

# BMC Software

## CALIFORNIA VOLUNTARY DISABILITY INSURANCE AND PAID FAMILY LEAVE BENEFIT PLAN

For California Employees of  
BMC Software Federal LLC Voluntary Plan #10-2530  
BMC Software, Inc. Voluntary Plan #10-2532  
BMC Helix Inc. Voluntary Plan # 10-3092

For benefits periods commencing on or after January 1, 2026

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# SELF-INSURED VOLUNTARY DISABILITY & PAID FAMILY LEAVE PLAN

## For California Employees of

### BMC Software Federal LLC, BMC Software, Inc., and BMC Helix Inc.

For Benefit Periods Commencing on or After January 1, 2026

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#### I. Eligibility and Effective Date of Coverage

##### A. Eligibility

All California Employees of the Employer, in covered employment as defined in Section 2606 of the California Unemployment Insurance Code (CUIC), are eligible for coverage under this Plan.

##### B. Effective Date of Coverage

Employees who start their employment on or after the effective date of the Plan will be covered from their first day, unless they decline coverage in writing. If an Employee initially accepts coverage under this Plan, they can withdraw by submitting written notice to the Employer. Employees who have withdrawn can re-enroll by providing written notice to the Employer as well. The effective date for both withdrawal and re-enrollment will be the date the Employer receives the written notice. The Plan's original effective date is January 1, 2018.

##### C. Termination of Individual Employee Coverage

An Employee's coverage will terminate on the earliest of:

1. at 12:00 midnight on the date of termination of the Employer-Employee relationship;
2. at 12:00 midnight on the fifteenth (15th) day following the commencement of a layoff without pay (a permanent termination of the employment relationship is not a layoff for purposes of this provision regardless of the term used to designate it);
3. at 12:00 midnight on the fifteenth (15th) day following the commencement of a Leave of Absence without pay;
4. the date the individual ceases to be an eligible Employee;
5. the beginning of the Calendar Quarter next following the date the Employee has given written notice of their intention to withdraw from the Plan; or
6. the date of termination of the Plan.

Exception: The Voluntary Plan under which an Employee establishes a Care Recipient Period remains liable for all subsequent claims for the same Care Recipient through the end of the Twelve (12)-Month Period.

#### II. Contributions

For 2026, the Employee contribution rate is 0.9%. In accordance with CUIC Sections 984 and 985, Employee contributions are equal to or less than the contribution rate established by the Employment Development Department for the State Disability Plan each year. If the Plan's trust fund is insufficient, the Employer will cover the costs for the Plan to remain solvent via an Employer loan, which will be repaid by the Plan when it has enough funds.

#### III. Disability Benefits

##### A. Disability Waiting Period

Benefits will commence on the earliest of:

1. The eighth (8th) day of Disability, provided the Employee has been examined by or is under the care of a Physician during some portion of that eight (8) day period of Disability.

2. The first (1<sup>st</sup>) full day of Hospital Confinement; or
3. The first (1<sup>st</sup>) full day of treatment in a Surgical Clinic or Surgical Unit of a hospital, provided the employee is disabled for at least eight (8) consecutive calendar days as a result of the condition for which treatment was rendered.

In the event that an employee's disability extends beyond fourteen (14) days during any one Disability Benefit Period, the waiting period, if any, will be waived.

**B. Amount of Benefits for Disability**

The weekly benefit amount for which an Employee is covered under the Plan (subject to any Plan Limitations and Exclusions) shall be as outlined in the table below:

| <b>Week</b> | <b>Replacement Rate</b> | <b>Maximum Weekly Benefit Amount</b> |
|-------------|-------------------------|--------------------------------------|
| 1-3         | 100% of weekly Wages    | None                                 |
| 4-6         | 75% of weekly Wages     | None                                 |
| 7-52        | 70% of weekly Wages     | None                                 |

Employees making less than 70% of the state average quarterly wage shall receive a weekly benefit amount (subject to any Plan Limitations and Exclusions) as outlined in the table below:

| <b>Week</b> | <b>Replacement Rate</b> | <b>Maximum Weekly Benefit Amount</b> |
|-------------|-------------------------|--------------------------------------|
| 1-3         | 100% of weekly Wages    | None                                 |
| 4-52        | 90% of weekly Wages     | None                                 |

In all cases, the weekly benefit amount will be equal to or greater than the Employee's benefit calculated by the Employment Development Department. The Claim Administrator will make any necessary adjustments promptly after receiving such notification if the weekly benefit amount is less than the State Disability Plan. The minimum weekly benefit amount is \$50.00.

