

[COMPANY NAME]

[COMPANY FEIN]

[ABC COMPANY]

**COLORADO FAMILY AND MEDICAL LEAVE INSURANCE
SELF-INSURED PRIVATE PLAN FOR COLORADO EMPLOYEES**

Effective _____, 202__

Expiration _____, 20__

[COMPANY NAME]

**COLORADO FAMILY AND MEDICAL LEAVE INSURANCE
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[COMPANY NAME]

COLORADO FAMILY AND MEDICAL LEAVE INSURANCE

SELF-INSURED PRIVATE PLAN FOR COLORADO EMPLOYEES

II. INTRODUCTION

- A. This Plan is effective as of [Date] and expires [Date].
- B. This Plan is intended to comply fully and completely with the Colorado Paid Family and Medical Leave Insurance Act (“FAMLI Act”), C.R.S. § 8-13.3-501 *et seq.*, and its implementing Regulations including 7 CCR 1107-5 (collectively, “the Act”), and will be interpreted and applied consistent with the requirements of the Act. If any provision of this Plan conflicts with or violates the Act, the provisions of the Act will control, and this Plan will be interpreted and applied to comply with the Act.
- C. The Division may withdraw approval of this Plan for the reasons provided in C.R.S. § 8-13.3-521(3).
- D. The Benefits under this Plan are available to all Covered Individuals employed by the Company localized in Colorado as defined by the Act.
- E. For more information about the Colorado Paid Family and Medical Leave Insurance Act, see the website at [Home | Family and Medical Leave Insurance \(colorado.gov\)](https://colorado.gov/famli).

III. DEFINITIONS

- A. “Act” means the Colorado Paid Family and Medical Leave Insurance Act (“FAMLI Act”), C.R.S. § 8-13.3-501 *et seq.*, and its implementing Regulations.
- B. “Private Plan Administrator” means [Company Name or designated employee] who has been engaged by the Company to administer this Plan and Benefits for Covered Individuals.
- C. “Adverse Determination” means either a complete denial of Benefits, or a determination to award a Covered Individual Benefits in a frequency or duration less than the Covered Individual requested, or a determination to award a wage replacement amount less than what the Covered Individual believes they are entitled to under the Act. 7 CCR 1107-5.2.4.
- D. “Application Year” means the 12-month period beginning on the first day of the Calendar Week in which a Covered Individual is filed for Plan Benefits by the Administrator. C.R.S. § 8-13.3-503(1). The 12-month period is measured backward from the date an employee uses Plan Benefits. Under this “rolling” 12-month period, each time an

employee uses Paid Benefits, the remaining leave entitlement would be the balance which has not been used during the immediately preceding 12 months. 7 CCR 1107-3.2.2.

- E. "Average Weekly Wage" means one-thirteenth of the Wages paid during the quarter of the Claimant's Base Period or Alternative Base Period in which the total Wages were highest. C.R.S. § 8-13.3-503(2).
- F. "Alternative Base Period," as defined in C.R.S. § 8-70-103(1.5), means the last four completed calendar quarters immediately preceding the Benefit Year. C.R.S. § 8-13.3-503(2).
- G. "Base Period", as defined in C.R.S. § 8-70-103(2), means the first four of the last five completed calendar quarters immediately preceding the first day of the Claimant's Benefit Year. C.R.S. § 8-13.3-503(2).
- H. "Benefits," or "Plan Benefits," means the FAMLI benefits provided under the terms of this Plan. C.R.S. § 8-13.3-503(9).
- I. "Benefit Year" means Application Year. 7 CCR 1107-3.2.4.
- J. "Business Days" means Monday, Tuesday, Wednesday, Thursday, and Friday, and excludes any Colorado state holidays, as listed in C.R.S. § 24-11-101. 7 CCR 1107-3.2.5.
- K. "Calendar Week" means any period of seven consecutive days beginning with the first day for which the Covered Individual receives Plan Benefits. 7 CCR 1107-3.2.6.
- L. "Claimant" means a person who has filed a claim for Plan Benefits, regardless of whether the person is a Covered Individual pursuant to C.R.S. § 8-13.3-503(3). 7 CCR 1107-3.2.7.
- M. "Company" means [Company Name].
- N. "Company-Provided Paid Leave" means vacation leave, paid sick leave, paid personal leave, paid parental leave, paid leave under C.R.S. 24-34-402.7, and any other Company-paid time off, except that Company-provided paid leave does not include benefits under a commercial short-term or long-term disability policy. 7 CCR 1107-4.2.2
- O. "Continuous Leave" means one non-recurring uninterrupted period of leave. 7 CCR 1107-3.2.8.
- P. "Covered Individual" means any person who **[Company must decide whether to keep this language or remove it (the Company may choose to provide coverage to all employees in Colorado regardless of wages earned): earned at least \$2,500 in Wages subject to premiums from any single or combination of employers during the person's Base Period or Alternative Base Period and]** has submitted an application for Plan Benefits. C.R.S. § 8-13.3-503(3). 7 CCR 1107-3.4.3.

