

## Paid Leave Policy Form

The purpose of this notice is for the Connecticut Insurance Department (CID) to provide guidance as Carriers look to develop paid family and medical leave products that may be offered to employers to satisfy coverage standards established by the Paid Family and Medical Leave Insurance Authority (Authority) in order to meet the coverage requirements set forth in Conn. Gen. Stat. §§ 31-49e to 31-49t, inclusive. The CID has worked closely with the Authority to develop this guidance that will explain how to file products with the CID so that the Authority may be made aware that Carriers have satisfied Authority standards.

This Filing Guidance Notice updates and replaces Filing Guidance Notice issued on July 6, 2020 and should be used for filing paid family and medical leave policy forms.

### **Policy Form Filings**

The Authority will consider Carrier-issued policies as consistent with Authority standards provided that:

(1) Carriers use the policy template that is attached to this Notice;

AND

(2) Carriers submit their own policy forms that offer benefits that are at least as beneficial as the requirements found in Sections 31-49e through 31-49t of the Connecticut General Statutes.

Please note that submitted policies 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.

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 inappropriate to the purposes of the CT Paid Leave Act.

### **Form Filings**

Carriers are instructed to submit proposed Insurance forms to the CID via the System for Electronic Rate and Form Filing (SERFF), under H21 Health-Other type of insurance and the H21.000 Health-Other sub-type of insurance. The Life & Health Division's policy form review unit has developed an expedited review process for Carriers.

The filing must be made via SERFF and include:

1. A filing description field beginning with the phrase "Paid Family and Medical Leave Policy of Insurance";

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2. A completed checklist that highlights where each item of the standards listed in the attached policy form template is addressed within the submitted policy form; and
3. A signed certification that the submitted policy offers benefits equal to or better than the benefits described in sections 31-49e through 31-49t of the Connecticut General Statutes.

The Division's Policy Form Review Unit has developed an expedited review process for Carriers who wish to submit their Paid Family and Medical Leave policy forms.

### **Acknowledgement of Policies of Insurance Filings**

The CID will review all form filings to ensure filings are consistent with the requirements of this Notice. If no revisions or amendments are necessary, the CID will acknowledge the filing in SERFF and notify the Authority.

### **Amendments to Form Filings**

If there are any changes, amendments, or regulatory clarifications to the provisions of the CT Paid Leave Act and policies promulgated by the CT Paid Leave Authority (“the CT Paid Leave Act and policies”) that require amendments to the policy form after it has been acknowledged by the CID, carriers should submit such changes, amendments or clarifications in a new filing according to the above-noted SERFF filing instructions. Carriers shall indicate the affected policy forms, identified by form numbers, SERFF tracking numbers and dates on which the policies last were acknowledged.

### **Contact**

Any questions about this Filing Guidance Notice should be directed to [cid.lh@ct.gov](mailto:cid.lh@ct.gov)

**PAID FAMILY AND MEDICAL LEAVE (PFML) POLICY TEMPLATE**

**First Page**

The first page should include the following:

1. the type of coverage provided (e.g., "Connecticut Paid Family and Medical Leave Insurance")
2. the name and address of Insurance Carrier ("Carrier");
3. the Policyholder's name;
4. the term of the Policy Coverage, including the effective date and renewal date (if applicable) for the policy;
5. all renewal rights (e.g., whether the policy renewable or non-renewable, and whether renewal is guaranteed);
6. the signature of at least one officer of the Carrier;
7. a form number/form series/other identifier that indicates the contract version that is filed with CID, preferably at the bottom right or bottom left of the first page
8. a unique policy number for the employer
9. a notation indicating the version of the policy document in effect.

The first page may also include other information which may be helpful for the administration of the plan.