**C. Benefits for Less Than One (1) Week for Disability**

For each day of any **full-time** continuous period of Disability for which benefits are paid and which is less than a full week, the benefit payable shall be one-seventh (1/7th) of the weekly benefit amount.

If Disability is taken intermittently, part-time, or in increments of less than a full week, benefits will be calculated and paid on a wage loss basis, per CUIC 2656.

**D. Maximum Total Benefit for Disability**

The maximum benefit amount payable for any one (1) Disability Benefit Period shall be fifty-two (52) times the applicable weekly benefit amount.

**E. Disability Determination**

1. A covered Employee may be eligible for Disability benefits if they:
  - a. are unable to perform their regular or customary work because of a physical or mental illness or injury, including but not limited to pregnancy, childbirth, or related medical condition;
  - b. are unable to work because of a written order from a State or local health officer as defined by CUIC Section 2626 because they are infected with, or suspected of being infected with, a communicable disease;
  - c. are referred or recommended by a Physician to participate as a resident in an approved alcoholic recovery program; or

- d. are referred or recommended by a Physician to participate as a resident in an approved drug-free residential program.
2. The Disability must be supported by a certificate of a Physician or Practitioner, or if hospitalized under the authority of a county hospital in California or a medical facility of the United States, an authorized medical officer of a United States government hospital or medical facility, or a registrar of a county hospital within the State of California. A midwife, nurse midwife, or nurse practitioner may file a certificate in support of a normal pregnancy or childbirth.

However, a certificate is not required:

- a. if, in accordance with CUIB Section 2708.1, the Employee submits evidence of receipt of temporary disability benefits under a workers' compensation law;
- b. if any Employee in good faith adheres to the teachings of any bona fide church, sect, denomination or organization which depends entirely upon prayer or spiritual means for healing, the certificate of a duly authorized or accredited practitioner of such bona fide church, sect, denomination or organization as to the Disability of the Employee and the estimated duration of such Disability, will be accepted;
- c. if an Employee has been referred or recommended by a competent medical authority to participate in an approved drug-free residential facility, and an authorized representative of the facility certifies that the Employee is a resident participating in a State approved drug-free residential facility;
- d. if an Employee has been referred or recommended by a competent medical authority to participate as a resident of any approved alcoholism recovery home, and an authorized representative of the facility certifies that the Employee is a resident participating in a State approved alcoholism recovery program; or
- e. if an Employee has been ordered not to work by a written order from a state or local health officer because the Employee is infected with, or suspected of being infected with, a communicable disease. Such a written order shall be acceptable (for the period specified therein) in lieu of a certificate.

#### **F. Limitations and Exclusions for Disability Benefits**

1. Disability benefits paid under this Plan will be reduced in the following circumstances:
  - a. Benefits will be reduced by the weekly workers' compensation benefits to which the Employee is entitled.
  - b. If an Employee receives wages from any employer, they may still qualify for Disability benefits. However, the total amount of their wages and Disability benefits combined cannot exceed the Employee's weekly wage (excluding overtime) earned immediately before starting their Disability leave. Wages include sick pay but do not include vacation pay or paid time off (PTO).
2. For residents in an approved alcohol or drug-free recovery or residential program, the State Disability Plan will pay for a period not exceeding ninety (90) days. **The maximum number of days for which benefits are payable, noted in the previous sentence, does not apply to participants of this Plan.**
3. No benefits are payable:
  - a. for any day on which the Disability is not supported by a certificate from a Physician, Practitioner, or other person authorized to certify Disability;
  - b. for any day the Employee is eligible for unemployment insurance benefits from any unemployment compensation act of the Federal Government or any state (including California);
  - c. for any day the Employee is eligible for disability insurance benefits from the Federal Government or any state (including California);

- d. if the Employee is confined by court order or certification as a dipsomaniac, drug addict, or sexual psychopath;
- e. if the Employee has filed with the California Employment Development Department, and each of their employers, a statement declaring the Employee's adherence to the faith or teaching of any bona fide religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends upon prayer for healing in the practice of religion, and the Employee's statement disclaims any Disability benefits based on Wages paid while such statement is in effect. This limitation is applicable during the period when such exemption is in effect and for a period of three (3) months following the rescission of such exemption certificate; or
- f. if the Employee's Disability is caused by or arises out of the commission, arrest, investigation, or prosecution of any crime that results in a felony conviction.
- g. if the Employee is incarcerated in any federal, state, or municipal penal institution, jail, medical facility, or public or private hospital, or in any other place because of a criminal conviction under a federal, state, or municipal law or ordinance.