- Q. "Days" means calendar days unless otherwise specified as a business day. *7 CCR 1107-3.2.9.*
- R. "Designated Representative" means a person or entity legally authorized to make decisions regarding the Plan Benefits on behalf of a Covered Individual, as more thoroughly defined in *7 CCR 1107-3.2.10.*
- S. "Division" means the Division of Family and Medical Leave Insurance created in C.R.S. § 8-13.3-508. *C.R.S. § 8-13.3-503(5).*
- T. "Domestic Violence" means any conduct that constitutes "domestic violence" as set forth in C.R.S. § 18-6-800.3(1) or C.R.S. § 14-10-124(1.3)(a) or "domestic abuse" as set forth in C.R.S. § 13-14-101(2). *C.R.S. § 8-13.3-503(6).*
- U. "Employee" means any individual performing labor or services for the benefit of the Company. *C.R.S. § 8-13.3-503(7).*
- V. "Family Member" means:
1. Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the Covered Individual stands "in loco parentis," or a person to whom the Covered Individual stood "in loco parentis" when the person was a minor;
 2. A biological, adoptive or foster parent, stepparent or legal guardian of a Covered Individual or Covered Individual's spouse or domestic partner or a person who stood "in loco parentis" when the Covered Individual or Covered Individual's spouse or domestic partner was a minor child;
 3. A person to whom the Covered Individual is legally married under the laws of any state, or a domestic partner of a Covered Individual as defined in C.R.S. § 24-50-603(6.5);
 4. A grandparent, grandchild or sibling (whether a biological, foster, adoptive or step relationship) of the Covered Individual or Covered Individual's spouse or domestic partner; or
 5. As shown by the Covered Individual, any other individual with whom the Covered Individual has a significant personal bond that is or is like a family relationship, regardless of biological or legal relationship, based on the totality of the circumstances surrounding the relationship as more fully set forth in *7 CCR 1107-3.4.6.*
- C.R.S. § 8-13.3-503(11).*

- W. "Health care benefits" as used at C.R.S. 8-13.3-509(2) means benefits provided to an employee by an employer related to the improvement or maintenance of the employee's health. 7 CCR 1107-4.2.3
- X. "In Loco Parentis" means a relationship in which a person puts himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child and as further defined in 7 CCR 1107-3.2.13.
- Y. "Intermittent Leave" means leave taken in separate blocks of time due to a single qualifying reason. 7 CCR 1107-3.2.14.
- Z. "Health Care Provider" means any person licensed, certified, or registered under federal or Colorado law to provide medical or emergency services, including, but not limited to, physicians, doctors, nurses, emergency room personnel, and midwives. C.R.S. § 8-13.3-503(13).
- AA. "Premium" means the money payments required pursuant to C.R.S. § 8-13.3-507 to finance the Plan Benefits and administer the Act. 7 CCR 1107-1.4.
- BB. "Qualifying Exigency Leave" means leave based on a need arising out of a Covered Individual's Family Member's active duty service or notice of an impending call or order to active duty in the armed forces, including, but not limited to, providing for the care or other needs of the military member's child or other Family Member, making financial or legal arrangements for the military member, attending counseling, attending military events or ceremonies, spending time with the military member during a rest and recuperation leave or following return from deployment, or making arrangements following the death of the military member. C.R.S. § 8-13.3-503(16).
- CC. "Reduced Leave Schedule" means a leave schedule that reduces a Covered Individual's usual number of working hours per workweek, or hours per workday. A Reduced Leave Schedule is a change in the Covered Individual's schedule for a period of time, normally from full-time to part-time. 7 CCR 1107-3.2.15.
- DD. "Regular Work Schedule" means the days of the week and the number of hours typically worked by the Covered Individual with the Company as of the first date of the leave. 7 CCR 1107-3.2.16.
- EE. "Safe Leave" means any leave because the Covered Individual or the Covered Individual's family member is the victim of domestic violence, the victim of stalking, or the victim of sexual assault or abuse. Safe Leave applies if the Covered Individual is using the leave from work to protect the Covered Individual or the Covered Individual's Family Member by:
1. Seeking a civil protection order to prevent domestic violence pursuant to C.R.S. §§ 13-14-104.5, 13-14-106, or 13-14-108;

