

| <b>Topics</b>                |
|------------------------------|
| FAMLI & Other Types of Leave |
| Administration               |
| Communications               |
| Local Governments            |
| TPA/Payroll                  |

|  | Question #                                | Question   | Answer   | Category                     |
|--|---|--|--|------------------------------|
|  | <b>▼ FAMLI &amp; Other Types of Leave</b> |  |  |                              |
|  | 1   | Hope you can answer this one!<br>How will FAMLI interact with or impact other income-protection insurance programs offered by employers like Short Term and Long Term disability insurance?  | If the need for leave qualifies for benefits under both FAMLI and a short- or long-term disability insurance policy, the employer may require the benefits to run concurrently. For more information, please see C.R.S. 8-13.3-510(1)(b). We will provide further detail of the FAMLI/STD/LTD intersection in the forthcoming Coordination of Benefits rules.  | FAMLI & Other Types of Leave |
|  | 2   | If we are not required to support FMLA do we have to support FAMLI?  | Yes, FAMLI is an obligation of most Colorado employers beginning January 1, 2023.  | FAMLI & Other Types of Leave |
|  | 3   | If we already provide STD and LTD disability that provide 60% and 50% of wages to a maximum benefit would that work instead of FAMLI?  | STD and LTD policies are unlikely to work as private plan substitutes for FAMLI because: (1) private plans must provide benefits equivalent to FAMLI in order to receive approval from the FAMLI Division; and (2) STD and LTD policies generally do not provide FAMLI-equivalent benefits, including safe leave for domestic violence and military exigency leave. However, if the need for leave qualifies for benefits under both FAMLI and a STD or LTD insurance policy, the employer may require the benefits to run concurrently. For more information, please see C.R.S. 8-13.3-510(1)(b). We will provide further detail of the FAMLI/STD/LTD intersection in the forthcoming Coordination of Benefits rules. | FAMLI & Other Types of Leave |
|  | 4   | Can the employer require sick hours to be taken prior to FAMLI?  | No, there is a prohibition against <i>requiring</i> an employee to exhaust or use any accrued sick, vacation, or other paid time off prior to or while receiving FAMLI benefits. (See CRS 8-13.3 -510) However, FAMLI is only partial wage replacement and employers and employees are allowed to explore mutually beneficial options for both making an employee whole.   | FAMLI & Other Types of Leave |
|  | 5   | Is FAMLI available for short term illness (1 week or less) or is it only for longer durations & what are those timeframes?   | There is no waiting period for FAMLI benefits past 2024. So yes, someone could use FAMLI for shorter leaves if needed. However Colorado also has paid sick days under HFWA which provides a better benefit as it is 100% wage replacement and does not require an application or significant documentation to access so if an employee has HFWA or other PTO available to them, they may naturally choose to reserve FAMLI for longer leave purposes.  | FAMLI & Other Types of Leave |
|  | 6   | what about being required to use PTO concurrently with FAMLI?  | There is a prohibition against requiring an employee to exhaust or use any accrued sick, vacation, or other paid time off prior to or while receiving FAMLI benefits. (See CRS 8-13.3 -510) However, FAMLI is only partial wage replacement and employers and employees are allowed to explore mutually beneficial options for both making an employee whole.  | FAMLI & Other Types of Leave |
|  | 7   | Can an employer paid plan be an employer sponsored plan and not by purchasing an insurance policy from a carrier? We plan to pay 100% for paid leave, but this will be an employer paid plan and not an insurance.   | Yes, the Division will require a surety bond and documentation the benefit you will offer is equivalent in every way to the FAMLI program, but self insurance is an option.  | FAMLI & Other Types of Leave |
|  | 8   | You mentioned we can't require EEs to use PTO first, if our FMLA policy requires our EEs to use their available PTO, are you saying we need to change our policy?  | Yes. FAMLI is a new paid leave benefit that will likely require internal policy changes to comply.   | FAMLI & Other Types of Leave |
|  | 9   | When will self insured plans be able to submit applications for private plans?   | Q4 2022  | FAMLI & Other Types of Leave |
|  | 10  | What is driving the decision behind no waiting period, minimum days, and allowing intermittent usage? Other states typically have short-term absences of less than a week covered by paid sick/safe leave mandates. This will be incredibly difficult for employers to administer and will likely result in employees receiving PTO/paid sick time for a one day or intermittent absence, only to then receive FAMLI benefits, causing overpayment of PTO/paid sick. Strongly recommend reconsidering the stance of no wait period or minimum days requirement to receive the benefit. | The statute passed by the voters does not include or explicitly allow a waiting period past 2023.  | FAMLI & Other Types of Leave |
|  | 11  | Will you create a matrix describing FAMLI, FMLA, ADA, Sick Leave (PTO), Work Comp, STD, LTD etc to help us visual learners?  | Yes, in 2023   | FAMLI & Other Types of Leave |
|  | 12  | Do you have to have both Paid Medical and Paid Family on one policy or can you separate them.  | The requirement is for the employer to offer benefits equal to FAMLI. How that is created internally is an independent decision, but is not an either or benefit, as employer offerings must be fully equivalent in benefits and premiums. All private plans must be reviewed and approved by the Division   | FAMLI & Other Types of Leave |

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| 13         | Can an employee collect FAMILI and STD/LTD at the same time?  | C.R.S. 8-13.3-510(1)(b) allows an employer to require FAMILI benefits to run concurrently with benefits under its STD/LTD policy. Therefore, if an employee works for an employer who exercises this right, that employee cannot collect FAMILI and STD/LTD at the same time.  | FAMILI & Other Types of Leave |
| 14         | A decision tree for all of the programs would be VERY helpful.  | After the rules on coordination of benefits are adopted, we will share more visually appealing graphics that appropriately capture other needs and wage replacement programs.  | FAMILI & Other Types of Leave |
| 15         | Can an employer plan be employer sponsored and not by purchasing short term disability insurance from a carrier? We plan to pay 100% for paid leave, but this will be an employer pay plan and not insurance.   | Yes. The statute allows for self insurance through the use of a surety bond to guarantee security.   | FAMILI & Other Types of Leave |