**IV. Paid Family Leave Benefits**

**A. Paid Family Leave Waiting Period**

There is no waiting period for Paid Family Leave benefits.

**B. Amount of Benefits for Paid Family Leave**

The weekly benefit for which an Employee is covered under the Plan (subject to any Plan Limitations and Exclusions) shall be as follows:

| Employees making                                  | % of weekly Wages | Maximum Weekly Benefit  |
|---|-------------------|---|
| More than 70% of the state average quarterly wage | 70%               | State Disability Plan weekly benefit amount in effect at the commencement of the Employee's Paid Family Leave |
| Less than 70% of the state average quarterly wage | 90%               |   |

The Paid Family Leave Bonding benefit for the biological mother will be calculated based on the Employee's weekly Wages from the disability pregnancy claim.

In all cases, the weekly benefit amount will be equal to or greater than the Employee's benefit calculated by the Employment Development Department. The Claim Administrator will make any necessary adjustments promptly after receiving such notification if the weekly benefit amount is less than the State Disability Plan. The minimum weekly benefit amount is \$50.00.

**C. Paid Family Leave Benefits for Less Than One (1) Week**

For each day of any **full-time**, continuous period of Paid Family Leave for which benefits are paid and which is less than a full week, the benefit payable shall be one-seventh (1/7th) of the weekly benefit amount.

If Paid Family Leave is taken intermittently, part-time, or in increments of less than a full week, benefits will be calculated and paid on a wage loss basis, per CUIC 2656.

**D. Maximum Total Benefit for Paid Family Leave**

The maximum benefit payable for any one (1) Paid Family Leave Benefit Period shall be eight (8) times the applicable weekly benefit within a Twelve (12)-Month Period.

## **E. Paid Family Leave Determination**

A covered Employee may be eligible for Paid Family Leave benefits if they are unable to perform their regular or customary work because they are providing care to a seriously ill Family Member, Bonding with a new minor Child, or participating in a Qualifying Exigency resulting from the Employee's Spouse, Domestic Partner, Child, or Parent's military deployment to a foreign country.

### **1. Providing care to a seriously ill Family Member**

The medical eligibility of the Serious Health Condition of the Family Member that warrants the care of the Employee must be established by a certificate from a Physician or Practitioner. The information provided must be within the Physician's or Practitioner's knowledge and based on a physical examination and documented medical history of the Family Member.

### **2. Bonding with a new minor Child**

As provided in the California Code of Regulations (CCR), Title 22 Section 2706-2, the supporting documentation must provide satisfactory evidence of: (a.) the relationship between the Employee and the Child and (b.) the birth, adoption, or foster care placement of the Child. Eligibility for Bonding is limited to the first year after the birth, adoption, or foster care placement of the Child.

### **3. Participating in a Qualifying Exigency**

In accordance with CUIIC Section 3307, the supporting documentation must provide satisfactory evidence of: (a.) the appropriate facts regarding the Qualifying Exigency; (b.) the start and end dates of the requested leave period (including frequency and duration for intermittent leave); (c.) if meeting with a third party, contact information for the individual or entity; and, (d.) a copy of the rest and recuperation orders, if applicable.

## **F. Limitations and Exclusions for Paid Family Leave**

### **1. Paid Family Leave benefits paid under this Plan will be reduced in the following circumstances:**

- a. Benefits will be reduced by the weekly workers' compensation benefits to which the Employee is entitled.
- b. If an Employee receives wages from any employer, they may still qualify for Paid Family Leave benefits. However, the total amount of their wages and Paid Family Leave benefits combined cannot exceed the Employee's weekly wage (excluding overtime) earned immediately before starting their Paid Family Leave. Wages include sick pay but do not include vacation pay or paid time off (PTO).

