

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 adopt 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.

Employment Protections

Potential rule to clarify employment protections

[Minnesota Statutes section 268B.09](#) and its associated amendments in the [Paid Leave law](#), includes employment protections for employees requesting or obtaining benefits or leave.

For discussion:

- What should DEED consider if DEED makes rules to clarify employment protections for applicants and covered individuals exercising their rights under the Paid Leave law?
- What feedback, questions, or concerns do you have on this topic?

Benefit Payments

Draft rule on payment schedules

Below is the draft rule on payment schedules:

Benefit payments will be made as follows.

- A. **Continuous Leave Payments:** Continuous leave benefits will be paid weekly.
 - i. **Prospective Leave Payments:** For applications submitted and approved prior to the effective date of leave, the department will begin processing the first payment seven calendar days after the effective date of leave.
 - ii. **Retrospective Leave Payments:** For applications submitted or approved after the effective date of leave, the department will begin processing the first payment either seven days after the effective date of leave or the next business day following approval of the application; whichever is later.
- B. **Intermittent Leave Payments:** Intermittent leave can be paid up to once weekly.
 - i. To seek payment for an intermittent leave, an applicant must report the dates and times of absences related to the leave to the department.

Draft rule on backdating an application

Below is the draft rule on backdating an application:

If an applicant is unable to submit an application in a timely manner due to incapacitation or good cause, the department may backdate the application to the effective date of leave.

- A. The applicant must provide all necessary information and documentation required by the department to determine that good cause or incapacitation prevented the timely submission of the application. The documentation must show the factors that prevented the applicant from applying for benefits when the qualifying event occurred. This documentation may include information such as medical certification from a health care provider or evidence of a natural disaster.
- B. An applicant who seeks to backdate an application or weekly payment must file for benefits during the first week in which the factors that constitute good cause no longer exist.

For discussion:

- What other guidance on backdating claims should DEED consider?
- What feedback, questions, or concerns do you have on this topic?

Draft rules on payment of benefits following the death of a covered individual or family member

Below is the draft rule on payment of benefits following the death of a covered individual or family member:

- A. Paid Leave benefits shall cease upon the death of a covered individual. Any earned but unpaid Paid Leave benefits shall be payable to the estate of the covered individual.
- B. Paid Leave benefits shall cease upon the death of the person whom the covered individual is taking leave to care for or with whom they are taking leave to bond.
- C. The effective date of the cessation of compensation under sections (A) or (B) shall be the first full day during which the individual is no longer alive.

- D. Upon request of the department, covered individuals, the covered individual's estate, or its representatives may need to provide the department with the death certificate, showing the date and time of death.

For discussion:

- What should DEED consider on death of a covered individual or family member?
- What feedback, questions, or concerns do you have on this topic?