2. Obtaining medical care or mental health counseling or both for the Covered Individual or the Covered Individual's children to address physical or psychological injuries resulting from the act of domestic violence, stalking, or sexual assault or abuse;
3. Making the Covered Individual's home secure from the perpetrator of the act of domestic violence, stalking, or sexual assault or abuse, or seeking new housing to escape said perpetrator; or
4. Seeking legal assistance to address issues arising from the act of domestic violence, stalking, or sexual assault or abuse, or attending and preparing for court-related proceedings arising from said act or crime.

C.R.S. § 8-13.3-503(18).

FF. "Serious Health Condition" is an illness, injury, impairment, pregnancy, recovery from childbirth, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider. *C.R.S. § 8-13.3-503(19).*

GG. "Sexual Assault or Abuse" means any offense as described in C.R.S. § 16-11.7-102(3), or sexual assault, as described in C.R.S. § 18-3-402, committed by any person against another person regardless of the relationship between the actor and the victim. *C.R.S. § 8-13.3-503(20).*

HH. "Stalking" means any act as described in C.R.S. § 18-3-602. *C.R.S. § 8-13.3-503(21).*

II. "State Average Weekly Wage" means the State Average Weekly Wage determined in accordance with C.R.S. § 8-47-106. *C.R.S. § 8-13.3-503(22).*

JJ. "Wages" means all amounts paid by an Employer for personal services, including tips, as more fully set forth in C.R.S. § 8-70-141, but excludes any amounts paid by an Employer for sickness or accident disability, simplified pensions, cafeteria plans, etc. as more fully set forth in C.R.S. § 8-70-142. *7 CCR 1107-1.4.*

KK. "Wage Replacement Benefit" means the monetary weekly Plan Benefit amount described in this Plan under the section entitled "AMOUNT OF BENEFITS AND PAYMENT" and at C.R.S. § 8-13.3-506. *7 CCR 1107-3.2.18.*

LL. "Willful" or "Willfully" means the Company or Covered Individual knew or showed reckless disregard for whether its conduct was prohibited by the FAMLI Act. *7 CCR 1107-3.2.19.*

IV. CONTRIBUTIONS ~~DELETE THIS SECTION OR USE FIRST OPTION BELOW IF THE COMPANY IS NOT COLLECTING PREMIUM CONTRIBUTIONS FROM EMPLOYEES.~~

USE THIS:

The Company fully funds this Plan. Employees are not required to make premium contributions.

OR USE

The Company may deduct up to 50 percent of the total Premium from an Employee's Wages, up to the limit established by the Act. *C.R.S. § 8-13.3-507*. An Employee's share of Premiums will be deducted from the Employee's paycheck each pay period commencing **[Company should insert date premium deductions begin]**.

V. LEAVE REASONS AND DURATION

A. Beginning January 1, 2024, Covered Individuals are eligible to take paid leave under the Act, and to receive Plan Benefits during that leave for up to 12 total weeks for the following reasons:

1. The birth, adoption or placement through foster care, or caring for a new child during the first year after the birth, adoption or placement of that child, as more fully set forth in 7 CCR 1107-3.4.7;
2. Caring for a Family Member with a Serious Health Condition;
3. The Covered Individual's Serious Health Condition;
4. Any Qualifying Exigency Leave;
5. Safe Leave as further clarified in 7 CCR 1107-3.4.8.

C.R.S. §§ 8-13.3-504, 505.

B. Benefits are payable up to an additional 4 weeks to a Covered Individual with a Serious Health Condition related to pregnancy complications or childbirth complications. *C.R.S. § 8-13.3-505*.