### **2. No benefits are payable:**

- a. for any day on which the Paid Family Leave is not supported by appropriate documentation;
- b. for any day the Employee is eligible for unemployment insurance benefits from any unemployment compensation act of the Federal Government or any state (including California);
- c. for any day the Employee is eligible for Disability insurance benefits from the Federal Government or any state (including California);
- d. if the Employee has filed with the California Employment Development Department and each of their employers a statement declaring the Employee's adherence to the faith or teaching of any bona fide religious sect, denomination, or organization and, in accordance with its creed, tenets, or principles, depends upon prayer for healing in the practice of religion, and the Employee's statement disclaims any Paid Family Leave benefits based on Wages paid while such statement is in effect. This limitation is applicable during the period when such exemption is in effect and for a period of three (3) months following the rescission of such exemption certificate; or
- e. for the same period of time in a day for which another Family Member is ready, willing, able, and available to provide the required care.

3. Paid Family Leave does not provide job protection or return rights. As provided in CCR, Title 22 Section 3301(a)-1, an Employee's job may be protected if he/she is eligible for the federal Family Medical Leave Act and the California Family Rights Act. The Employee must notify Human Resources of the reason for taking leave in a manner consistent with the Employer's leave policy.

#### **G. Paid Family Leave Continued Claims**

A Paid Family Leave continued claim is a claim for the same Care Recipient within the same Twelve (12)-Month Period, subsequent to the first or re-established claim where there is no interruption of the period for which benefits are claimed.

#### **H. Paid Family Leave Re-established Claims**

A Paid Family Leave re-established claim is a claim filed subsequent to a first (1st) claim within the same Twelve (12)-Month Period. A re-established claim occurs when there is one (1) of the following:

1. An interruption of the period for which benefits are claimed for the same Care Recipient.
2. Benefits are claimed for a new Care Recipient.

#### **V. Claim Intake Process**

To apply for benefits, the Employee must contact the Claims Administrator, Aflac. Employees may file:

- A. telephonically by calling 1-800-206-8826; or
- B. online at <https://mygrouplifedisability.aflac.com>

Except for good cause, a claim must be filed within sixty (60) days from the first (1st) compensable day of Disability or Paid Family Leave.

An Employee who files a claim will receive a Notice of Computation (DE 429D) from the Employment Development Department, which shows the minimum amount they should be paid. If an Employee was in the military service, received workers' compensation benefits, or did not work because of a trade dispute during their Base Period, they may be able to substitute wages paid in prior quarters to make the claim valid or increase the benefit amount. If the DE 429D shows no benefits due to extended unemployment during their Base Period, the Employee may also be able to substitute wages paid in prior quarters to make the claim valid.

#### **VI. Medical Certification Requirements for Disability and Paid Family Leave**

The Employee must establish medical eligibility for each uninterrupted period of Disability or Paid Family Leave by filing a first claim for benefits supported by the certificate of a treating Physician or Practitioner that establishes the sickness, injury, or pregnancy of the Employee or that warrants the care of the Care Recipient. For subsequent periods of uninterrupted Employee Disability or care of the Care Recipient after the period covered by the initial certificate or any preceding continued claim, the Employee must file a continued claim for those benefits supported by the certificate of a treating Physician or Practitioner. A certificate filed to establish medical eligibility for the Employee's sickness, injury, or pregnancy or that warrants the care of the Care Recipient must contain:

- A. a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, if no diagnosis has yet been obtained, a detailed statement of symptoms;
- B. a statement of the medical facts, including secondary diagnoses when applicable, within the Physician's or Practitioner's knowledge, that is based on a physical examination and documented medical history of the Employee or Care Recipient by the Physician or Practitioner;
- C. the Physician's or Practitioner's conclusion as to the Employee's Disability or Care Recipient's need for care;
- D. a statement of the Physician's or Practitioner's opinion as to the expected duration of the Disability or need for care; and

E. the Physician's or Practitioner's name, address, license number, and signature.

Under the provisions of the CUIC, the Employer or its authorized Claims Administrator shall have the right to: (A) require supplemental forms from the Physician or those authorized to certify Disabilities as often as deemed necessary and (B) examine, at the Plan's expense, any Employee or Family Member claiming benefits under this Plan. The Plan shall have the sole authority to select the examining physician. Failure of the Employee or Family Member to attend any medical examination or cooperate with the examiner without good cause can result in loss of benefits. Continued medical certification, signed by a certified Physician or Practitioner, must be submitted within twenty (20) days of the date the Employee is issued a notice of final payment or the Employee receives a request for additional medical certification, whichever is later. Additional medical certification may be requested as often as reasonably required during the period payments are due under this Plan. For both Disability and Paid Family Leave claims, a complete listing of certification requirements will be included in the claim packet.

