set forth in the CT Paid Leave Act and policies. This section will state that claim payments to a Covered Employee are to be paid not more than 15 calendar days after approving an application, unless that determination occurs more than 15 calendar days before the onset of leave or before the employee meets the eligibility requirements, in which case the Employer shall commence payment of leave benefits as soon as the Employer becomes aware that leave or eligibility begins.

The Employer is not permitted to offer lump sum payments in lieu of a Weekly Benefit Amount and/or pay benefits at the beginning of a claim or in higher amount installments at the commencement of a claim. The only exception to this rule is if the lump sum is necessary to pay benefits to which the Covered Employee became entitled prior to the claim determination. For each request for payment associated with intermittent leave, the Employer may verify the leave taken prior to issuing a payment.

Offset to Policy Benefits Due to Other Income:

This section will explain the permissible offsets to the Weekly Benefit Amount under the CT Paid Leave Act and policies. Employers may not impose additional offsets /reductions but may elect to include any or all of the reductions available under the CT Paid Leave Act and policies. Under the CT Paid Leave Act and policies, Covered Employees may receive other income for the same period of time that they are receiving paid leave compensation. In order to avoid a Covered Employee receiving greater than 100% of their regular rate of compensation, the Weekly Benefit Amount payable under the plan may be reduced by the amount of wages or wage replacement that a Covered Employee on leave receives for that period from the Employer.

While Employers have the right to not reduce benefits as the result of other income, two restrictions will continue to apply:

1. Total compensation received by the employee under the plan and other employer-provided employment benefits cannot exceed such employee's regular rate of compensation;
2. Employees may not receive benefits under the plan concurrently with Unemployment Insurance, Workers Compensation, or any other federal or state program that provides wage replacement.

Income shall be deemed to be received concurrently with paid leave benefits if it is payable due to the same period of time that the Covered Employee is receiving paid leave benefits.

Exclusions

The plan should not have any exclusions that are not specifically listed in the CT Paid Leave Act and policies. If there are future changes to the CT Paid Leave Act and policies, these exclusions should be consistent with those changes.

[Employers are allowed to indicate that receipt of Connecticut Unemployment Insurance, Connecticut Workers Compensation, or any other federal state program that provides wage replacement as an exclusion in this section, rather than the previous section. However, such payments shall only be an exclusion if paid concurrently with the period of time that paid leave benefits are requested.]

Claim Provisions

This section will inform Covered Employees how they may initiate claims for paid leave benefits.

The Employer may not impose requirements related to notice of the need for leave or the filing of a claim for benefits that are inconsistent with notice provisions in the CT Paid Leave Act and policies.

The Employer shall clearly explain any claim provisions for paid family and/or medical leave.

The Employer shall explain that the individual may be required to provide consent to the Carrier to share information with the Employer and with the health care provider in order to process the claim.

The Employer may require the Covered Employee to provide a notice of an intent to file a claim to the Employer not greater than maximum period allowed by statute prior to the date that the employee seeks to begin receiving benefits: 7 calendar days for leaves related to family violence and 30 calendar days for all other leaves.

If the Employer requires a notice period, it must allow an exception for circumstances beyond the reasonable control of a Covered Employee. In this case, the Employer may require that the notice be given as soon as practicable.

The Employer may indicate if notice is not given, and no good cause is provided for lack of notice, then the plan is allowed to wait until the notice period has expired before paying benefits, and further, that if the notice period extends beyond the end of the leave, then benefits may not be payable.

The Employer may require that in the case of medical leave when planning medical treatment, the Covered Employee must consult the Employer to schedule treatment that will not unduly disrupt the Employer's operations.

The Employer should clearly state that decisions on a claim for paid leave benefits will be made within 5 business days of receipt of a complete application, including complete and sufficient certifications, if required. If the application is incomplete or insufficient, the Employer shall notify the employee of the information necessary to complete the claim no later than 5 business days from the date of the request.

Certifications and Documentation Requests

This section will describe the permissible certifications and documentation that the Employer may request from Covered Employees. The Employer may require that claims for benefits be supported by a certification evidencing that the leave is for a qualifying reason. The Employer may not include certification or other proof requirements in the plan that exceed those permitted to employers under section 31-51mm of the Connecticut General Statutes and regulations promulgated by the Connecticut Department of Labor relating to such section.

The Employer may not require the Covered Employee to submit additional evidence unless it is specifically authorized in the CT Paid Leave Act and policies.

The Employer may describe the information that it will require, with the statement that if there is a conflict between the plan terms and the certification and documentation that employers may require pursuant to Section 31-51mm of the Connecticut General Statutes and related regulations, or pursuant to the CT Paid Leave Act and policies, the terms of the latter statutes, regulations or CT Paid Leave Act policies prevail.