| 16         | I have read that there are exemptions, for example, an employer can substitute a short-term disability plan with this coverage but I don't find what the requirements are for the STD plan to substitute. I'd like to have more information regarding that topic. | STD and LTD policies are unlikely to work as private plan substitutes for FAMILI because: (1) private plans must provide benefits equivalent to FAMILI in order to receive approval from the FAMILI Division; and (2) STD and LTD policies generally do not provide FAMILI-equivalent benefits, including safe leave for domestic violence and military exigency leave. However, if the need for leave qualifies for benefits under both FAMILI and a short- or long-term disability insurance policy, the employer may require the benefits to run concurrently. For more information, please see C.R.S. 8-13.3-510(1)(b). We will provide further detail of the FAMILI/STD/LTD intersection in the forthcoming Coordination of Benefits rules. | FAMILI & Other Types of Leave |
| 17         | To be exempted, the employer's private plan must meet or exceed all requirements under FAMILI. Note that an STD policy would not satisfy that requirement as it would not cover family care situations  | True.  | FAMILI & Other Types of Leave |
| 18         | State law cannot expand the federal FMLA law so in those instances where FMLA and FAMILI can't run concurrently, this will entitle employees for an additional 12 weeks of leave - is this correct?   | <u>While this may be possible, employers have tools available to them to limit consecutive use in many circumstances.</u> <a href="https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/2019_03_14_1A_FMLA.pdf">https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/2019_03_14_1A_FMLA.pdf</a>  | FAMILI & Other Types of Leave |
| 19         | What if we provide paid sick, vacation, and sick bank leave for employees? Do we take those benefits on top of FAMILI?  | If the employer and the employee mutually agree to do so, you may "top off" FAMILI benefits with existing paid time off benefits   | FAMILI & Other Types of Leave |
| 20         | If FAMILI only covers up to a certain portion of the pay, can we make employees use their PTO to supplement while on leave?   | No, there is a prohibition against requiring an employee to exhaust or use any accrued sick, vacation, or other paid time off prior to or while receiving FAMILI benefits. (See CRS 8-13.3 -510) However, FAMILI is only partial wage replacement and employers and employees are allowed to explore mutually beneficial options for both making an employee whole.  | FAMILI & Other Types of Leave |
| 21         | If the employer offers a disability plan in addition to the PFML provision - are there any limitations to receiving a benefit from both (in particular if their income is greater than max benefit from the PFML provision)?                                      | If the need for leave qualifies for benefits under both FAMILI and a short- or long-term disability insurance policy, the employer may require the benefits to run concurrently. For more information, please see C.R.S. 8-13.3-510(1)(b). We will provide further detail of the FAMILI/STD/LTD intersection in the forthcoming Coordination of Benefits rules.  | FAMILI & Other Types of Leave |
| 22         | Can the opt out provision be applied to specific employees that are already covered under another plan or does it need to apply to our entire organization?   | In the context of private plan substitution, employers may cover only a portion of their workforce with one or more private plans and have the rest on the state plan. In the context of a local government opt out, the local government may choose to only partially opt out. See Local Governments Fact Sheet.  | FAMILI & Other Types of Leave |
| 23         | If you can't require sick or PTO to be used first, can you require to run concurrently?   | No.  | FAMILI & Other Types of Leave |
| 24         | When putting together rules about private plans, please include what happens for employers who switch from private to state plans mid year.   | Yes, thank you for the flag.   | FAMILI & Other Types of Leave |
| 25         | When FMLA, CO PFMLI and PTO are all in play, can we force the use of PTO concurrent with FMLA? NY took this approach for NY PFL   | See 8-13.3-510 (c). Colorado FAMILI has a direct prohibition against requiring other leave be exhausted prior to or while receiving FAMILI leave.  | FAMILI & Other Types of Leave |
| 26         | The FMLA supports forcing PTO concurrent with leave   | Yes, however FAMILI has a direct prohibition against this in statute.  | FAMILI & Other Types of Leave |
| 27         | If we offer 6 weeks of paid family leave, would FAMILI run after? Or this runs concurrently with any leave. Meaning we would have to modify our paid leave plan to opt-out as a local gov.  | FAMILI may run concurrently with any short term disability plan you offer and nothing prohibits an employer from offering a more generous benefit.   | FAMILI & Other Types of Leave |

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|-------------------------|--|--|------------------------------|
| 28                      | Will that be the same for "self-insured" plans?  | Self Insured plans will require a surety bond. Businesses wanting to self insure may also qualify for an exemption as long as they are equivalent to the FAMLI benefit in every way.   | FAMLI & Other Types of Leave |
| 29                      | you can't have a supplemental plan though and opt out if you are a private employer right  | A private employer who offers an equivalent private plan or self insurance may apply for an exemption from the FAMLI Division .  | FAMLI & Other Types of Leave |
| 30                      | But the Employer CAN require employees to use their pto under FMLA, right?   | CDLE does not provide guidance on how to administer FMLA.  | FAMLI & Other Types of Leave |
| 31                      | Can employers take deductions from FAMLI benefits to pay for the employee's portion of the medical, dental, etc. premium payments while the employee is on FAMLI?  | No. The FAMLI Division pays the employee directly for the time they are out of work. With a mutual agreement between employee and employer you may explore ways to satisfy the need for the employee to pay the employee share of healthcare premiums if they have chosen to "top off" the FAMLI benefit, or you may bill them for their share of the healthcare premium.  | FAMLI & Other Types of Leave |
| 32                      | So it runs concurrently with FMLA but an employee only needs to work 180 days to qualify? I'm confused.  | Not all employers qualify for FMLA, and a smaller amount of workers will qualify for the federal FMLA. Whereas FAMLI does not have a waiting period , employer size qualifier, or hours worked requirement before an employee is eligible. The FAMLI benefit is portable and people may qualify for FAMLI before they have been at an employer for 180 days. The 180 days applies to job protection for a FAMLI leave.   | FAMLI & Other Types of Leave |