**Notices**

(Carriers are allowed to utilize modifications to the language in order to fit the carrier's policy format – e.g., replacing "Carrier" with the actual insurance company name 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 Policy 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 Policy 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 Policy provisions do not conform to the requirements of the CT Paid Leave Act and policies, then the Carrier is required to administer paid benefits consistent with the CT Paid Leave Act and policies. If there are any conflicts between the policy and the CT Paid Leave Act and policies, the CT Paid Leave Act and policies will be the controlling requirements, unless the policy provisions are more advantageous to the Covered Employee in which case the policy terms as to those more advantageous provisions shall 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 Policy 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.

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The first page should provide the following information concerning notification of the termination of a policy: If the Carrier elects to terminate a Policy for any reason other than non-payment of premium, it must provide at least 90 days' notice to the Employer and to the CT Paid Leave Authority prior to terminating a Policy. If a Carrier terminates for non-payment of premium, notice must be provided to the Employer and the CT Paid Leave Authority no greater than 3 business days following termination, unless the policy is reinstated prior to that date. If a Carrier elects to non-renew a Policy, it must provide at least 120 days' notice to the Employer and to CT Paid Leave Authority prior to non-renewing a Policy.

The following should be on the first or second page of the policy. The notice of termination or non-renewal should explain that if an Employer's Policy 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 Carrier's fully insured private plan) the Employer (a) may be required to remit contributions for its entire payroll retroactive to either the later of January 1, 2021 or the start date of the Employer's approved exemption; (b) may be 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) may be subject to additional interest and penalties established by the CT Paid Leave Authority for not maintaining a private plan.

The following notice should be on the first or second page of the policy. The notice should indicate that an employee covered under the policy 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 policy. The Policy should state that if the Employer requires contributions toward premiums from Covered Employees, this amount cannot exceed the maximum employee contribution percentage nor the Social Security contribution and benefit base 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 percentage 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 Authority adjusts the contribution rate.

### **Premiums**

This section should explain how the Employer will be able to determine the premium owed and the manner in which the Carrier will collect premiums from the Employer, including any grace periods in the payment of premiums.

Grace Periods should be no shorter than 31 days from the date premium is owed. Premium shall not be owed, and Grace Periods shall not begin, any earlier than the last day of the period of time for which premium provides coverage. Policies will remain in force during the Grace Period and can terminate at the end of the period indicated by the policy. Carriers will provide notice to the Employer and to the CT Paid Leave Authority no later than 3 business days following termination for non-payment, unless the

policy is reinstated prior to that date. Carriers may seek, and Employers may be held liable for, the payment of pro rata premium for the period of time that the coverage remained in force.

For coverage that is renewable, the policy should indicate the minimum period of time, prior to renewal, that the Carrier will provide notice of new premium rates to the Employer. Such time should be no less than 90 days prior to the renewal date. Such notice is not required if there is no change in premium rates at renewal.

### **Amendments to Policy**

If the Carrier allows amendments, this section should explain how and when there may be amendments to a Policy.

The Policyholder must be informed that before any material amendments, as defined by the CT Paid Leave Act and policies, may take effect, the Employer must present the proposed amended policy to its employees for a vote and must apply to the CT Paid Leave Authority for approval for such amended policy. Prior to the vote, the Carrier may provide the amendment in a sample or draft format, where the customer-specific information (e.g. employer name, policy number) is not complete and watermarks or other details establish that it is not yet part of the final policy. However, such draft must include the substantive language that is intended to be reflected in the policy.

The Policyholder must also be informed that if any amendments are not consistent with the CT Paid Leave Act and policies, the CT Paid Leave Authority may deny or may withdraw the approval of a private plan exemption. If an exemption is withdrawn, the Employer may be required to remit contributions for its entire payroll retroactive to either the later of January 1, 2021 or the start date of the Employer's approved exemption and the Employer may be required to repay to the Trust Fund the cost of total amount of benefits paid to Covered Employees who received benefits from the Trust Fund and that it may be subject to additional interest and penalties established by the CT Paid Leave Authority for not maintaining a private plan.

