

Paid Leave Rulemaking Listening Session – Topic Guide

Minnesota's [Paid Leave law](#) and [statute](#) to implement the Family and Medical Benefit Insurance Program (“Paid Leave”) will help covered individuals take time off when they need to care for themselves or their loved ones. The Minnesota Legislature passed Paid Leave into law in 2023 and charged the Minnesota Department of Employment and Economic Development (DEED) with administering the Paid Leave program. Additionally, DEED has authority under this law to make rules necessary to carry out the Paid Leave program. Rulemaking in Minnesota follows procedures outlined in the Minnesota Administrative Procedure Act in Minn. Stat. Chap. 14.

During this listening session, we welcome your written or verbal comments on the topics within this discussion guide.

We also welcome your comments through the Office of Administrative Hearings website: [Office of Administrative Hearings Comments On Rules \(granicusideas.com\)](#). Comments received are public and will be available for review at the OAH Rulemaking eComments website.

Health Care Providers

[Minnesota Statutes, section 268B.01, subdivision 24](#) defines the term “health care provider.”

Draft rule to expand the health care provider definition

Applicants seeking paid time off under the Paid Leave program for their own serious health condition, pregnancy, or birth of a child, or to care for a family member with a serious health condition, must provide DEED with a certification of the health condition signed by a health care provider, as required by Minnesota Statutes, section 268B.06. Applicants seeking paid time off to bond with a child following the child’s placement for adoption or foster care may also need to provide a certification from a health care provider.

A “health care provider” who can provide the certification is defined in Minnesota Statutes, section 268B.01, subdivision 24, as:

(1) an individual who is licensed, certified, or otherwise authorized under law to practice in the individual's scope of practice as a physician; physician assistant; podiatrist; osteopath; surgeon; advanced practice registered nurse; an alcohol and drug counselor as defined in section 148F.01, subdivision 5; or a mental health professional as defined in section 245I.02, subdivision 27; or

(2) any other individual determined by the commissioner by rule, in accordance with the rulemaking procedures in the Administrative Procedure Act, to be capable of providing health care services.

Below is a draft rule to expand “health care provider” as:

- A. A doctor of medicine or osteopathy authorized to practice medicine or surgery in the state in which they practice;
- B. A dentist, optometrist, or chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state and performing within the scope of their practice; and
- C. A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement.

For discussion:

- Is there value in aligning Minnesota’s definition of health care providers with the FMLA definition?
- What additional providers should DEED consider for inclusion in the definition?
- Is there feedback, questions, or concerns on this topic?

Draft rule to provide guidance for certifications by health care providers outside Minnesota

When a health care provider operating outside of Minnesota is providing certification of a health condition for an applicant to the Paid Leave program, the Paid Leave program may need additional information to verify the health care provider’s identity and credentials, or ensure the identity and credential information provided in the certification is sufficient to approve or deny the application.

Below are draft rules to provide guidance for certifications by providers operating outside of Minnesota:

- A. Health care providers operating outside of Minnesota: Providers operating outside of the state of Minnesota may complete a certification on behalf of an applicant applying for Paid Leave. The department may require additional information from the applicant or health care provider to verify licensure of the health care provider completing the certification.

For discussion:

- What should DEED consider regarding requirements for certifications from health care providers outside of Minnesota?
- What additional feedback, questions, or concerns do you have on this topic?

Serious health conditions and other qualifying events

Minnesota Statutes, section 268B.06, subdivision 2, says that to qualify for Paid Leave, individuals must experience an event that lasts at least seven calendar days.

For discussion:

- What should DEED consider if DEED defines a list of prospectively presumed seven-day qualifying events?
- What concerns would you have about a rule setting out a list like this?
- Are there comparable lists in existence that DEED should explore?
- Is there additional feedback, questions, or concerns on this topic?