| <b>▼ Administration</b> |  |  |                              |
| 33                      | I understand that organizations can opt out, and employers avoid paying their portion of FAMLI as long as they can provide a similar benefit for employees. Does that also automatically opt employees out of paying their portion of FAMLI? | If an employer is offering a private plan of equal benefit and has approval from the FAMLI Division to do so, the employer can pay any amount to the private plan and they may require the employee to cover part of the premium if they wish. However, the employee share of the premium cannot be higher than what the employee would have paid under the state benefit.   | Administration               |
| 34                      | Based on everything I've seen the PFML also outlines job protection is included once the employee reaches 180 days worked...is that accurate?  | Yes, while there is no waiting period for the benefit the job protection does not begin with the employer until the person has been employed for a minimum of 180 days.  | Administration               |
| 35                      | Can we go back to employees in other states? The answer shown didn't answer the question.  | FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.   | Administration               |
| 36                      | Can the employer require the person to notify the employer of their time off and comply with company policies about notice and medical documentation requirements?   | Employers will be notified when an employee applies for leave and will have an opportunity to provide the Division with information. If the need for leave is foreseeable, employees are required to give their employer 30 day advance notice. In most cases, employees will need a qualified healthcare provider to fill out a Certification of Serious Health Condition form when they apply for benefits.  | Administration               |
| 37                      | Can employees opt out?   | Generally, employees cannot opt out. However, where a local government has voted to opt out, and some of its employees decide to individually participate, those employees can later opt out. See Local Governments Fact Sheet.  | Administration               |
| 38                      | Any update on the timeline for the Supreme Court case?   | Oral arguments are scheduled for May 5, 2022.  | Administration               |
| 39                      | We have way over 9 employees and are Colorado based. We have one employee working remotely out of New York. We don't have an office in NY. Does this employee have to participate in FAMLI?  | It would depend on where the work was localized. The company in this scenario may already be following NY law and wage reporting under DOL guidance for telework as the service is localized to New York. <a href="https://oui.doleta.gov/dmstree/uipl/uipl2k4/uipl_2004a1.htm">https://oui.doleta.gov/dmstree/uipl/uipl2k4/uipl_2004a1.htm</a> . If the work is not localized to New York because Colorado is the base of operations then yes you would provide the benefit for your New York worker. | Administration               |
| 40                      | Can we clarify on if out of state employees contribute to this plan?   | FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.   | Administration               |
| 41                      | I am not clear on how you vote to opt out . Can small employers opt out?   | No, small employers cannot opt out unless they offer employees a private plan that offers equal or greater benefits than the state-run program. Local governments may vote opt out.  | Administration               |
| 42                      | What are the covered family relationships under FAMLI?   | <a href="#">The definition is located in the statute at 8-13.3-503 (11) C.R.S.</a>   | Administration               |
| 43                      | What is the filing requirements for Colorado's PFML?   | Additional information related to the filing process for all aspects of PFML will be released when available over the next 12 months.  | Administration               |
| 44                      | Please define a family member.   | <a href="#">The definition is located in the statute at 8-13.3-503 (11) C.R.S.</a>   | Administration               |

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|------------|--|--|----------------|
| 45         | In regards to the employee and employer premiums, did you say out of state employees won't be required to pay the premium? Is the employer still required to pay premiums for out of state employees?  | FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.   | Administration |
| 46         | How does it work for a non profit based in CO bu have remote employees located in other states. are those employees exempt to pay for FAMLI  | FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.   | Administration |
| 47         | If an employer has a private plan and don't withhold the FAMLI tax from an employee, what happens when they change employers? Will the employee have to meet the 180 day employment requirement with the new employer?   | The 180 days in this context is only related to the job protection benefit in FAMLI. Qualification for the paid leave benefit is based on wages. In this scenario if a worker filed a benefits claim, we would likely need to coordinate with previous employer or plan administrator to verify they had made at least \$2500 in wages over the base period and they were otherwise eligible.                            | Administration |
| 48         | Does the Colorado PFML protected the employees job?  | Yes, if the employee has worked for 180 days with that employer.   | Administration |
| 49         | Are all employers covered under FAMLI, regardless of number of employees?  | Employers with nine or fewer employees do not have to contribute to the program, but do need to remit their employees' share, and employers who offer their own paid leave program may apply for an exemption. Local government employers have additional options. For specifics on the required length of employment and amount of wages provided to be considered a covered employer, please see 8-13.3-503(8), C.R.S. | Administration |
| 50         | When will the process for submitting an application to use a private plan be available?  | late Fall 2022. The DOI will allow carriers to upload plans for review in November.  | Administration |
| 51         | Do out-of-state employees need to contribute to FAMLI insurance premiums?  | Not typically, but will depend on where the work is localized. FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.  | Administration |
