



# MEMBER-2-MEMBER FUNDS

## Paid Maternity Leave Plan Booklet

(Revised January 1, 2023)



Operative Plasterers' & Cement Masons'  
International Association, AFL-CIO

9700 Patuxent Woods Drive, Suite 200

Columbia, MD 21046

(301) 623-1000

# Paid Maternity Leave

## Overview

The OPCMIA recognizes the importance of increasing the opportunities for women to not only enter the Plastering, Cement Masonry and Shop Hand trades, but build long-lasting careers that enable them to provide better for themselves and their families. Thus, the International Association has established a Maternity Leave Program that will provide a paid benefit to eligible members associated with the birth of the member's own child on or after January 1, 2023.

The following constitutes the Summary Plan Description for the Member-2-Member Funds' Maternity Leave Program.

## Funding & Administration

*Section 1.* The Maternity Leave Program is funded by the OPCMIA and Administered by the M2M Fund's Administrative Committee.

- A. The OPCMIA funds the Maternity Leave Program through an unfunded dues financed plan. The funds contained in the plan are neither insured nor held in trust. Although placed in a separate account, the funds used to provide paid maternity leave benefits are part of the International Association's general assets.
- B. The Member-2-Member Funds, including the Maternity Leave Program, are administered by the Administrative Committee of the Member-2-Member Funds ("Administrative Committee"). The Administrative Committee is comprised of the General President and the General Secretary-Treasurer of the OPCMIA or their designees. The Administrative Committee retains the right to interpret all terms of the Maternity Leave Program, along with the right to modify or terminate the program at any time. The paid maternity leave benefit provided under Maternity Leave Program is not a vested benefit.

## Eligibility

### *Who is Eligible*

*Section 2.* A member must be in good standing and meet the following criteria in order to be eligible to receive a paid maternity leave benefit:

- A. The member must submit certification of their pregnancy from their treating physician verifying they are unable to perform the duties of the plastering, cement masonry, or shop hand trades due to physical limitations arising from the pregnancy (“Disabled Due to Pregnancy”); and
- B. The member has worked at least 100 hours for signatory employers during the past three months and is eligible for benefits under their Local Union’s health and welfare fund on the date they became Disabled Due to Pregnancy; and
- C. The member has not received a paid maternity leave benefit under this program within the past twenty-four (24) months; and
- D. There are no similar benefits available through other means, such as time loss benefits through their employer or their Local Union’s health and welfare fund or any local city, municipality, county, state, provincial, or federal government provided benefits, or any other means available.
- E. The member’s child must be born on or after January 1, 2023.

### *Who is Ineligible*

*Section 3.* Besides those members who do not satisfy the eligibility criteria set forth above, paid maternity leave benefits through the Maternity Leave Program are not available for surrogate related pregnancies, adoptions, or foster care.

## The Benefit

*Section 4.* The Maternity Leave Program's paid maternity leave benefit can be provided either pre-delivery/pre-birth or post-delivery/post-birth.

- A. **Pre-Delivery/Pre-Birth:** For the paid maternity leave benefit to commence pre-delivery/pre-birth, the eligibility criteria set forth above must be satisfied. In addition, the certification from the member's treating physician must indicate that the member is unable to work due to physical limitations arising from the pregnancy no earlier than the member's fourth (4<sup>th</sup>) month of pregnancy. While the cumulative pre-delivery/pre-birth benefit may be intermittent, it may not exceed twenty (20) weeks. After 20 weeks, the pre-delivery/pre-birth paid maternity leave benefit will end regardless of whether the member is able to return to work.

Re-certifications from the member's treating physician of the member's continued inability to work may be required by the Administrative Committee from time to time.

With respect to a member's status as "Disabled Due to Pregnancy," the Member-2-Member Funds will solely rely on the determination of the member's treating physician.