C. Approved leave may be in the form of Continuous Leave, Intermittent Leave, or Reduced Leave Schedule. *7 CCR 1107-3.5.3*.

D. The hourly expression of a Covered Individual's total allotted leave duration is equal to the total number of hours in the Covered Individual's regular work schedule, multiplied by the number of weeks of leave entitlement. *7 CCR 1107-3.5.2.B*.

E. Intermittent Leave may be taken in increments of **[Company must insert: one hour OR state the Company's usual increment of leave if it is less than one hour]**. **[Company must choose: Plan Benefits are not payable until the Covered Individual accumulates at least eight hours of Plan Benefits OR choose: No minimum accumulation of hours is necessary for Plan Benefits to be payable]**. *C.R.S. § 8-13.3-505*.

VI. INTERACTION WITH OTHER LEAVE LAWS AND COMPANY POLICIES

A. This Plan does not diminish the rights, privileges, or remedies of a Covered Individual under a collective bargaining agreement, Company policy, or employment contract; or the Company's obligation to comply with a collective bargaining agreement, Company policy, employment contract, or any law, as applicable, that provides greater leave than provided under this Plan. *C.R.S. § 8-13.3-510(2)*.

B. FAMLI Benefits and Workers' Compensation Benefits.

1. If a Covered Individual is absent from work due to a workplace injury or illness covered by the Workers' Compensation Act, C.R.S. 8-40-101 et seq, the Covered Individual is not entitled to Plan Benefits for that absence. *7 CCR 1107-4.3.1.*
2. A Covered Individual applying for Plan Benefits due to their own Serious Health Condition must disclose whether their Serious Health Condition was caused by or otherwise related to a workplace injury or illness. *7 CCR 1107-4.3.2.*
3. A Covered Individual must notify the Company and Administrator if they receive any benefits under the Workers' Compensation Act during a period of Plan Benefits and may be required to complete a release for records relating to the workers' compensation illness or injury. *7 CCR 1107-4.3.5.*
4. Benefits paid under the Workers' Compensation Act during a period of Plan Benefits in association with the same job will be considered an overpayment of Plan Benefits. *7 CCR 1107-4.3.6.*
5. A Covered Individual's failure to disclose to the Administrator or the Company either a workplace illness or injury or the receipt of Workers' Compensation Benefits related to an injury that is the basis for receipt of Plan Benefits may constitute grounds for disqualification of Plan Benefits pursuant to C.R.S. 8-13.3-513. *7 CCR 1107-4.3.7.*

C. FAMLI Benefits and Unemployment Insurance Benefits

1. Plan Benefits do not run concurrently with benefits under the Colorado Employment Security Act, C.R.S. 8-70-101 et seq. ("CESA"). *7 CCR 1107-4.4.1.*
2. If an absence from work is caused by circumstances that would entitle a Covered Individual to benefits under CESA, the Covered Individual is not entitled to Plan Benefits. *7 CCR 1107-4.4.2.*

3. A Covered Individual must notify the Company and the Administrator if they apply for or receive any benefits under CESA during a period of Plan Benefits. 7 CCR 1107-4.4.3.
4. Benefits paid under CESA during a period of Plan Benefits leave in association with the same job will be considered an overpayment of Plan Benefits 7 CCR 1107-4.4.4.
5. A Covered Individual's failure to disclose to the Administrator or the Company either the application for or the receipt of benefits under CESA during any period of Plan Benefits may constitute grounds for disqualification of Plan Benefits pursuant to C.R.S. § 8-13.3-513. 7 CCR 1107-4.4.5.

D. FMLI Benefits and Company-Provided Paid Leave

1. A Covered Individual [**Company must choose:** will **OR** will not] continue to accrue Company-Provided Paid Leave during a period of Plan Benefits. 7 CCR 1107-4.6.1.
2. A Covered Individual cannot be required to use or exhaust any accrued vacation leave, sick leave, or other paid time off prior to or while receiving Plan Benefits. C.R.S. § 8-13.3-510(1)(c).
3. A Covered Individual may elect to use paid sick leave prior to receiving Plan Benefits. 7 CCR 1107-4.5.1.C.
4. [**Company must choose:**]

Pursuant to a written agreement with the Company, a Covered Individual may use any accrued Company-Provided Paid Leave as a supplement to Plan Benefits in an amount not to exceed the difference between the Covered Individual's Wage Replacement Benefits and the Covered Individual's Average Weekly Wage. If a Covered Individual receives both Plan Benefits and Company-Provided Paid Leave for the same hours absent, any Company-Provided Paid Leave in excess of the difference between the Covered Individual's Wage Replacement Benefits and the Covered Individual's Average Weekly Wage may be considered an overpayment.