| 52         | How Can you define Colorado Based. If they live in another state but the business in only in colorado?   | FAMLI is for workers who are located in Colorado. If wages are being reported to Colorado it does not matter where the worker lives. See <a href="https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html">https://wdr.doleta.gov/directives/attach/UIPL20-04_Attach1.html</a> , for user cases.   | Administration |
| 53         | Can you describe how a individual who has a claim will receive the benefit? Is it like unemployment?   | Yes, this may seem similar to UI in that the Division pays the claimant directly.  | Administration |
| 54         | Do employers have to start paying the tax if they submit a private plan on 1/1/2023?   | The premium liability starts 1 January 2023 and would toll until the private plan was accepted and a waiver/exemption is issued.   | Administration |
| 55         | Your slide states that job protection starts after 180 days of employment. Is that 180 hours at the individual employer level? Meaning, if I've worked in CO for several years but I just started a job with a new CO employer, am I not job protected with that employer until I hit 180 hours? | It is 180 days at a new employer.  | Administration |
| 56         | Who is included in the definition of family member?  | <a href="#">The definition is located in the statute at 8-13.3-503 (11) C.R.S.</a>   | Administration |
| 57         | What is the name of the statue?  | Paid Family and Medical Leave Insurance Act  | Administration |
| 58         | How often can the FAMLI premiums be raised?  | Rates are locked until 2025. After this date the Director anticipates making changes in the Fall for any changes that would likely take place beginning each calendar year.  | Administration |
| 59         | Once an employee applies through state portal for FAMLI, how long will it take for them to receive benefits?   | 14 days once the application is complete.  | Administration |
| 60         | I thought that FAMLI was not applicable to employers with fewer than 10 employees. Are you saying that those small business employees are still eligible for FAMLI benefits even though neither the employer nor the employee contribute to the program?   | Employees of employers under 10 contribute the employee share of the premium, and it is the obligation of the employer to collect their employees' premium amount and remit the premium to the Division once a quarter. Employees of small businesses of 9 and under can access full FAMLI benefits.   | Administration |
| 61         | November is cutting it really close to when contributions begin. How is an employer supposed to get a plan approved by Dec. 31 to avoid paying premiums to the state?  | Premiums will start January 1, 2023 and would need to be paid to either private plans or to the FAMLI Division.  | Administration |
| 62         | Given that the definition of "Covered Individual" in the statute does not refer to "employees" does that mean that former employees can receive a benefit if they meet the earnings requirements?  | Yes, in some limited circumstances.  | Administration |

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| 63         | when do employers need to submit a private plan?  | The Colorado Division of Insurance has issued this draft bulletin relative to the timing for carriers to be able to submit their proposed plans for review: <a href="https://content.govdelivery.com/accounts/CODORA/bulletins/31053de">https://content.govdelivery.com/accounts/CODORA/bulletins/31053de</a> . Employers may apply for a private plan exemption after they have completed registration later this Fall.  | Administration |
| 64         | Are all Colorado employees eligible? Including those working with Work Authorizations?  | FAMLI covers most Colorado employees. Employees subject to the federal Railroad Unemployment Insurance Act are not covered by FAMLI.  | Administration |
| 65         | How does the Employee file for FAMLI? Do they do it before they are gone? What is the timing? Assuming we refer the Employee to FAMLI Org.?           | Yes, by January 1 2024 , the employee can file online or through the contact center. If the need for leave is foreseeable they may file ahead of their first day absent from work. The FAMLI website will keep changing to fit the needs of the program. Ahead of benefits rolling out in 2024 the website will be further developed to serve as portal for benefits and premiums.  | Administration |
| 66         | Can you please explain how the \$2500 eligibility requirement interact with the 180 day eligibility requirement?                                      | The eligibility for someone to be able to take leave or become a covered individual is having made \$2,500 within the base period. Job protection is a separate benefit and does not apply for FAMLI until someone has been with the employer 180 days. Here an example: I leave my job of 3 years on Friday. I have made well over the \$ 2,500 over the last four quarters, but I start my new job on Monday as a lifeguard. On Wednesday I get into a non job related accident, fall off my roof and break my arm. I can't work as a lifeguard with a cast on and my new boss cannot afford to keep me on payroll. My new job can fire me, but I would still be eligible for the FAMLI benefit because I had met eligibility because my previous wages were high enough. | Administration |
| 67         | For Self employed, are they responsible for the full .9% or just the .045?  | .45%, the half share  | Administration |
| 68         | I'm sorry I think I missed the answer to this, does this only apply to a company if they have more than 9 employees living in Colorado?               | No. Businesses with nine or fewer employees do not have to contribute to the program, but do need to remit their employees' share (.45%) of premium payments on behalf of their employees each quarter.   | Administration |
| 69         | How does that interact with the 180 days eligibility?   | The 180 days is only related to the job protection benefit in FAMLI. Qualification for the paid leave benefit is based on wages. If a worker filed a benefits claim, we would likely need to coordinate with a previous employer or plan administrator to verify they had made at least \$2500 in wages over the base period and they were otherwise eligible. If the employee has worked with his or her current employer for less than 180 days, that employer is not required to offer them job protection.  | Administration |
| 70         | I heard something about going to the website to opt out. Can employers opt out? We have less than 50 employees.                                       | No, employers cannot opt out unless they are local governments or have an approved private plan that offers equal or greater benefit to employees.  | Administration |
| 71         | How will the medical plan premiums be paid if the employee is receiving pay from the state?   | While we will be creating rulemaking more specifically on this interaction at a later date, this is a practice employers likely already engage in with FMLA, when someone may be out on unpaid leave.   | Administration |
