

Rehoboth Beach - Dewey Beach Chamber of Commerce & Visitors Center

"The Nation's Summer Capital"

Mr. Chris Counihan
Director, Division of Paid Leave
Department of Labor
4425 N Market Street
Wilmington DE 19802

Dear Director Counihan:

On behalf of the over 1,300 members of the Rehoboth Beach – Dewey Beach Chamber of Commerce (RBDDBCC) and our Board of Directors, we offer this letter and the enclosed Attachment, outlining our comments and concerns on the recently published Proposed Regulations 1401 Rules Defining and Regulating Family Medical Leave (Reg).

In summary, the RBDDBCC has reviewed the proposed regulations and believes, given the complexity and discrepancies found, we are asking for an immediate "stay" in any implementation for a minimum of 60 to 90 days. We believe, as outlined in our Attachment to this letter, this regulation needs further review and should be workshopped with small businesses, Chambers of Commerce, and those most impacted by the regulation. In your role as Director, we further ask that you delay any final decision until at least two or more meetings are held with the small business community and others in the coming weeks, making it possible to generate and approve regulations that greatly reduce the negative and significant impact upon our members and their employees as they seek to create, modify, or purchase this insurance product/benefit.

Specifically, we believe a number of terms used in the Reg are not defined in the definitions section at the beginning such as "in loco parentis," average weekly wage (does this include commissions, bonus or overtime), qualifying exigency and military events, qualifications for telehealth individuals outside of the US, defining employer with multiply owners, the reclassification form and its use, employees ability to optout for any reason, re-certification by the employee of the illness as well as how self-certification will function without proof, and finally, defining what is an "instrument," as well as other issues. (See the attached document for more detailed information.)

Additionally, there are several areas within the Reg that speak of "notice," but it is confusing as to what notice, and to whom the notice is being given. One example is 11.0 Notice. While the RBDDBCC strongly supports and agrees there shall be no private right of action as outlined in this section, it also refers to notice. Again, a definition of notice is needed.

Page 1 of 2

Mission: To promote business, tourism and civic responsibility.

PO Box 216 · 306 Rehoboth Avenue · Rehoboth Beach, Delaware 19971

302-227-2233 · 302-227-8351 (fax) · www.Beach-Fun.com · rehoboth@beach-fun.com

Rehoboth Beach - Dewey Beach Chamber of Commerce & Visitors Center

“The Nation’s Summer Capital”

We also note the vast majority of work for managing the leave, the days allowable, taxes collected, and most aspects of this program will fall upon the small business employer. In review of our membership, we are highly confident that 90% of all our smaller employers (10 to 24) do not have any formalized FMLA program or HR managers to implement and support the requirements contained in the regulation. In addition, few of our larger employers (25 to 90) have a pre-existing private FMLA program. To expect these small business owners to administer the multitude of details within this program, in a post-COVID hiring environment, will place these owners under unfair and tremendous strain.

The RBDBCC does believe the regulation has been created with the utmost care by your office, yet as written, it will create havoc among our small business owners if left without significant discussion and change. We stand-by to assist you and your team in the weeks ahead to fully explain the rationale we used for the changes we are seeking.

Thank you for your consideration and we await your reply.

Sincerely,



Carol Everhart
President/ CEO
Rehoboth Beach – Dewey Beach
Chamber of Commerce

CC: Governor John Carney
Sussex County Legislators