- B. **Post-Delivery/Post-Birth:** Regardless of whether paid maternity leave benefits were paid Pre-Delivery/Pre-Birth, an eligible member may receive a paid maternity leave benefit for up to six (6) weeks post-delivery/post-birth or up to eight (8) weeks in the case of a Cesarean birth.
- C. **The Calculation of the Benefit:** The paid maternity benefit payment is equal to the lesser of (1) 66.67% of the member's normal weekly earnings or (2) \$800, less any disability income benefits available from their Local Union's health and welfare fund, or any local city, county, state, provincial, or federal government sponsored program, regardless of whether the member receives any such disability income benefit. A member's weekly earnings will be based on the member's hourly wage based on a 40-hour workweek. Benefits shall be calculated at the rate of 1/7<sup>th</sup> of the member's weekly earnings for

each day the member is Disabled Due to Pregnancy when the period of disability is less than a full week.

Benefit payments shall be calculated using the following formula:

$$66.67\% \text{ of member's Normal Hourly Wage Rate} \\ \times 2080 / 52 = \text{Weekly Benefit (not to exceed \$800).}$$

As noted above, the paid maternity benefit payment will be reduced by the amount of any disability income the member may receive from their Local Union's health and welfare fund or any local city, county, state, provincial, or federal government sponsored program, regardless of whether the member receives any such disability income benefit. The Administrative Committee retains the exclusive right to determine the Normal Hourly Wage Rate used in the above calculation.

### EXAMPLE

A member earns \$32.00 per hour working for a signatory with an OPCMIA Local Union. Assuming she is eligible to receive the paid maternity leave benefit under this program, her benefit would be calculated as follows:

- Step 1:** Determine 66.67% of the member's normal hourly wage rate of \$32.00, which is \$21.33 per hour.
- Step 2:** Determine the weekly benefit by multiplying \$21.33 per hour by 2,080 hours and then dividing the product by 52 weeks, which would be \$853.20. Because the plan caps the benefit at \$800 per week, the weekly benefit under the plan would only be \$800 per week.
- Step 3:** Determine whether the member is receiving any other disability income. If so, the amount of other disability income would be deducted from the \$800 per week benefit. If not, then the member would receive the full \$800 per week benefit.

## The Claims Process

### The Filing Process

*Section 5.* A claim form to apply for the Maternity Leave Program's paid maternity leave benefits is available from the OPCMIA. A member must complete the form, answer all of the questions, have their Local Union and their treating physician complete the appropriate sections, and then mail, fax, or scan and e-mail the completed form to:

Member-2-Member Maternity Leave Program  
9700 Patuxent Woods Drive, Suite 200  
Columbia, MD 21046  
Fax: (301) 623-1097  
Email: M2MAdministrator@opcmia.org

A member must file the form within twelve (12) months of the delivery date. Claims filed after this filing deadline will be automatically denied.

### Claims and Appeals Process

#### *Section 6.* Initial Claim Determination.

- A. Your initial claim will be reviewed by the individuals appointed by the Administrative Committee to review all claims ("M2M Claims Department"). No member of the Administrative Committee shall have a role in the initial review of your claim.
- B. If the M2M Claims Department denies your claim for paid maternity leave benefits, in whole or in part, the M2M Claims Department will provide you with a written or electronic notice that states the reasons for the denial, refers to any pertinent plan provisions, rules, guidelines, protocols or other similar criteria used as a basis for the denial, describes any additional material or information that might help your claim, explains why that information is necessary, and describes the Plan's review procedures and applicable time limits, including a right to bring a civil action under Section 502(a) of ERISA.

This notice will be given to you within a reasonable time but not more than 45 days after your claim is received by the M2M Claims

Department. This 45-day period may be extended for up to an additional 30 days if special circumstances require that additional time is needed to process your claim. If an extension is needed for the M2M Claims Department to process your claim, you will be given written notice of the delay prior to the expiration of the 45-day period stating the reason(s) why the extension is necessary and the date by which the M2M Claims Department expects to make a decision. This 30-day extension may be extended for up to an additional 30 days if special circumstances require that additional time is needed to process your claim. If an additional extension is needed for the M2M Claims Department to process your claim, you will be given written notice of the delay prior to the expiration of the first 30-day extension period stating the reason(s) why the extension is necessary and the date by which the M2M Claims Department expects to make a decision. Once you receive the decision, you may consider the claim approved or denied. If the claim is denied, you may take steps to appeal the denial.