### **Termination and Reinstatement of Policy**

This section should explain when a Carrier can terminate a Policy and must state that the Employer will receive a notice explaining the reasons why the Policy is being terminated. This section should identify the Carrier's termination notification procedures and how the Carrier will provide notice of the final termination of the Policy. Carrier initiated termination during the first 12 months that coverage is in force shall only be allowed if the Employer fails to fulfill their obligations under the policy, including failure to pay premiums (subject to the Grace Period provision).

Carriers must give at least 90 days' notice prior to termination for any reason other than non-payment of premium, at least 120 days' notice prior to non-renewal, and 3 business days' notice following termination for non-payment of premiums. Such notice must be provided to both the Employer and the CT Paid Leave Authority.

If the Carrier allows for the reinstatement of a terminated Policy after the Employer was notified of termination, the Carrier should fully describe the applicable reinstatement provisions. The policy will

further state that the Carrier will notify the CT Paid Leave Authority if it agrees to reinstate the Policy and such reinstatement shall be without any gap in coverage.

**[Claims of Creditors**

The Policy may include an optional section stating that except when prohibited by Connecticut law, the insurance and other benefits under this Policy may be exempt from execution, garnishment, attachment, or other legal or equitable process, for the debts or liabilities of the Covered Employees or their beneficiaries.]

**Employer Obligations:**

**Records -Information to Be Furnished**

This section should remind the Employer that pursuant to the CT Paid Leave Act and policies, the Authority may require the Employer to keep a record of the essential details of the private insurance 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. This section may require that the Employer furnish the required information to the Carrier within a reasonable time period.

**Covered Employee Right to Review Policy**

The policy should indicate that Covered Employees shall either be given a copy of the policy or have the right to examine the policy upon request, at a reasonable time and location. Carriers may provide the policy to employees or specify for the Employer to do so.

**Effective Date of Insurance Coverage:**

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

*Effective Date for Employer*

The policy should indicate when coverage begins for the Employer.

*Employee Eligibility*

The policy should indicate that all employees who qualify as Covered Employees under the CT Paid Leave Act and policies will be covered as of the policy effective date. The policy 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.

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The policy should indicate when coverage ends for employees. The provision may indicate different results depending on the cause of coverage termination (e.g., the policy terminates or is not renewed, the policy transitions to another insurance carrier, or the termination of employment). However, the provision must provide coverage for at least as long as the minimum requirements of the CT Paid Leave Act and policies.

### **Benefit Provisions**

The Policy should describe the following items:

**Payment Period:** The maximum payment period under the Policy.

[Variable by Carrier, 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 policy 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 policy must provide the same method for determining the 12-month period for all leaves, with two exceptions allowed if the policy intends to mirror the measurement method indicated under such act and regulations:

- For military caregiver leaves, the policy may provide for a 12 month period measured forward from the first day of leave compensation;
- For leave related to family violence, the policy 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 Carrier 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 Carrier 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 carriers are intending to match the minimum requirements of CT Paid Leave Act and policies, it is recommended that Carriers do not attempt to specifically redefine all the exact reasons for leave in the policy, in order to avoid any unintended inconsistencies between the insurance policy and the CT Paid Leave Act and policies. Instead, it is preferable that policies incorporate by reference the location of the

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specific reasons are defined in the CT Paid Leave Act in policies. However, in order to aid in understanding, the policy may reference the broad categories of leave:

- Birth, adoption, or placement of child for foster care
- Serious Health Condition of Employee
- Care for Family Member's Serious Health Condition
- Employee serving as organ or bone marrow donor
- 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 family or medical leave, no longer has a qualifying reason for leave, or the person has completed the maximum payment period under the Policy.