Certification of Serious Health Condition

The Employer may require submission of the following necessary information for the following types of paid family and medical leave. The Employer may require that claims for benefits be supported by a certification evidencing that the leave is for a qualifying reason.

For Medical Leave for the Individual's own Serious Health Condition:

The Employer may require a certification from a health care provider that includes:

- A statement that the Covered Employee has a serious health condition, including that they are an organ or bone marrow donor;
- The date on which the serious health condition commenced;
- The probable duration of the serious health condition;
- A certification by the health care provider that the Covered Employee is incapacitated from work due to the serious health condition, including due to organ or bone marrow donation;
- Information regarding the need for intermittent leave or reduced leave schedule, including a statement that such leave or schedule is medically necessary where the claim for benefits is for leave on an intermittent or reduced leave schedule and an estimate of the frequency and duration of leave needed; and
- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

For Leave to Care for Family Member with a Serious Health Condition:

The Employer may require a certification from a health care provider that includes:

- The name and address of the Family Member;
- A statement that the Family Member has a Serious Health Condition;
- The date on which the Family Member's Serious Health Condition commenced;

- The probable duration of the Family Member's Serious Health Condition;
- A statement that the Covered Employee is needed to care for the Family Member;
- An estimate regarding the frequency and anticipated duration of time that the Covered Employee is needed to care for the Family Member; and
- other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

The Employer may also ask the Covered Employee for:

- A statement confirming the relationship between the Covered Employee and the Family Member; and
- Information that proves to the satisfaction of the Employer the identity of the Family Member.

For Leave to bond with a newborn Child:

The Employer may require:

- The Child's birth certificate; or
- A statement from the Child's Health Care Provider stating the Child's birth date; or
- A statement from the Health Care Provider of the person who gave birth stating the Child's birth date.

The Employer may also require other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

For Leave for Placement of a Child for Adoption or Foster Care:

- The Employer may require a certification from the child's health care provider or from an adoption or foster care agency involved in the placement or the Connecticut Department of Children and Families that confirms the placement and the date of placement and other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.
- The Employer may also require that the Covered Employee provide written notice of any change of status as an adoptive or foster parent while an application for benefits is pending or while the Covered Employee is receiving benefits. In this instance, the Covered Employee, within five business days of such change in status, may be required to provide written notice of the change to the Employer.

For Leave for a Qualifying Exigency arising out a Family Member is on Active Military Duty or Has Been Notified of an Impending Call or Order to Active Duty in the Armed Forces:

The Employer may require:

- A copy of the Family Member's active duty order, a letter of impending activation from the Family Member's commanding officer, or other documentation in circumstances where, for

good cause shown, the Covered Employee is unable to produce the active duty orders or letter of impending activation;

- A statement of the family relationship between the Covered Service Member and the Covered Employee requesting benefits;
- Information from the Covered Employee that proves to the satisfaction of the Carrier the identity of the family member;
- The name and address of the Family Member being cared for;
- The dates or period of time for which leave is requested, including frequency and duration of leave;
- A description of the reason for qualifying exigency;
- Any available written documentation which supports the need for leave (e.g., a document confirming the service member's Rest and Recuperation leave; a document confirming an appointment with a third party, copy of a bill for services for handling legal or financial affairs, etc.);
- If leave is needed to meet with a third party (e.g., childcare, financial advisor, military event, etc.), the name, address and contact of the individual/organization and a written description of the meeting; and
- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

Family Leave to Care for a Family Member who is a Covered Service Member:

The Employer may require a certification from the Covered Service Member's health care provider that includes:

- The date on which the Covered Service Member's Serious Health Condition commenced;
- The probable duration of the Serious Health Condition;
- A statement that the Covered Employee is needed to care for the Family Member;
- An estimate of the amount of time the Covered Employee will be needed to care for the Covered Service Member;
- An attestation by the Covered Service Member's Health Care Provider and the Covered Individual that the Serious Health Condition is arises from the Covered Service Member's active duty in military service;
- A statement of the family relationship between the Covered Service Member and the Covered Employee ;
- Information from the Covered Employee that proves to the satisfaction of the Carrier the identity of the Family Member;
- The name and address of the Family Member being cared for; and
- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

The Employer must accept as an alternative form of certification an Invitational Travel Order (ITO), or Invitational Travel Authorization (ITA) issued by the Department of Defense to any family member to

join an injured or ill service member at his or her bedside. An ITO or an ITA constitutes automatic certification of military status and serious health condition.

