



SPONSOR: Sen. S. McBride & Rep. Heffernan

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 178

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO COMPARABLE PRIVATE PLANS UNDER THE FAMILY AND MEDICAL LEAVE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3716, Title 19 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3716. Private plans.

4 (e)(1) Private benefits in existence on May 10, 2022, that the Department deems to be comparable to the Family
5 and Medical Leave Program under § 3713 of this title qualify as a private plan under this chapter for a period of 5 years
6 from the start of contribution payments under § 3705 of this title if the Department's approval of private plans under this
7 subsection would not adversely impact the solvency of the Fund.

8 (4)a. An employer may appeal the denial of an employer's application under this subsection (e) to the
9 Department within 30 days of the issuance of the determination.

10 b. The Secretary shall conduct hearings of appeals filed under paragraph (e)(4)a. of this section under the
11 Administrative Procedures Act, Chapter 101 of Title 29, except that these hearings are exempt from the public
12 meeting requirements of Chapter 100 of Title 29 to protect confidential health and privacy information.

13 c. A decision under paragraph (e)(4)b. of this section is final and binding, unless appealed to the Superior
14 Court within 30 days of the date of the decision under Chapter 101 of Title 29.

15 (f) The Department's denial of an employer's application under subsection (a) of this ~~section~~, section or
16 withdrawal of approval for an employer's use of a private plan under subsection (c) of this ~~section~~, ~~and decision under~~
17 ~~subsection (e) of this section~~ is subject to the appeal process under § 3711 of this title.

SYNOPSIS

Under § 3716(e) of Title 19, the Family and Medical Leave Program (FMLP) allows the Department of Labor (Department) to approve private benefits in existence on May 10, 2022, as a private plan under the FMLP, for applications submitted by January 1, 2024. This Act revises the appeal process when the Department denies an application under § 3716(e) so that the hearing is conducted by the Secretary of the Department instead of the Family and Medical Leave Insurance Appeal Board (Appeals Board). The primary function of the Appeals Board is to conduct hearings on denials of individual claims for benefits under the FMLP, but individuals will not be eligible for these benefits until January 1, 2026. Thus, the Appeals Board does not otherwise need to be established in 2023, and the expertise members need is in areas other than those needed for appeals of decisions under § 3716(e) of Title 19.

Author: Senator S. McBride