## **VII. Disability & Paid Family Leave: Proration of Benefits**

### **A. Simultaneous Coverage for Disability Claims**

Simultaneous coverage exists when an Employee is covered by and eligible for Disability benefits from more than one (1) Disability insurance plan, including the State Disability Plan and one (1) or more Voluntary Plans.

When benefits are paid under simultaneous coverage, the liable plans equally share the State Disability Plan weekly and maximum benefit rate. Additionally, each Voluntary Plan pays the difference between the full State Disability Plan rate and the amount of benefit entitlement under that Voluntary Plan. Each Voluntary Plan is counted as one (1) plan. The State Disability Plan is counted as one (1) plan even if the Employee works for more than one (1) State Disability Plan covered employer.

### **B. Simultaneous Coverage for Paid Family Leave Claims**

Simultaneous coverage exists when an Employee is covered by and eligible for one (1) or more plans (including the Voluntary Plan and the State Disability Plan) at the time they establish a Care Recipient Period. The plan(s) under which the Care Recipient Period is established in Paid Family Leave remain liable for all claims associated with the same Care Recipient through the end of the Twelve (12)-Month Period, regardless of any change in employment. Liability for Paid Family Leave or Voluntary Paid Family Leave benefits remains with the plan(s) that covered the Employee when the Care Recipient Period was established.

Under simultaneous coverage, each Voluntary Plan is counted as one (1) plan. The State Disability Plan is counted as one (1) plan, even if the Employee works for more than one (1) State Disability Plan covered employer. The plans equally divide the State Disability Plan weekly and maximum benefit rates. Additionally, each Voluntary Plan pays the difference, if any, between the full State Disability Plan benefit and the amount of benefit entitlement under that Voluntary Plan.

## **VIII. Redirection of Benefits**

As provided in CUIC Section 1345, an eligible Employee may choose to redirect a portion of their weekly benefit to cover all or part of the cost of Employee-paid benefits. If so, the Employee must designate in writing the weekly amount to be redirected on a form available from the Employer. This redirection may be initiated at the time the Employee applies for Voluntary Plan benefits or at any time while receiving Voluntary Plan benefits. The Employee may terminate or change the terms of the redirection of benefits at any time while receiving Voluntary Plan benefits. See Employment Development Department BMC form DE 2571.

## **IX. Appeals**

### **A. Appeal of Denial of Disability or Paid Family Leave Benefits**

As provided in CCR, Title 22 Section 5007(c) and CUIC Section 2707.2, an Employee who is denied benefits under the terms of this Plan may appeal the denial within thirty (30) days after service of the

denial. An Employee may also appeal if they do not receive notice denying benefits within thirty (30) days after the claim was sent to the Voluntary Plan. In such cases, the Employee must file the appeal after thirty (30) days and within sixty (60) days from the date the claim was sent to the Voluntary Plan. In both cases of denial and lack of notice of denial, the Employee must send the appeal to the Employment Development Department for processing. The Employment Development Department generally does not attend this type of hearing.

Written appeals must be signed and shall include the Employee's name, address, and Social Security number, as well as the name of the Employer and the reason for filing the appeal. Appeals for the denial of Disability benefits may be sent to any Employment Development Department office. Appeals for the denial of the Paid Family Leave benefits must be sent to: Paid Family Leave, PO BOX 997017, Sacramento, CA 95899-7017.

## **B. Payment of Benefits Pending Appeal**

An Employee may elect to continue to receive Disability or Paid Family Leave benefits pending the outcome of a timely appeal to an Administrative Law Judge if the Employee:

1. submits a signed promise to the Voluntary Plan to repay benefits if an Administrative Law Judge rules the Employee is not entitled to further benefits;
2. submits continued certification as required pending the decision; and
3. is otherwise eligible to receive benefits.

This option does not apply to claims on which the initial determination was a complete denial and no benefits were paid.

## **C. Disputed Coverage Appeals**

As provided in CCR, Title 22 Section 5007(b), an Employee, the Employment Development Department, or the Plan may appeal a denial of coverage for Disability or Paid Family Leave within thirty (30) days of the date the notice of denial was mailed.