- The Employer must accept the ITO or ITA as complete and sufficient certification of the need for leave, even if the Covered Employee's own name is not on it.
- The Employer may require proof of a covered family relationship between the Covered Employee and service member.
- If the Covered Employee needs leave beyond the expiration date of the ITO or ITA, the Carrier may require certification of status via normal procedures.

[Overpayments

If the plan includes a section regarding overpayments or subrogation, the Employer should state any provisions for recouping any overpayment of benefits.]

Claim Denials

The plan should indicate that if a claim is denied, the employee will be provided with, at a minimum:

1. The specific reason for the denial;
2. The specific law or section of the policy that caused the denial;
3. What documentation was relied on for the denial;
4. What documentation can be provided, if any, to reconsider the denial; and
5. Reference to the reconsideration and appeals processes and timeframes.

Reconsideration and Appeals

The plan must include a section notifying the Covered Employee that upon notice of a preliminary determination that the Employer will deny a claim or make another adverse determination, the Covered Employee may request reconsideration of the determination via the plan's internal process before the Covered Employee exercises the right to appeal a denial of the claim to Connecticut Department of Labor ("CT DOL"). The Employer's reconsideration process shall not require the Covered Employee to submit a request for reconsideration less than ten calendar days from the receipt of notice of its preliminary determination.

The Employer's reconsideration process must extend the ten calendar day filing period where an individual establishes to the satisfaction of the Employer that circumstances beyond the individual's control prevented the filing of a request for reconsideration within the prescribed filing period.

If the Employer denies the request for reconsideration, it must advise the Covered Employee in writing (or electronically, if the Covered Employee consents) that the Covered Employee may appeal to the CT DOL and identify how to contact the CT DOL.

The Employer shall be required to furnish the CT DOL all documentation requested by the CT DOL in accordance with CT DOL regulations.

Definitions

If it includes any of the following definitions, the plan shall include definitions that are no more restrictive than those required by the CT Paid Leave Act and policies:

From Conn. Gen. Stat. §§ 31-49e and 31-51kk:

- Base period
- Base Weekly Earnings
- Covered Employee
- Employ
- Family member
- Grandchild
- Grandparent
- Health care provider
- Parent
- Reduced leave schedule
- Serious health condition
- Sibling
- Son or daughter
- Spouse
- Subject earnings

From the CT Paid Leave Authority Glossary of Terms:

- Intermittent Leave (if distinguishing from Reduced Leave Schedule)
- Family Violence
- Incapacity
- Bonding Leave
- Caregiver Leave
- Armed Forces/Armed Services
- Health care provider (as applied to Armed Forces/Military Leave)
- Qualifying Exigency Leave
- Inpatient Care
- Continuing Treatment by Healthcare provider

EXHIBIT B

PLAIN LANGUAGE GUIDE
TEMPLATE

INSTRUCTIONS TO EMPLOYERS

Employers shall provide employees a written description of the proposed private plan in plain language (“plain language guide”) at least two weeks in advance of the vote. For purposes of this requirement, “plain language” shall be defined as reasonably capable of being understood by the recipients of the document.

The plain language guide shall include the information in the template below. An employer may add other information the employer wishes to provide to the employees about the plan, such as information about additional benefits and examples, provided such additional information is accurate, complete and non-coercive. Italicized text in the template indicates language that may be modified by the employer.

PLAIN LANGUAGE GUIDE

INTRODUCTION

An Act Concerning Paid Family and Medical Leave creates the Paid Family & Medical Leave Insurance Program to provide wage replacement benefits to eligible employees who need to take leave from work for reasons allowed under the Connecticut Family and Medical Leave Act (CT FMLA) or the family violence leave law, specifically:

- Because of their own serious health condition;
- To care for a family member with a serious health condition;
- To bond with a newborn baby, newly adopted child or newly placed foster child;
- To care for a family member who became ill or was injured in the course of duty while on active duty in the military;
- To address specific issues associated with a parent, spouse, or child’s active duty in the military
- To address specified needs associated with family violence.

The CT Paid Family & Medical Leave Insurance Program is run by the CT Paid Leave Authority and is funded by contributions of ½ of 1% of the wages of employees working in Connecticut. Starting on January 1, 2022, employees may apply to the CT Paid Leave Authority for wage replacement benefits.

As an alternative to the CT Paid Family & Medical Leave Insurance Program, an employer can apply to the CT Paid Leave Authority for permission to offer its employees a private plan.

For a private plan to be approved, it must provide its employees with all of the same rights, protections and benefits that are provided to employees under the Connecticut Paid Family & Medical Leave Insurance Program and comply with the requirements established by the Connecticut Paid Leave Authority. An employee’s rights under the CT FMLA and the family violence leave law are the same,

whether or not the employee receives income replacement benefits through the Paid Family & Medical Leave Insurance Program or through an employer-provided private plan.