OR

A Covered Individual may not use any accrued Company-Provided Paid Leave as a supplement to Plan Benefits. If a Covered Individual receives both Plan Benefits and Company-Provided Paid Leave for the same hours absent, any

Company-Provided Paid Leave for the same hours absent may be considered an overpayment.

7 CCR 1107-4.5.1, 7 CCR 1107-4.5.2, CCR 1107-4.5.3.

5. If there is such an overpayment then:
 - a. The Company may recoup the overpayment by any legal means, including via one or more lawful deductions in accordance with C.R.S. § 8-4-105;
 - b. The Company must replenish the Covered Individual's bank of accrued Company-Provided Paid Leave, including paid sick leave, in an amount equal to the amount recouped as an overpayment.

E. FAMLI and Company-provided Health Care Benefits

1. The Company will maintain Health Care Benefits for a Covered Individual during periods of Plan Benefits.
2. The Covered Individual is obligated to pay their share of the cost of health benefits which the Company may collect via:
 - a. Lawful deductions from Company-Provided Paid Leave used to supplement Plan Benefits;
 - b. Lawful deductions from Wages paid upon the Covered Individual's return to work;
 - c. A repayment plan entered into by the Company and the Covered Individual; or
 - d. Any other legal means.

7 CCR 1107-4.6.2.

F. FAMLI and Short-Term Disability Policy, and Long-Term Disability Policy. [This section could be deleted if the Company does not have STD/LTD insurance policies.]

1. Plan Benefits **[Company must choose: will OR will not]** be concurrent with or otherwise coordinated with payment made or leave allowed under the terms of the Company's disability policies. *C.R.S. § 8-13.3-510(1)(b).*

If STD/LTD runs concurrently with FAMLI use the following, otherwise delete:

2. The Company will provide notice to a Covered Individual that Plan Benefits run concurrent with the Company's disability policies. **[The Company must choose**

either: The Company **OR** the Covered Individual] must notify the disability plan administrator of concurrent Plan Benefits received by the Covered Individual. 7 CCR 1107-4.7.2.

G. FAMLI Benefits, the FMLA and the Family Care Act

1. Leave taken pursuant to this Plan that also qualifies as leave under the federal Family and Medical Leave Act, 29 U.S.C. § 2601 et. seq., or the Colorado Family Care Act, C.R.S. § 8-13.3-2 runs concurrently with leave taken under the federal Family and Medical Leave Act, 29 U.S.C. § 2601 et. seq., or the Colorado Family Care Act, C.R.S. § 8-13.3-2. 7 CCR 1107-4.8.1.

VII. AMOUNT OF BENEFITS AND PAYMENT

- A. The Company will make the first payment of Plan Benefits to a Covered Individual within two weeks after the claim is filed, and subsequent payments will be made every two weeks thereafter. C.R.S. § 8-13.3-505(4).
- B. An application for Plan Benefits will not be considered “filed” until all required information and documentation has been received by the Company, and the Company has been notified that the paid family and medical leave has begun. 7 CCR 1107-3.6.7.B.
- C. The weekly benefit amount of Family and Medical Leave Insurance Benefits is determined as follows:
 1. For leave under the Plan beginning before January 1, 2025, the maximum weekly benefit is \$1,100. In subsequent years, the maximum weekly benefit is 90 percent of the State Average Weekly Wage. C.R.S. § 8-13.3-506, 7 CCR 1107-3.5.1, 7 CCR 1107-5.11.
 2. The portion of the Covered Individual's Average Weekly Wage from the Company that is equal to or less than 50 percent of the State Average Weekly Wage will be replaced at a rate of 90 percent; and
 3. The portion of the Covered Individual's Average Weekly Wage from the Company that is more than 50 percent of the State Average Weekly Wage will be replaced at a rate of 50 percent. C.R.S. § 8-13.3-506, 7 CCR 1107-3.5.1, 7 CCR 1107-5.11.
- D. Benefits under the Plan are based on the Covered Individual's Average Weekly Wage from the Company. 7 CCR 1107-3.5.1.D.
- E. If some or all awarded leave is for a duration of less than a week, the benefit amount will be prorated based on the portion of work missed for the week.