In disputed coverage cases in which a denial of coverage is not furnished, an appeal will be filed after twenty-five (25) days and within fifty-five (55) days from the date the appellant sends a request for payment of benefits to the Employment Development Department or Plan. If eligible, the Employee will be paid benefits by the plan that initially received the claim, pending disposition of the disputed coverage appeal

## **X. Overpayments**

The Employee will be required to repay any overpayment from the Plan to the extent permitted under CUIC Section 2735. The Employer will make reasonable arrangements with the Employee or their legal representative(s) for the repayment to the Plan, including but not limited to the reduction of future benefits under the Plan or the reduction of future pay from the Employer as allowed under the CUIC.

## **XI. Benefit Enhancement**

**A.** This Voluntary Plan provides several benefits that are considered better than the State Disability Plan. The following benefits qualify as a greater right under CUIC section 3254:

1. Requires a waiting period of fewer than seven (7) days for Disability (Section III.A)
2. Provides a greater Disability:
  - a. benefit replacement rate (Section III.B)
  - b. maximum weekly benefit amount (Section III.B)
  - c. maximum benefit amount (Section III.B)
3. Provides a greater duration of benefits than the ninety (90) days prescribed for an individual referred to:

- a. an approved alcoholic recovery home (Section III.F)
- b. a drug-free residential facility (Section III.F)
- 4. Allows a claim filing period beyond the 49th consecutive day for the period of Disability (Section V)
- 5. Allows a claim filing period beyond the 41st consecutive day for the period of Paid Family Leave (Section V)
- B.** This Voluntary Plan also provides several additional benefits that are considered better than the State Disability Plan but do not qualify as a greater right under CUIC section 3254:
  - 1. Reduced Employee contribution rate (Section II)

**XII. Definitions**

**A. Base Period** means the following:

|                                     |   |
|-------------------------------------|---|
| If the claim begins in:             | The “Base Period” is the twelve (12) months<br>which ended the preceding: |
| January, February, or March.....    | September 30  |
| April, May, or June.....            | December 31   |
| July, August, or September.....     | March 31  |
| October, November, or December..... | June 30   |

The benefit amount is based on the quarter with the highest State Disability Plan taxable wages earned from the Employee’s employers within the Base Period.

- B. Bond or Bonding** means to develop a psychological and emotional attachment between a new Child and the Employee. This includes being in one another’s physical presence.
- C. Calendar Quarter** means a period of three (3) consecutive months commencing with the first (1st) day of January, April, July, or October.
- D. Care Recipient** means either the Family Member who is receiving care for a Serious Health Condition or the Child with whom the Employee is Bonding.  
  
For a Qualifying Exigency, Care Recipient means the military member who is participating in a Qualifying Exigency.
- E. Care Recipient Period** means all periods of Paid Family Leave that an Employee takes within a Twelve (12)-Month Period to care for the same Care Recipient.
- F. CCR** means the California Code of Regulations.
- G. Child** has the same meaning as defined in CUIC Section 3302; means a biological, adopted, or foster son or daughter, a stepson, a stepdaughter, a legal ward, a son or daughter of a Domestic Partner, or the person to whom the Employee stands *in loco parentis*. This definition of a Child is applicable regardless of age or dependency status.
- H. Claims Administrator** means Continental American Insurance Company (CAIC), a Nebraska insurance company.
- I. Covered Active Duty** has the same meaning as defined in CUIC Section 3302.1; it means, with respect to a member of the regular Armed Forces of the United States, duty during the deployment of the member with the regular armed forces to a foreign country and, with respect to a member of the reserve components of the Armed Forces of the United States, duty during the deployment of the member of those reserve components to a foreign country under a federal call or order to active duty.
- J. CUIC** means California Unemployment Insurance Code.
- K. Disability** means a covered Employee:

1. is unable to perform their regular or customary work because of an illness or injury, whether physical or mental, including elective surgery, pregnancy, childbirth, or related medical condition;
2. is unable to work because of a written order from a State or local health officer as defined by CUIC Section 2626 because they are infected with, or suspected of being infected with a communicable disease;
3. has been referred or recommended by a Physician to participate as a resident in an approved:
  - a. alcohol recovery program to the extent specified in CUIC Section 2626.1; or
  - b. drug-free residential program to the extent specified in CUIC Section 2626.2.