*Section 7. Appeal to the Administrative Committee.*

- A. If your claim for paid maternity leave benefits is denied, you may request the Administrative Committee review the benefit denial by submitting a written appeal to the Administrative Committee at the address listed above. Your written appeal must be submitted within 60 days of receiving the Claims Department's denial notice. Failure to timely appeal will result in a complete waiver of your right to appeal the decision of the M2M Claims Department, and the decision of the M2M Claims Department will be final and binding. Upon receipt of an adverse benefit determination, you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, relevant information regarding the claim determination.

Your written appeal should state your name and address, the date of the denial, the fact that you are appealing the denial, and the reasons for your appeal. You should include documents that support your claim. The review of your claim will take into account all comments and documents that support your position, even if the M2M Claims Department did not have this information in making the initial

determination. This does not mean that you are required to cite all of the Plan provisions that apply or to make “legal” arguments; however, you should state clearly why you believe you are entitled to the benefit you claim. The members of the Administrative Committee can best consider your position if they clearly understand your claims, reasons and/or objections.

- B. The Administrative Committee will notify you of its decision on appeal within 60 days after receipt of your appeal unless the Administrative Committee determines that special circumstances require an extension of time for processing the claim. If the Administrative Committee determines that an extension of time for processing is required, written notice of the extension shall be furnished to you prior to the termination of the initial 60-day period. In no event will such extension exceed a period of 60 days from the end of the initial period. The extension notice will indicate the special circumstances requiring an extension of time and date by which the Administrative Committee expects to render the determination on appeal.

The notice of the Administrative Committee’s decision, which you receive by mail or by electronic notice, will set forth the specific reason(s) for the adverse determination, the specific Plan provisions on which the benefit determination was based, a statement that you are entitled to receive, upon request and free of charge, reasonable access to and copies of, relevant information regarding your claim determination, and a statement of your right to bring a civil action under Section 502(a) of ERISA.

- C. The decision of the Administrative Committee is final and binding on all parties. The Administrative Committee has full discretion or authority to determine all matters relating to the benefits provided under the Member-2-Member Funds including, but not limited to, all questions of coverage, eligibility, and methods of providing or arranging for benefits.
- D. No action may be brought prior to exhausting the claim appeal process described above.



## Other Rules and Regulations

*Section 8. Coordination with Other Income Benefits:* If a member is entitled to other weekly income benefits from their Local Union's benefit fund(s) or any local city, county, state, provincial, or federal government program ("Other Income Benefits") during any week for which a paid maternity leave benefit is payable under this program, the amount of the benefit payable under this program for that week will be reduced so that the sum of the weekly maternity benefit payable under the M2M Plan plus the Other Income Benefits does not exceed 66.67% of the member's weekly earnings (up to a maximum of \$800). If the sum of all Other Income Benefits equals or exceeds 66.67% of the member's weekly earnings (up to a maximum of \$800), no paid maternity benefit is payable from this program for that week.

For example, the member's Local Union's health and welfare fund provides 6 weeks of paid leave at 60% of the member's weekly earnings. The Member-2-Member Paid Maternity Leave Program will pay the difference between the two plans, which is 66.67% minus 60% equals 6.67% of the weekly earnings for the first six (6) weeks, then 66.67% for the remaining period the member is eligible for benefits under this program.

*Section 9. Returning to Work:* Benefits under this program will cease when the member is released by their treating physician to resume employment or when benefits are no longer payable under the terms of this program.

*Section 10. Accrual of Other Leave:* Other types of leave - such as vacation or sick leave - may cease to accrue while on paid maternity leave, depending upon the employer's policies.

*Section 11. Family and Medical Leave:* In situations where the Family and Medical Leave Act ("FMLA") applies, the paid maternity leave benefit will run concurrently with FMLA leave.