- F. **[Company must choose: [Plan Benefits are not payable until the Covered Individual accumulates at least eight hours of Plan Benefits] OR: [No minimum accumulation of hours is necessary for Plan Benefits to be payable]. 7 CCR 1107-3.5.1.F., C.R.S. 8-13.3-505(3).]**

VIII. APPLYING FOR PLAN BENEFITS

- A. To request Plan Benefits, the Covered Individual or the Covered Individual's Designated Representative may apply for benefits with the Administrator up to 30 days prior to the requested Plan Benefit start date. 7 CCR 1107-3.6.
- B. The Covered Individual must provide verification, certifications, and other documentation required by the Act to support the requested leave. The Administrator will provide application forms and will follow the requirements and procedures in compliance with the Act.
- C. If the need for leave is unforeseeable, or if submitting an application in advance of the leave is otherwise impracticable, applications may be submitted up to 30 days after the leave has begun. If the Administrator receives an application after 30 days, but before 90 days, the Administrator will consider the application if it includes evidence establishing good cause for the Covered Individual's failure to submit the application within 30 days prior to the requested benefit start date. 7 CCR 1107-3.6.4.
- D. The Administrator will promptly examine each application for Plan Benefits, and, based upon the facts and information available, approve or deny the Application. The Administrator will provide all approvals or denials of Plan Benefits in writing to the Covered Individual and will include information on how the claimant can appeal the outcome. If the outcome is a denial of benefits, the notice to the claimant will explain the reason for the benefits denial and will identify information or documentation necessary to perfect their claim for benefits. Plan Benefits will not be paid until an application is approved. 7 CCR 1107-3.8.2
- E. If a Covered Individual has not provided all information requested by the Administrator or required by the Act within 60 days after the application is submitted to the Administrator, the application will be closed and the Administrator will take no further action on it, absent a finding of good cause based on evidence submitted by the Covered Individual. The Administrator will notify the Covered Individual prior to any such closure and will describe the Covered Individual's opportunity to establish good cause to keep the application open. 7 CCR 1107-3.6.7.C.

IX. NOTICE OF LEAVE BY A COVERED INDIVIDUAL

- A. A Covered Individual will make a reasonable effort to schedule Plan Benefit leave so as not to unduly disrupt the operations of the Company. *C.R.S. § 8-13.3-505(4)*.
- B. A Covered Individual must give the Company and Administrator not less than 30 calendar days' notice of the anticipated start date of Plan Benefits. If the necessity for leave is not foreseeable or providing 30 days' notice is not possible, the notice must be provided as soon as practicable. *C.R.S. § 8-13.3-505(5)*.
- C. For a Covered Individual on Intermittent Leave, scheduling and notice requirements apply to each absence. *7 CCR 1107-3.7.1*.
- D. The notice must provide the anticipated start time, anticipated duration, and where applicable, anticipated frequency of leave, including the duration of each episode of Intermittent Leave. *7 CCR 1107-3.7.2*.
- E. The notice to the Company and the Administrator must be in the same manner as the Company typically requires a Covered Individual to communicate work availability, and absent unusual circumstances, must comply with the Company's usual and customary notice and procedural requirements for leave. *7 CCR 1107-3.7.3*.
- F. A Covered Individual who takes leave for a Qualifying Reason must comply with the Company's established attendance and call-in procedures applicable to the Covered Individual's position with the Company for each absence.
- G. A Covered Individual must provide notice to the Company and Administrator within 10 days after the occurrence of any event, or the foreseeability of any event, that could change the amount or duration of approved leave. *7 CCR 1107-3.9.1*.
- H. If a Covered Individual receives a Reduced Leave Schedule or Intermittent Leave, the Covered Individual must submit documentation sufficient to recertify their need for leave every six months, or as requested by the Company and Administrator for claim management purposes. If a Covered Individual fails to recertify, the approval for the leave will expire. *7 CCR 1107-3.9.4*.
- I. Any of the notices required by this section may be given by a Covered Individual's Designated Representative.
- J. The failure to provide the required notices may result in delay or denial of leave and the failure to comply with the Company's absence reporting requirements may result in discipline. *7 CCR 1107-3.7.4, 3.7.5*.