| 72         | Are most administrative rule finalized. If we started to implement would that be an issue?  | No, the administrative rules are in progress.   | Administration |
| 73         | Will employers be notified by the DOL if an employee has been approved for FAMLI leave?   | Yes. Employers will be notified within 5 days of an employee filing for leave, at a minimum and will be creating mechanisms to keep employers up to date to eligible/approved leave dates and anticipated return to work dates etc.   | Administration |
| 74         | Does the employer reserve the right to approve or reject the leave?   | No. The Division will review each claim for eligibility.  | Administration |
| 75         | can you use it for multiple events?   | Yes, however the amount of leave available within a year is capped at the 12 weeks/16 for gestational parents with complications. For an example, I have a minor surgery in January and am out for 2 weeks total, and then in June my son is in a car accident and I need to take care of him. I have 10 weeks total left in the benefit for the year to take care of him.  | Administration |
| 76         | Does the employer reserve the right to approve/disapprove the leave?  | No. The decision is determined by the Division based on documentation of need and covered individual status.  | Administration |
| 77         | How are you defining "intermittent" usage - is this in hour increments, lowest possible reportable time per employer system, or day-use requirements? | The lowest increment allowed is the same lowest increment you as an employer count and allow for time. So if I allow quarter hours in my scheduling of regular work, schedules then I would allow the same for leave.   | Administration |
| 78         | How often does this leave replenish for employees?  | Benefits are available on a rolling 12 month calendar year basis.   | Administration |

|                            | Question # | Question   | Answer  | Category          |
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|                            | 79         | Does the statute discuss union employers with a CBA?   | Yes, See 8-13.3-510 (2) C.R.S. CBAs also mentioned at 8-13.3-509(1)(b).   | Administration    |
|                            | 80         | I put in the Q&A but I did see something about the leave request needing to have accumulated 8 hours before being payable...is that 8 hours within a week or overall? If this is similar to WA PFML they have an 8 consecutive hour weekly requirement that must be met to be entitled any benefits in that week...just trying to understand if this is somewhat similar?  | FAMLI can be used intermittently and be taken in increments less than one full day at a time. For example: A worker could have leave approved for 2 hours a week to attend dialysis treatment, but the Division as the entity directly paying the worker would not cut a check until they had submitted documentation for at least 8 hours of lost wages. So we would not pay a claim until the 4th week of dialysis in that scenario. For more information see 8-13.3-505 (3) C.R.S.   | Administration    |
|                            | 81         | To make sure I'm clear, employees are able to use this for less than one full day? A lack of a waiting period will already be incredibly difficult for employers to administer; less than full day increments will be even more difficult. In other states, paid sick/safe leave is typically utilized for shorter term need for leave of less than 1 week with PFML picking up after that one week period             | Yes, See 8-13.3-505 (3) C.R.S   | Administration    |
|                            | 82         | How will the validity of a claim be determined? What is the claims process?  | While this is in progress there will be several steps taken to validate the claim and the information submitted to the Division, including notifying the employer within 5 days of a claim being filed.   | Administration    |
|                            | 83         | Scott, employees can only be responsible for 50% of the premium  | True.   | Administration    |
|                            | 84         | Can you please explain the following...is this on a weekly basis? (3) A covered individual may take intermittent leave in increments of either one hour or shorter periods if consistent with the increments the employer typically uses to measure employee leave, except that benefits are not payable until the covered individual accumulates at least eight hours of family and medical leave insurance benefits. | Yes, that is correct. That language is in the statute at 8-13.3-505 (3) C.R.S. Here is an example that may help explain it. An employee has kidney dialysis twice a week and is expected to need an accomodation for the foreseeable future. They have check in time at the dialysis center of 4:30 on Tuesday and at some time on Saturday. The employee is regularly scheduled to work until 5 PM each day and want to take leave to fill the hour of missed work each week. (Let's say travel time etc). The employee could take leave one hour a week on an intermittent leave schedule and after 8 hours used, maybe 8 weeks in this scenario, the Division would produce a check for the 8 hours. | Administration    |
| <b>▼ Communications</b>    |            |  |   |                   |
|                            | 85         | Will this slide deck be available to participants?   | Yes.  | Communications    |
|                            | 86         | Related - if pre-recorded, can you confirm that the Local Gov't session be available on an ongoing basis after April 29?   | Yes, the webinar will be available online.  | Communications    |
|                            | 87         | Will the slides from this webinar be available to participants?  | Yes   | Communications    |
|                            | 88         | Will CDLE create employee brochures for information?   | yes   | Communications    |
| <b>▼ Local Governments</b> |            |  |   |                   |
|                            | 89         | Some Home Rule charters specifically prohibit City Council from engaging in personnel issues. How will that be addressed "IF" they have to vote to participate or not.   | The FAMLI Act only allows local governments to opt out if they vote to do so. If there are challenges or impediments to holding such a vote, it is the local government's responsibility to navigate them   | Local Governments |
|                            | 90         | If a government entity opts out but an individual employee opts in, will the employee still have job protection at 180 days?   | No, they will not have job protection under FAMLI, but may have job protection under the federal FMLA.  | Local Governments |
|                            | 91         | If government employer opts out, when can individual employee opt in and begin to pay for and be eligible for FAMLI benefits?  | Anytime, after their employer has opted out.  | Local Governments |