*Section 12. Apprentices:* Unless the treating physician's certification eliminates sitting in a classroom, apprentices are expected to continue their classroom training.

*Section 13. Compliance with Law:* It is the OPCMIA's intention to comply with the law. Therefore, in situations where this program conflicts with applicable

federal, state, or local law, including the Pregnancy Discrimination Act, the governing law shall prevail.

*Section 14.* **Taxes:** The paid maternity leave benefit is subject to federal income taxes. Federal regulations require you report the payment of these benefits to the Internal Revenue Service and other tax authorities. The OPCMIA will send an IRS Form 1099-Misc at the end of the year for reporting purposes.

## ERISA Information

### 1. Plan Information

**Plan Identification:** The name of the plan is the Member-2-Member Disability Benefit Plan (“Plan”).

**Benefits Provided:** The Plan provides benefits to members who are unable to work due to short-term disability caused by pregnancy. The Plan is NOT a “group health plan” as that term is defined in 42 U.S.C. §300gg-91(a)(1). The Plan solely provides “excepted benefits” as that term is defined in 42 U.S.C. §300gg-91(c)(1).

**Source of Financing:** The Plan is part of the general assets of the OPCMIA. It is not a legally separate entity from the International Association and the assets in the Plan are subject to claims by creditors of the OPCMIA. The Plan consist of amounts set aside by the OPCMIA from its general funds (in accordance with the OPCMIA’s International Constitution and any other rules or laws adopted by the organization) and all other earnings and payments to the Plan from any other source as permitted by law. Disability benefits are not insured.

**Termination:** The Administrative Committee has complete discretion and authority to operate and to interpret the Plan and determine eligibility for benefits. The

OPCMIA may amend, modify, or terminate the Plan at any time.

**Service of Process:** The General Officers of the OPCMIA shall be the agents for service of legal process for the Plan.

## 2. Requesting Information

A copy of this Plan document and the International Constitution may be obtained from the OPCMIA. A member should contact the OPCMIA's staff for copies of the document. A member should contact the General Secretary-Treasurer's office with any questions or to request information about the Plan's rules.

## 4. ERISA Rights Statement

As a participant in the Member-2-Member Disability Benefit Plan, the member is entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 ("ERISA"). ERISA provides that all participants are entitled to:

### *Receive information about your plan and benefits.*

Examine, without charge, at the OPCMIA's office all documents governing the Plan.

Obtain, upon written request to the OPCMIA, copies of documents governing the operation of the Plan. The OPCMIA may require a reasonable charge for the copies.

### *Prudent Actions by the Plan Fiduciaries.*

In addition to outlining the member's rights as a plan participant or beneficiary, ERISA imposes duties upon the people who are responsible for the administration of the paid maternity leave plan. Those who administer the plan are called "fiduciaries." They have a duty to do their job prudently and in the interest of all plan participants and beneficiaries. No one may discriminate against a member in any way to prevent them from obtaining a plan benefit or exercising their rights under ERISA.

### *Enforce your rights.*

If a claim for a paid maternity leave is denied in whole or in part, the member has the right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps to take to enforce the above rights. For instance, if materials are requested from the plan and not received within 30 days, a suit may be filed in Federal court. In such a case, the court may require the plan administrator to provide the materials and pay up to \$110 a day until the materials are received, unless the materials were not sent because of reasons beyond the control of the administrator. If a claim for benefits is denied or ignored, in whole or in part, a suit may be filed in a state or Federal court. If it is believed there has been discrimination because of the assertion of rights, the claimant may seek assistance from the U.S. Department of Labor, or file suit in a federal court. The court will decide who should pay court costs and legal fees. If the member is successful, the court may order the person being sued to pay these costs and fees. If the member loses, the court may order the member to pay these costs and fees, for example, if the court finds the claim was frivolous.

### *Assistance with Questions.*

If there are any questions about the Plan, contact the OPCMIA. If there are any questions about this statement or about rights under ERISA, or if you need assistance obtaining documents from the Plan Administrator, contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in the telephone directory, or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. A member may also obtain certain publications about rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.