In order to apply for permission to offer a private plan, the employer must show that a majority of its employees working Connecticut voted to approve the proposed private plan.

You are receiving this information because your employer wants to apply to the CT Paid Leave Authority for permission to offer its employees a private plan.

EXPLANATION OF THE PRIVATE PLAN

<p>What does this Plan do?</p>	<p>The plan is an <i>{Employer}</i>-sponsored benefit plan that provides compensation to eligible employees who take leave from work for a “qualifying reason,” as defined below. <i>{Employer}</i> is offering this Plan as an alternative to the publicly administered Connecticut Paid Family & Medical Leave Insurance Program. <i>{Employer}</i> certifies that this Plan gives its employees all of the same rights, protections and benefits provided to employees under the CT Paid Family & Medical Leave Insurance program. <i>{Employer also certifies that this Plan provides the following rights, protections or benefits that are greater than those required by CT law: }</i></p>
<p><i>{How is this Plan different from the previously approved Plan?}</i></p>	<p><i>{If an employer is seeking to make material changes to the Plan, it must explain those changes in this section of the Plain Language Guide as well as in connection with any other relevant Questions and Answers in other sections of the Guide}</i></p>
<p>Who is covered by this Plan?</p>	<p>All employees of <i>{Employer}</i> working in Connecticut are covered by this Plan</p> <ul style="list-style-type: none"> • The plan is not limited to certain segments of the <i>{Employer’s}</i> workforce <p>The plan covers future employees, not just employees who were working for <i>{Employer}</i> at the time of the vote.</p> <p>The plan covers former employees of <i>{Employer}</i> for up to 12 weeks from the date they separated from <i>{employer}</i> or until they are eligible for coverage from the CT Paid Leave Authority or another private plan approved by the CT Paid Leave Authority, whichever comes first</p> <ul style="list-style-type: none"> • Former employees are covered no matter why they left <i>{Employer}</i>.
<p>What are the benefits provided under this plan?</p>	<p>An eligible employee who is unable to work because of one of the “qualifying reasons” listed below, will receive income replacement benefits from the plan to replace the lost wages.</p>

	<p>If your wages are less than or equal to the Connecticut minimum wage multiplied by forty, the weekly compensation offered to you will be ninety-five per cent of your base weekly earnings. If you earn more than that amount, your weekly benefit rate also include 60% of the amount your base weekly earnings that exceeds the Connecticut minimum wage multiplied by forty.</p> <p>In all circumstances, the total weekly compensation shall not exceed an amount equal to sixty times the Connecticut minimum wage. <i>{The employer may provide illustrative examples.}</i></p> <p><i>{If the plan provides income replacement benefits at higher levels, the employer may modify this section accordingly. Under no circumstances can the employer provide lower income replacement benefits.}</i></p> <p><i>{If the employer does not provide any paid time off to its employees, it may omit the following language:}</i></p> <p><i>{The Employer requires or does not require}</i> you to use employer-provided accruals to supplement the income replacement benefits provided under this plan.</p> <ul style="list-style-type: none"> • The combined total of income replacement benefits and employer-provided accruals cannot exceed 100% of the employee’s wages. • You have the right to retain at least two weeks of their employer-provided accruals instead of using them during your leave.
<p>Does this plan provide me with job-protected leave if I need time away from work?</p>	<p>An employee’s rights to job protection under state and federal law are the same, whether the employee receives income replacement benefits through the Paid Family & Medical Leave Insurance Program or through an employer-provided private plan. While the plan itself does not provide job protection, in most cases, employees receiving income replacement benefits under this law will also be entitled to job protection under a separate law called the CT FMLA. For more information about the CT FMLA, please consult the Connecticut Department of Labor.</p>
<p>Who is an “eligible employee” to receive income replacement benefits under this Plan?</p>	<p><i>{The plan may waive this earnings requirement}</i> Any employee of {the employer} who is working in Connecticut and has earned at least \$2325 <i>{while working with the Employer}</i> in the highest earning quarter in the first 4 of the past 5 quarters is eligible to receive income replacement benefits from the plan</p>
<p>What are the “qualifying reasons” that I can receive income replacement</p>	<p>If you meet the eligibility requirements, you can receive income replacement benefits if you need to take time off from work for any of the following reasons:</p>