|                            | 92         | If a local gov opts out but an employee voluntarily opts in is the local gov. required to honor to job protection and other provisions if the employee is not eligible for FMLA  | No.   | Local Governments |
|                            | 93         | In addition to the vote to opt out, does a Local Government have to provide a benefit of equal value?  | No. The only requirement local government has is to notify their employees and the state of their decision.   | Local Governments |
|                            | 94         | Local government - Does the employee pay the premium themselves if the employer opts out   | Yes. The employee would pay the 0.45% employee share. However, Local governments have the ability to assist employees by remitting the employee's share and wage data to the Division.  | Local Governments |
|                            | 95         | If the local government opts out, does the employee pay .45 or .9%?  | 0.45%   | Local Governments |

| Question # | Question  | Answer   | Category          |
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| 96         | If my municipality opts out, and an employee opts in how does that work? The administration of that sound very difficult.   | There are two established paths. First, if the local government opts out and does not participate at all, there is no requirement for the local government to engage. The employee would essentially operate as a self employed person under the program, and they can navigate the same system we are building for self-electing people who opt-in. The second path, where the local government opts out but wishes to support their employees in accessing the benefit is the same path created for small businesses of 9 people or less. We are building the tech and the systems to support each of these scenarios. | Local Governments |
| 97         | Can you repeat the municipality voting/Opting out for January? Wasn't clear...  | If a local government wishes to opt out of the FAML I program there a three steps: Local governments must vote (anytime), register with the FAML I system this fall (once it is built), and then notify the Division of their choice before January 1, 2023 to avoid paying premiums. If the local government wishes to fully participate in FAML I, they do not need to do anything apart from other employers.   | Local Governments |
| 98         | Can an employer opt out in later years? IE join now but choose to opt out later?  | Only Local Governments can vote to opt out in later years. The decision to opt out must be revisited every eight years.  | Local Governments |
| 99         | Just to make sure I am clear, if government can opt out, can government employees opt out?  | An employee of a local government who has opted out, can independently opt in and later decide to opt out under certain circumstances.   | Local Governments |
| 100        | So if a local government opts out and the employee opts in we don't have to allow them to be in, I thought we did?  | If they opt in individually, yes they are welcome in the program. An individual employee who opts-in or self elects coverage does not have job protection under the state FAML I program, however they may be covered under other laws including the federal FMLA in terms of anti-retaliation and/or job protections. We will be addressing this in future rulemaking.  | Local Governments |
| 101        | Lydia, I'm sorry I didn't understand your answer... if a local government opts out, they are opting the employee's as well? Meaning the employee can NOT opt in??   | Yes, they are opting all of the employees out of the FAML I program when they opt out. Individual employees of local governments do have the option to opt -in, and could do so just like a self employed person could gain benefits.  | Local Governments |
| 102        | Answers about voting to opt out are not on the website. I am not sure what you were saying about employers voting?  | Opting out is only possible for local government employers.  | Local Governments |
| 103        | By what date in 2022 does the Board of a Local Gov't Employer need to make opt-out decision/provide the required 180 notice to FAML I to avoid having to employer/employee contribution start on Jan.1, 2023? | The 180 day rule in 7 CCR 1107-2, is limited to changes in benefits and was designed to give employees notice and time to make arrangements when experiencing a change in coverage. Benefits do not start until 2024. This first year as there are no benefits available in 2023 is different. The first time the Division needs notice from local governments is later this Fall, when we invite them to be early registrants to the system so we can assist in uploading documentation of their votes if they decline coverage.  | Local Governments |
| 104        | Local government, you said they have different rules. We need an equal or better program?   | No. Local governments have the option to not participate at all if they vote not to.   | Local Governments |
| 105        | why is government not required to participate?  | There are special provisions within federal FMLA that offer unpaid to most local government employees already. The statute passed at the ballot with this opt out provision included, we are limited by the statute in this regard.  | Local Governments |
| 106        | Why are local governments allowed to opt out, lobbying, politics, or do local governments offer leave and other protections that typical business do not give?  | Yes, there are special provisions within federal FMLA that offer unpaid to most local government employees already. The statute passed at the ballot with this opt out provision included, we are limited by the statute in this regard.   | Local Governments |
| 107        | Local Gov - if we opt out, how is premium paid?   | The premium is paid by the employee. The local government can decide to help facilitate through a voluntary payroll deduction (similar to a planned giving program like United Way as an example).   | Local Governments |
| 108        | Are local governments required to hold the vote to opt out by July 1, 2022?   | No   | Local Governments |

|  | Question #           | Question   | Answer  | Category          |
|--|----------------------|--|---|-------------------|