**L. Disability Benefit Period** means the continuous period of unemployment and Disability beginning with the first (1st) day with respect to which the individual files a valid claim for benefits. Two (2) consecutive periods of Disability due to the same or related cause or condition and separated by a period of not more than sixty (60) days shall be considered as one (1) Disability Benefit Period.

**M. Domestic Partner** means one (1) of the following:

1. Employee's same-sex or opposite-sex registered domestic partner as described under California Family Code Section 297; or
2. A committed relationship of mutual caring and support between two people who are jointly responsible for each other's common welfare and share financial obligations and who have executed an affidavit or certification of Domestic Partnership form provided by the Plan.

**N. Employee** means any individual whose service with the Employer is considered employment within the meaning of the CUIC, and such person is not excluded from coverage under this Plan.

**O. Employer** means

BMC Software Federal LLC #10-2530  
 BMC Software, Inc. #10-2532  
 BMC Helix Inc. #10-3092

**P. Family Member** has the same meaning as defined in CUIC Section 3302; means Child, Grandchild, Grandparent, Parent, Parent-in-law, Sibling, Spouse, or Domestic Partner.

**Q. Grandchild** has the same meaning as defined in CUIC Section 3302; the Child of the Employee's Child.

**R. Grandparent** has the same meaning as defined in CUIC Section 3302; the Parent of the Employee's Parent.

**S. Hospital Confinement** means confinement for any twenty-four (24) hour period of time, or any part thereof, for which the employee is charged a full day's rate for room and board as a registered bed patient in a hospital.

**T. Leave of Absence** means an absence from work that the Employer has approved under the Employer's leave of absence policy.

**U. Paid Family Leave** means the program that provides up to eight (8) weeks of partial wage replacement benefits to Employees who take time off to Bond with a Child, to care for a Family Member with a Serious Health Condition, or to participate in a Qualifying Exigency.

**V. Paid Family Leave Benefit Period** means a period of unemployment beginning with the first (1<sup>st</sup>) day an Employee establishes a valid claim for Paid Family Leave to care for a seriously ill Family Member, to Bond with a new minor Child during the first (1<sup>st</sup>) year after the birth or placement of the Child in connection with foster care or adoption, or to participate in a Qualifying Exigency related to the Employee's Spouse, Domestic Partner, Child, or Parent's deployment to a foreign country.

Periods of Paid Family Leave for the same Care Recipient within a Twelve (12)-Month Period will be considered one (1) Care Recipient Period.

For purposes of determining coverage, a Disability Benefit Period related to childbirth and a period of Paid Family Leave associated with the birth of that Child will be considered one (1) Disability Benefit Period.

- W. Parent** has the same meaning defined in CUIIC Section 3302; means a biological, foster or adoptive Parent, a stepparent, a legal guardian, or other person who stood *in loco parentis* to the Employee when the Employee was a Child.
- X. Parent-in-law** has the same meaning as defined in CUIIC Section 3302; the Parent of a Spouse or a Domestic Partner.
- Y. Physician** means physicians and surgeons holding an M.D. or D.O. degree, psychologists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by the state or foreign country in which they practice and are acting within the scope of their practice. Psychologist means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two (2) years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology. For certification purposes, Physician and Practitioner may be used interchangeably.
- Z. Plan** means a Voluntary Plan established by the Employer pursuant to Part 2 of the CUIIC relating to unemployment compensation Disability benefits and Paid Family Leave benefits.
- AA. Practitioner** means a person duly licensed or certified in California acting within the scope of their license or certification who is a dentist, podiatrist, physician assistant, or a nurse practitioner and in the case of a nurse practitioner, after performance of a physical examination by a nurse practitioner and collaboration with a physician and surgeon, or as to pregnancy, childbirth, or postpartum conditions consistent with the scope of their professional licensure, a midwife or nurse-midwife, or nurse practitioner. For certification purposes, Physician and Practitioner may be used interchangeably.
- BB. Qualifying Exigency** has the same meaning as defined in CUIIC Section 3302.2; means time off to assist a Child, Parent, Spouse, or Domestic Partner deployed to a foreign country on active military service for reasons including, but not limited to the following: short-notice deployment; attendance in an official ceremony; attendance in a family support program sponsored by the military; arranging or providing childcare; transferring a Child to a new school; making or updating financial or legal arrangements; attending counseling; accompanying the Child, Parent, Spouse, or Domestic Partner while they are on short-term rest and recuperation leave; or, attending arrival ceremonies.
- CC. Serious Health Condition** means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision by a health care provider, as defined in Section 12945.2 of the California Government Code.
- DD. Sibling** has the same meaning as defined in CUIIC Section 3302; a person related to another person by blood, adoption, or affinity through a common legal or biological Parent.
- EE. Spouse** has the same meaning as defined in CUIIC Section 3302; a partner to a lawful marriage as recognized by the Federal Government of the United States.
- FF. Surgical Clinic** means a clinic which both provides treatment for patients who remain less than twenty-four (24) hours, and is not part of and not operating under the license of a hospital, and which is either licensed by the State Department of Health Services if not exempt from such licensing, or certified to participate in the federal Medicare program as an “ambulatory surgical center” as defined in the Code of Federal Regulations. A “Surgical Clinic” does not include the offices of private physicians in individual or group practice.
- GG. Surgical Unit** means a unit located in or operating under the license of a hospital and providing treatment for patients who remain fewer than twenty-four (24) hours.