The policy should state that termination of the policy will have no impact on eligibility for benefits under any approved leaves that began while policy was in force (whether block, intermittent, or reduced leaves), including any approved extensions for the same leave regardless of whether or not the policy was in force at time of extension. If a paid leave compensation continues beyond the termination date of the policy, the Carrier 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 Policy 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 Policy 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 Carrier must issue payments for such absences no less frequently than either every two weeks or semi-monthly. As Employers' policies may vary in order to provide benefits that are more generous than the CT Paid Leave Act and policies, the language of the Policy 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 policy 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. In the absence of explicit direction from the Employer, the Carrier may assume that there is such agreement upon receipt of the claim request from the Employee. When needed, the Carrier will validate that agreement has been reached with the Employer as a condition of paying benefits.



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- 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 policy must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The Carrier 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 Carrier requires this Health Care Provider certification, this must be stated in the Policy.
- 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 Policy must indicate 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 policy must provide that income replacement compensation may be provided on an intermittent or reduced leave schedule, if needed. The Carrier may require that it receive from the Health Care Provider a certification that the intermittent leave or reduced leave schedule is medically necessary as a condition of coverage. If the Carrier requires this Health Care Provider certification, this must be stated in the Policy.

### **Extension of Paid Leave Benefits:**

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

The Carrier may require the Covered Employee to provide notice to the Carrier 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 Carrier 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 Carrier 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.

The Carrier should notify the Employer of a request for an extension not more than five business days following its receipt of a completed request. The Carrier may provide to the Employer:

- The requested duration for the extension;
- Whether the newly requested leave is continuous, a reduced leave schedule, or an intermittent leave schedule; and

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- Any other information or record the Carrier deems relevant to verifying and otherwise processing the claim.

The Carrier may require that the Employer, within five business days from the date of the notice of the request for extension of leave, provide to the Carrier all relevant information or records requested by the Carrier. This information or records may include the following:

- Whether the Covered Employee will receive any paid leave benefits from the Employer during the requested extended leave period;
- Whether the Employer has approved or intends to approve the request for extension under the Family and Medical Leave Act or any other policy allowing for paid or unpaid leave; and
- Any other relevant information or records related to the request for extension, including but not limited to, evidence of a fraudulent claim.

### **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 Policy 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 another CT paid leave program on the date that a requested leave begins, the Covered Employee shall submit an application for benefits with their former Employer.

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- If an individual submitting an application for benefits identifies themselves as a former Employee, the Employer or Carrier 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**

[If the Policy requires 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 Carrier may require a Covered Employee or the Employer to provide verification of wages earned with the Employer. Absent good cause for a delay, such verification should be provided by the Employer no more than 5 business days from the date of the request.]

The policy is allowed to only utilize wages received from the Employer for the purposes of determining eligibility under the policy and the calculation of paid leave compensation. Alternatively, the policy may consider earnings from additional employers in order to determine eligibility or compensation amount, or both. The policy 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 paid time off that the employee may be receiving, that benefits may be denied if the Covered Employee is receiving unemployment insurance, workers’ compensation benefits or other state or federal program that provides wage replacement, 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 benefit calculation that would be paid to Covered Employees if participating in the state plan.

The Carrier shall explain in the Policy that the Employer will be required to submit all wage information to the Carrier, and how it will obtain this information if not readily available from the Employer.

### **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.

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The Carrier 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 carrier shall commence payment of leave benefits as soon as the carrier becomes aware that leave or eligibility begins.

The Carrier 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 Carrier 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. Carriers may not impose additional offsets /reductions but Carrier policies 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 policy 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 Carriers 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 policy and other employer-provided employment benefits cannot exceed such employee's regular rate of compensation;
2. Employees may not receive benefits under the policy 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 Policy 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.

[Carriers 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 Carrier and 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 Carrier shall clearly explain any claim provisions for paid family and/or medical leave. Policies may be disapproved if claim provisions are unclear or misleading.