|  | 109                  | Family and Medical Leave Insurance Program (FAMLI) - All local governments and political subdivisions of state government are included in FAMLI by default, but local governments and political subdivisions of state government may opt out and avoid the employer portion of premiums by a vote of a governing body. The local governments and political subdivisions of state government must give prior notice of the vote in the same manner it notices other public business, must provide special notice to employees, and must take testimony before voting. Declination takes effect in 180 days so employees can individually opt in to the FAMLI program at their own cost. A vote to opt out starting in 2023 should occur by July 1, 2022, to ensure compliance with the timing requirements. | The 180 day rule in 7 CCR 1107-2, is limited to changes in benefits and was designed to give employees notice and time to make arrangements when experiencing a change in coverage. Benefits do not start until 2024. This first year as there are no benefits available in 2023 is different. The first time the Division needs notice from local governments is later this Fall, when we invite them to be early registrants to the system so we can assist in uploading documentation of their votes if they decline coverage.   | Local Governments |
|  | 110                  | You skipped the question about why local government is able to opt out. I'd like to hear the answer.   | There are special provisions within federal FMLA that offer unpaid leave to most local government employees already. The statute passed at the ballot with this opt out provision included, we are limited by the statute in this regard.   | Local Governments |
|  | 111                  | If employees opt in (if their government employer opted out), does the employee handle all reporting a premium reporting? Or does the employer need to file reports for them?  | It is the local government employer's choice. The rules ask this to be clearly communicated to the employee, but this is one of three options for local governments.  | Local Governments |
|  | 112                  | If local governments develop a private plan to match or enhance the state can both the employer and employee opt?  | Local governments are not required to offer a PFML plan.  | Local Governments |
|  | 113                  | If a local government opts out but one of its employees self elects, does the weekly benefit the employee can receive decrease? Because this means the employer is not contributing a premium. thanks!   | No, the employee would receive full benefits. The benefit to the employee is based on overall wages, and not the premium amount paid.   | Local Governments |
|  | <b>▼ TPA/Payroll</b> |  |   |                   |
|  | 114                  | Is the 9 or more employee requirement based on number of employees in CO, or number of employees total in a multi-state organization?  | Employers will be responsible for remitting all FAMLI premiums to the Division. For employers whose complete employee total is 9 or less, they would remit the employee share or .45% of the premium. For Employers whose total number of employees is 10 or more then they are responsible for remitting both the employee share and an employer share of the premium. The total number of employees is business or company wide and it does not matter where, what state or other location, the balance of the employees work or reside in calculating the employer size for premiums.  | TPA/Payroll       |
|  | 115                  | What is your estimate of the number of staff hours required to administer this program?  | The process is still evolving, however care is being taken to streamline process as much as possible. For the premium payment side we anticipate requiring a few familiar steps. First update employee manuals and notices, Second register with FAMLI, Calculate the total number of employees across your company, decide how much of the premium if any you as an employer will contribute to the premium amount on behalf of your employees, Set up payroll deductions per pay period, then once a quarter upload wage information to the Division and pay the premium amount. Once your company is registered we expect the only premium interaction to be once a quarter. | TPA/Payroll       |
|  | 116                  | When we we receive reporting requirements for both single filers who will file directly and third party administrators who will file as bulk filers? Both Quarterly reports and W-2 box 14 reporting requirements if applicable?   | Fall 2023   | TPA/Payroll       |
|  | 117                  | Recognizing it can take 90+ days to set up payroll deductions with a TPA and/or need to get approvals from union workforces, what is the timeframe for publishing specifics for employee communications, and setting the final payroll contribution caps, especially if a person changes jobs.   | The premium liability begins (and employers can withhold an employee premium amount ) starting January 1st, 2023. The first time an employer will submit wages to the Division is April 1, 2023. The Division anticipates having guidance published this Fall/Q4 that coincides with tutorials regarding registering for the premium system.  | TPA/Payroll       |
|  | 118                  | (And will there be any pay statement reporting requirements - the need to show the payroll deduction on the employee's pay stub?)  | Yes, the wage and hours laws require all payroll deductions to appear on "pay stubs". If the employer is choosing to pay the entire premium amount and not collecting the employee share from the employee as a benefit, then they may report that to the employee in another communication.  | TPA/Payroll       |

| Question # | Question   | Answer  | Category    |
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| 119        | What does FAMI pay to the employee? Is it 60% of gross wages?  | The amount varies up to 90% of Average Weekly Wage (AWW), so that low wage earners have a higher replacement amount. The weekly maximum benefit is \$1,100.00.  | TPA/Payroll |
| 120        | There was something about the leave request needing to have accumulated 8 hours before being payable...is that 8 hours within a week or overall? If this is similar to WA PFML they have an 8 consecutive hour weekly requirement that must be met to be entitled any benefits in that week...just trying to understand if this is somewhat similar?   | Not exactly similar to Washington, if I am understanding the question. FAMI can be used intermittently and be taken in increments less than one full day at a time. For example: A worker could have leave approved for 2 hours a week to attend dialysis treatment, but the Division as the entity directly paying the worker would not cut a check until they had submitted documentation for at least 8 hours of lost wages. So we would not pay a claim until the 4th week of dialysis in that scenario. For more information see 8-13.3-505 (3) C.R.S. | TPA/Payroll |
| 121        | The Box 14 requirements would be for the payroll deductions from the employees pay. If employers move from one employer to another, they may overpay for the year since they can go over Social Security limit between the 2 employers. If applicable, will there be a mechanism in place for them to get their overpayment back? And would having Box 14 on w-2 show the employee premiums be used for that credit/refund from the state? | We are working on the exact mechanism, but yes we anticipate a refund process for people who pay in over the SS cap.  | TPA/Payroll |