<p>benefits?</p>	<ul style="list-style-type: none"> • To care for yourself because of your own serious health condition, including pregnancy and organ or bone marrow donation • To care for a family member with a serious health condition <ul style="list-style-type: none"> ○ “Family member” means your parent, spouse, son, daughter, sibling, grandparent, grandchild, or individual related to the employee by blood or affinity whose close association the employee shows to be the equivalent of those family relationships. • To bond with a newborn child, newly adopted child or newly placed foster child • To address specific issues associated with a parent, spouse or child’s active duty in the military; • To care for a family member who became ill or was injured on active duty in the military; • To address specified needs associated with family violence.
<p>What is the maximum amount of time I can receive income replacement benefits?</p>	<p>The plan will provide up to 12 weeks of income replacement benefits within a 12-month period for the reasons listed above, with the following exceptions:</p> <ul style="list-style-type: none"> • The plan provides for 2 additional weeks of income replacement benefits for a serious health condition resulting in incapacitation that occurs during a pregnancy. • An employee can receive income replacement benefits for a maximum of 12 days out of the 12 weeks if the reason for leave is to address specific needs associated with family violence <p><i>{The intended method to calculate the 12 month period (e.g. rolling 12 month lookback, calendar year, etc) must be explained here.</i></p> <p><i>If the plan provides income replacement benefits for a longer period of time, the employer may modify this section accordingly. Under no circumstances can the employer provide income replacement benefits for a shorter period of time.}</i></p>
<p>Do I have to be out of work for a certain amount of time before I can receive income replacement benefits under the plan?</p>	<p>No. There is no waiting period. An eligible employee may receive income replacement benefits under this plan on the first day the employee is unable to work because of one of the “qualifying reasons” listed above.</p>
<p>Can I receive income replacement benefits for absences of less than a full week?</p>	<p>Yes. The plan provides income replacement benefits to employees who need to take time off from work for periods of time that are less than a full week.</p> <p>Benefits can be received on a pro-rated basis for absences that are less than a full day.</p>

	<p>Under the CT FMLA, there are rules regarding when an employee can take job-protected leave for less than a full week. This plan does not change those rules.</p>
<p>Do I have to pay for these benefits?</p>	<p><i>{The employer will need to answer this question based upon the plan it has retained however, the employee cannot be required to contribute more than 1/2 of 1% deducted from their wages up to the defined Social Security wage base (using the same calculations for determining total wages as are used to calculate FICA) and done so through payroll deduction, to coincide with each pay cycle.}</i></p> <p><i>Default response for employers following the statutory scheme: Employees contribute ½ of 1% up to the defined Social Security wage base to pay for this plan.</i></p>
<p>How will I apply for income replacement benefits?</p>	<p><i>{The employer will need to answer this question based upon the plan it has retained. At a minimum, the answer must include contact information for filing a claim or requesting information about the plan}</i></p>
<p>What is a “serious health condition”</p>	<p>For the purpose of determining if you are entitled to income replacement benefits because of your own serious health condition or to care for a family member with a serious health condition, “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves (A) inpatient care in a hospital, hospice, nursing home or residential medical care facility; or (B) continuing treatment, including outpatient treatment, by a health care provider.</p>
<p>Who counts as a health care provider</p>	<p>In order to qualify for income replacement benefits because you need to take time away from work because of your own serious health condition or to care for a family member with a serious health condition, you may need to provide medical documentation from a health care provider.</p> <p>The plan shall accept any of the following as a “health care provider”:</p> <ul style="list-style-type: none"> • A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; • A podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; • An advanced practice registered nurse, nurse practitioner, nurse

	<p>midwife or clinical social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice;</p> <ul style="list-style-type: none"> • A Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; • Any health care provider from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; • A health care provider as defined above who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or • Such other health care provider as the Labor Commissioner determines, performing within the scope of the authorized practice.
Can I have income taxes deducted from any benefits I receive?	Yes, if you request to have income taxes deducted from the income replacement benefits you receive, the amount specified shall be deducted and withheld in a manner consistent with state law.
My spouse and I work for the same employer. Will we have to share income replacement benefits?	No. Spouses working for the same employer are each entitled to compensation under this plan; they do not have to share the number of weeks of compensation. (It should be noted, however, that under the federal FMLA and state FMLA, employers may require spouses who work for the same employer to share their job-protected leave entitlements.)
What rights do I have if I am denied income replacement benefits?	You are entitled to request a reconsideration of any denial of benefits to <i>{the plan administrator}</i> If you are not satisfied with the results of that reconsideration or prefer to not request reconsideration, you may file an appeal with the Connecticut Department of Labor.
Who at my employer may I contact if I have questions about this plan?	<i>{The employer must complete this section based on its specific situation. The employer must provide employees with information on who to contact for more information and how to contact them.}</i>