X. LEAVE AND EMPLOYMENT PROTECTION

- A. Any Covered Individual who has been employed with the Company for at least 180 days prior to the commencement of the Covered Individual's Plan Benefits will be entitled, upon return from leave, to be restored by the Company to the position held when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. A Covered Individual is not entitled to:
1. The accrual of any seniority or employment benefits during any period of leave; or
 2. Any right, benefit, or position of employment the Covered Individual would not have been entitled to had the Covered Individual not taken the leave. *C.R.S. § 8-13.3-509(1)*.
- B. An aggrieved individual under this section may bring a civil action in a court of competent jurisdiction. *C.R.S. 8-13.3-509(6)*.

XI. APPEALS

- A. A Claimant may appeal the following events:
1. the Administrator's failure to issue a decision on the Covered Individual's application for Plan Benefits within 2 weeks of receiving a completed application;
 2. an Adverse Determination of a claim for Plan Benefits;
 3. the failure to pay the full claim approved;
 4. the closure of a claim based on the determination that the claim was not properly filed;
 5. a disqualification from Plan Benefits; or
 6. the identification and/or collection of an overpayment.
- B. Appeals may be filed with the Plan Administrator or the Division. Covered Individuals are encouraged to file a first appeal with the Plan as the most efficient means of correcting administrative errors.
- C. If an appeal is filed with the Administrator, the appeal must be submitted in writing. The Covered Individual is encouraged to use the form provided by the Administrator. **[Here the Company inserts its address, website, and/or other information regarding where and how to file the appeal.]**

- D. Appeals to the Administrator must be filed within 14 Calendar Days of the Covered Individual's receipt of notice of an appealable event.
- E. Appeals must specifically identify the event being appealed, the date of that event, and a summary of the basis for the appeal.
- F. Covered Individuals may appeal the decision of the Administrator to the Division or may submit an initial appeal directly to the Division using the Division's "Appeal Request Form" which must be submitted to the Division within 45 days of the Administrator issuing its claim decision or decision on appeal. Information regarding how to file an appeal with the Division can be found on the FAML I website: [Home | Family and Medical Leave Insurance \(colorado.gov\)](http://Home | Family and Medical Leave Insurance (colorado.gov)).

C.R.S. § 8-13.3-512, 7 CCR 1107-3.10, 7 CCR 1107-5.19.

XII. DISQUALIFICATION FROM BENEFITS AND ERRONEOUS PAYMENTS.

- A. A Covered Individual that Willfully makes a false statement or misrepresentation regarding a material fact in order to obtain Plan Benefits or has Willfully failed to report a material fact in order to obtain Plan Benefits, will be disqualified from FAML I Act Benefits for one year after the effective date of the disqualification and the Company may seek repayment of Plan Benefits paid. *7 CCR 1107-3.13, 3.14.*
- B. Disqualification decisions will be based on the Company's and Administrator's good faith conclusion that the Covered Individual Willfully made a false statement or misrepresentation regarding a material fact, or Willfully failed to report a material fact, to obtain Plan Benefits.
- C. **[Include if employees contribute to premiums, otherwise delete:** If an Employee is disqualified from Plan Benefits, the Employee's share of Premiums will still be deducted from the Employee's paycheck each pay period.]
- D. If Plan Benefits are paid erroneously or as a result of a Willful misrepresentation, or if a claim for Plan Benefits is rejected after benefits are paid, the Administrator may seek repayment of benefits from the Covered Individual by any means lawful under Colorado and federal law, or pursuant to agreement between the Company and the Covered Individual.

C.R.S. § 8-13.3-513; 7 CCR 1107-3.13, 7 CCR 1107-3.14

XIII. [Include if the Company is going to require a fitness for duty to return to work; otherwise, delete:] FITNESS FOR DUTY AT CLOSE OF MEDICAL LEAVE PERIOD

- A. A Covered Individual who receives Plan Benefits due to the Covered Individual's own Serious Health Condition shall provide a certification of fitness for duty from a Health Care Provider prior to returning to work from an approved absence. Certification forms can be obtained from the Company by contacting **[include Company contact info]**. 7 CCR 1107-3.12.]

END OF PLAN