**HH. State Disability Plan** means the California State Disability Insurance program that provides short-term Disability insurance and Paid Family Leave wage replacement benefits to eligible workers who need time off work. Benefits from this program are administered by the Employment Development Department and are payable from the State Disability Fund pursuant to Part 2 of Division 1 of the CUIC. The Employment Development Department uses the following criteria to determine benefits:

When the amount of wages paid during the highest quarter of the Base Period is less than \$722.50, the weekly benefit amount will be \$50.

When the amount of wages paid during the highest quarter of the Base Period is \$722.50 or more and less than 70% of the state average quarterly wage, the weekly benefit amount will be 90% of the highest quarterly wage, divided by thirteen (13), rounded up to the next higher whole dollar, subject to the maximum weekly benefit as determined under the CUIC.

When the amount of wages paid during the highest quarter of the Base Period is 70% or more of the state average quarterly wage, the weekly benefit will be the greater of:

1. 63% of the state average weekly wage, or
2. 70% of the highest quarterly wage, divided by thirteen (13), rounded up to the next higher whole dollar, subject to the maximum weekly benefit as determined under the CUIC.

**II. Twelve (12)-Month Period** means the 365 consecutive days that begin with the first (1st) day an Employee first establishes a valid claim for Paid Family Leave.

**JJ. Voluntary Plan** means a Voluntary Plan established pursuant to Part 2 of the CUIC.

**KK. Wages or Regular Wages** means basic pay, excluding bonuses, overtime, differentials, and other forms of additional compensation in effect on the date immediately preceding the commencement of the Disability or Paid Family Leave Benefit Period.

### **XIII. Other Requirements**

#### **A. Security**

Security, as required by the Employment Development Department, will be deposited to secure the operation of the Plan. The Employment Development Department will determine the amount of the deposit, and the State Treasurer will retain the security.

#### **B. Reports**

The Employer agrees to provide the information, reports, and records required by law to the Employment Development Department.

#### **C. Assessments**

The Employer agrees to pay all valid assessments or charges levied by the Employment Development Department in accordance with the CUIC. All state assessments and administrative expenses may, at the Employer's discretion, be paid for directly from the Voluntary Plan Fund established for this Plan.

#### **D. Withdrawal of Plan**

The Plan shall continue in effect for a period of one (1) year from the original effective date and continuously thereafter unless thirty (30) days advance written notice is given to the Employment Development Department by the Employer or a majority of its Employees for the withdrawal of the Plan. Withdrawal will be effective only on the following dates:

1. The anniversary of the effective date of the Plan, next following the filing of the notice;
2. The operative date of any law increasing the benefit amounts provided by CUIC Sections 2653, 2655, and 3301, or
3. The operative date of any change in the worker contribution rate as determined by CUIC Section 984.

#### **XIV. Legislative Disclosure**

Pending Legislation: The Paid Family Leave Regulations will be updated to prohibit the collection of personally identifiable information for foster care bonding claims.

#### **XV. Compliance**

Each Employee covered by this Plan will, in all respects, be afforded rights at least equal to those afforded by the State Disability Plan and will receive a weekly rate, maximum amount, and duration of benefits at least equal to those which the Employee would have received from the State Disability Plan.

No Employee will be excluded or restricted from this Plan due to age, sex, income, or pre-existing health condition.