| 122        | What are the reimbursement/benefit levels for employees taking FAMI? When will these be decided and do they phase out at higher income levels? What are those income levels?   | We have not yet developed a table with exact amounts, however the premise for this is in statute at 8-13.3-506 C.R. S.  | TPA/Payroll |
| 123        | (Is the same pay stub on the website and is it mandated to have it on there?)  | Under existing Colorado Wage and Hour laws all deductions from pay must be outlined on pay stubs  | TPA/Payroll |
| 124        | Can you explain what retirement benefits have to be continued? If you have a 401k and employer contributions are employee match only, do you have to make contributions if the employee is not contributing?   | No, the statute only requires an employer to contribute their regular share of health insurance premiums. We do not at this time anticipate the Division would make rules specific to retirement benefits.  | TPA/Payroll |
| 125        | We have a retirement plan where the employees are required to contribute 4% of their wages to. If we have no wages in our system for a payroll because the employee is being paid through the state, are we required to collect their contribution to this retirement plan from them?  | The statute only requires an employer to contribute their regular share of health insurance premiums. We do not at this time anticipate the Division would make rules specific to retirement benefits.  | TPA/Payroll |
| 126        | When do you anticipate that we will have the reporting requirements for this program - including quarterly reporting requirements for single employers who will file directly and third party administrators who will file in bulk?  | These should be available Q3 2022   | TPA/Payroll |
| 127        | Can you clarify on contributions that when an employer opts into a private plan that the employer can still collect employee contributions, for both self-insured and fully insured, to support the program once it goes live?   | Private plans can be either a self-insured model where an employer provides a surety bond, or when an employer contracts with a private third party insurance carrier. For both of these scenarios the employer can collect premiums from employees, but no more than the employee would be liable for under the state plan.  | TPA/Payroll |
| 128        | What portion of the benefit is taxable to the employee, and how is this tracked? If taxable, who pays the FICA tax?  | The IRS has not issued guidance on PFML benefit payments. The Division anticipates being able to issue 1099 forms and encourage individuals to consult their own tax professionals.   | TPA/Payroll |
| 129        | What about reporting on the PFML? Has W2 reporting been decided. I may have missed this earlier.   | The Division anticipates employers may decide under the advice of their individual tax professionals to utilize box 14, similar to the approach in other states. However it is important to note the IRS has not issued guidance.   | TPA/Payroll |
| 130        | You will be using the social security limit is that correct?   | Yes   | TPA/Payroll |
| 131        | I understand the current RATE for premiums - yet is there a contribution MAXIMUM (dollar amount) each year?  | Yes, the Social Security cap.   | TPA/Payroll |
| 132        | Is there a Cap on what Employer and Employee pay?  | Yes, the SS cap   | TPA/Payroll |
| 133        | The Box 14 requirements would be for the payroll deductions from the employees pay. If employers move from one employer to another, they may overpay for the year since they can go over Social Security limit between the 2 employers. If applicable, will there be a mechanism in place for them to get their overpayment back? And would having Box 14 on w-2 show the employee premiums be used for that credit/refund from the state? | Yes   | TPA/Payroll |
| 134        | (also - just checking again about pay statement requirements - will any display requirements be added for the employee premium amounts to show?)   | Under existing Colorado Wage and Hour laws all deductions from pay must be outlined on pay stubs. See 8-4-103 (4) C.R.S for more information  | TPA/Payroll |

|  | Question # | Question  | Answer  | Category    |
|--|------------|---|---|-------------|
|  | 135        | Is there a Cap on what Employer and Employee have to pay into the Fund?   | Yes the premiums are not required for employees wages above the contribution and benefit base limit established annually by the federal social security administration.   | TPA/Payroll |
|  | 136        | I know you guys working towards mimicking UI for reporting, just wanted to know if you guys have a timeline of when those guidelines will be made available?  | We anticipate sharing guidance this Fall that will coincide with the completed FAMILI premiums system.  | TPA/Payroll |
|  | 137        | Is this pay stub example a mandatory requirement or just a suggestion? In other words, must employers display the premiums on the pay stub? Will pay statement requirements for CO be updated to require the premium deduction to show on the pay stub? | Under existing Colorado Wage and Hour laws all deductions from pay must be outlined on pay stubs. See 8-4-103 (4) C.R.S for more information  | TPA/Payroll |
|  | 138        | how can we collect those premiums if we are not providing their paycheck?   | The federal FMLA already allows for this, and many times employers will come to an agreement with their employee to either bill the employee, asking them to write a check to the employer, or if the employer and employee agree they may take the premium amount from an accrued bank of time if they are going to "top off" the partial wage replacement provided by FAMILI.   | TPA/Payroll |
|  | 139        | what about 403b or 401k participation during this time?   | This is up to the employer's personnel policy. The statute only requires employers to keep healthcare insurance in place during leave, and is silent on other benefits. See 8-13.3 -509 C.R.S.  | TPA/Payroll |
|  | 140        | What if the employee doesn't pay their portion? Can they be canceled?   | Of the health insurance etc while on leave? Yes , if that is the question. See 8-13.3-509 C.R.S.  | TPA/Payroll |
|  | 141        | Along the lines of PEOs, are the headcounts and employer contribution amounts clearly defined as based on WORKSITE employer (employer of record) so that other employers under the PEO are not improperly offsetting the contribution requirements?     | This is a great flag, and we believe the current rules regarding localization of services under DOL help support the conversation. We will also rely upon the employer to submit wage data to the division based on who is working for that employer under their FEIN. To the point where employees can work under the PEO's FEIN this is an agreement between the employer and the PEO as to who is submitting premiums and wage tax information to state and federal. | TPA/Payroll |