The Carrier 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 Carrier may require the Covered Employee to provide a notice of an intent to file a claim to the Carrier 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 Carrier requires a notice period, the Carrier must allow an exception for circumstances beyond the reasonable control of a Covered Employee. In this case, the Carrier may require that the notice be given as soon as practicable. The Carrier may require that notices are sent to the Employer and 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 Carrier 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. In this case, the Carrier may contact the Employer within five days of a claim to collect information relevant to the claim.

The Carrier 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 Carrier shall notify the employee of the information necessary to complete the claim no later than 5 business days from the receipt of the incomplete or insufficient documentation.

### **Certifications and Documentation Requests**

This section will describe the permissible certifications and documentation that the Carrier or the Employer may request from Covered Employees. The Carrier may require that claims for benefits be supported by a certification evidencing that the leave is for a qualifying reason. The Carrier may not include certification or other proof requirements in the Policy that exceed those permitted to employers

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under section 31-51mm of the Connecticut General Statutes and regulations promulgated by the Connecticut Department of Labor relating to such section.

Neither the Employer nor Carrier may require the Covered Employee to submit additional evidence unless it is specifically authorized in the CT Paid Leave Act and policies.

The Carrier may describe the information that it will require, with the statement that if there is a conflict between the policy 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 Carrier may require submission of the following necessary information for the following types of paid family and medical leave. The Carrier 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 Carrier 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 Carrier 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

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- Other such information that is permitted to be obtained pursuant to Section 31-51 mm of the Connecticut General Statutes and related regulations.

The Carrier may also ask the Covered Employee for:

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

### **For Leave to bond with a newborn Child:**

The Carrier 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 Carrier 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 Carrier 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 Carrier 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 Carrier.

### **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 Carrier 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

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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 Carrier 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



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The Carrier 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 Carrier 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 Carrier 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.

### **Information That May Be Requested from the Employer:**

The Carrier may require that the Employer, within ten business days from the date of notice or the filing of a claim for benefits, provide to the Carrier all relevant information or records requested by the Carrier. The Carrier may consider failure by the Employer to provide such information as a failure to fulfill its obligations under the policy. If the Covered Employee consents, the Carrier may rely on the information provided by the Covered Employee in order to determine eligibility and amount of paid leave compensation.

This information or records may include the following:

- Whether the Covered Employee will receive any paid leave benefits from the Employer during the requested leave period;
- Wage information for the employee during the base period;
- Information about dates worked by employee, if relevant to claim administration;
- Previously approved claims for paid leave benefits received by the employee within the prior 12 months;
- Whether the Employer has approved or intends to approve the request for leave under the Family and Medical Leave Act or any other policy allowing for paid or unpaid leave; and
- Any other relevant information or records related to the request for leave, including but not limited to, evidence of a fraudulent claim.

### **Information that the Employer May Request from Carrier**

The policy should indicate that the Employer is allowed to request records of the duration of approved leaves taken by their employees during the prior 12 months. Employers are also entitled to any information that the Carrier possesses which is necessary in order for the Employer to comply with the CT Paid Leave Act and policies.

### **Overpayments**

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

### **Claim Denials**

The policy 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 appeal processes and timeframes.

### **Reconsideration and Appeals**

The Policy must include a section notifying the Covered Employee that if a paid family or medical leave claim is denied, the Covered Employee may request a reconsideration of the determination via the Carrier'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 reconsideration process should be available both for denial of leave entirely, or for another adverse determination, such as approval of a leave duration that is less than the requested duration or benefit payment amount that is disputed. The Carrier'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 determination.

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

If the reconsideration results in a denial of compensation, the Carrier must advise the Covered Employee in writing that the Covered Employee may appeal to the CT DOL and identify how to contact the CT DOL.

The private plan administrator and Employer shall be required to furnish the CT DOL with all application for benefits documentation that is retained by the private plan administrator or Employer within ten (10) business days of the request by the CT DOL relevant to an appeal of a denial of or dispute over family or medical leave benefits by the Employee.

### **Definitions**

If it includes any of the following definitions, the policy 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

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- 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