



Grandfathering Appeals

My grandfathering application was denied. Can I appeal?

Yes. An employer can file an appeal, via email to PFMLAppeals@delaware.gov, using the Appeal form on the Division of Paid Leave's website. This appeal must be filed within 30 days from the date your grandfathering application was denied.

Who will hear the appeal?

The Secretary of Labor or her designee (collectively, the "Secretary") will hear your appeal.

Can I submit supporting documentation with my appeal?

Yes. Employers are permitted to submit up to 40 additional pages of documents or evidence in support of their appeal. The Secretary will have access to all the information submitted with your grandfathering application. The Secretary will also have access to the information relied upon by the Division of Paid Leave to make its decision. You **DO NOT** need to submit any documentation that you previously provided. You should only submit new information. Any new documentation should be attached to the email containing the completed Grandfathering Appeal form.

When will the appeal be heard?

Within 5 days of receipt of an employer's appeal, the Secretary's office will provide a hearing date. Employers will be given at least 20 days' notice prior to the actual hearing. Hearings are scheduled based on the Secretary's availability.

Are hearings in person?

No. All grandfathering appeal hearings will be held electronically either by video conferencing or by telephone.

How long will the hearing last?

Hearings are scheduled to last approximately 30 minutes.



What does an employer do if they have a conflict on the hearing date?

Employers can request a postponement of a hearing date by sending an email to PFMLAppeals@delaware.gov no later than 12 p.m. on the day before the hearing. The Secretary has the sole authority to grant or deny a postponement request.

How does the Secretary make the decision?

The Secretary will rely upon the Healthy Delaware Families Act and applicable regulations in deciding whether to uphold or reverse the Division of Paid Leave's decision to deny your grandfathering application. Specifically, the Secretary will determine whether your grandfathering request meets the standards of approval as provided by the applicable regulations. The Secretary is bound by the regulations and is not able to overturn the regulations that the Division relied upon in making its decision. Only the Delaware courts have the power to invalidate regulations.

When will an employer receive the Secretary's decision?

The Secretary will issue a decision via email, within 60 days of the hearing date. If the Secretary reverses the Division of Paid Leave's decision and approves a preexisting benefit for grandfathering, the Division of Paid Leave will automatically update its records to reflect this change.

What can an employer do if they disagree with the Secretary's decision?

Employers can file an appeal to the Superior Court of Delaware if they disagree with the Secretary's decision. The appeal must be filed within 30 days from the date of the decision, in accordance with the Court's rules.