

Legislative Update

Employee Benefits



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Some States Require Short-term Disability Coverage

Temporary disability benefits continue to be regulated in just five states: California, Hawaii, New Jersey, New York and Rhode Island; and in the Commonwealth of Puerto Rico. These jurisdictions have laws that provide benefits to workers who are temporarily disabled by injuries or illnesses. Varying by state, benefits can be paid by a state fund, a private insurance company, or self-insured by an employer.

Disability laws cover ill or injured individuals who do not qualify for workers' compensation or unemployment benefits or, in some cases, to supplement other benefits. In most jurisdictions, pregnant employees who are unable to work are also eligible for temporary disability benefits under the same terms and conditions as workers with other disabilities. These provisions are consistent with the non-discrimination requirements imposed on employers under federal law. However, Puerto Rico has a separate maternity leave act which provides up to eight weeks of leave at full wages.

The specific details of mandated temporary disability programs--from the benefits paid to the use of private insurers, as well as how the benefits are financed--vary considerably from jurisdiction to jurisdiction.

Employers who fail to comply with these requirements may be subject to fines and

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penalties.

Following is a brief outline of the basic provisions of each jurisdiction's program. **Please note that each has made changes to its temporary disability benefits for 2008. Refer to a specific jurisdiction for full details.**

If you have any questions, please contact your Mesirow Financial representative.

California

The California state disability insurance (SDI) plan is designed to compensate in part the wage loss sustained by an employee unable to work because of non-work-related illness or injury; the illness or injury of a family member; or the birth, adoption or foster care placement of a new child.

For 2008, the employee contribution equals not more than 0.8 percent of their first \$86,698 of annual gross earnings. The maximum employee contribution for the calendar year is \$693.84.

The maximum weekly benefit is \$917 per week; benefits can last up to 52 weeks and begin after a 7-day waiting period.

Employees receiving temporary disability benefits under workers' compensation may be entitled to reduced state disability insurance if the workers' compensation is less than state disability insurance.

All employers not specifically exempt from coverage must provide temporary disability insurance for their employees either through the tax-supported state fund or through their own self-insured or commercial plan. Temporary disability benefits are funded by employee contributions via payroll deductions.

For further information, call 916-653-0707 or visit www.edd.com.

Hawaii

Hawaii requires nearly all employers to provide disability income benefits for non-occupational disabilities. Employees share the cost.

For 2008, employers may deduct and withhold from each employee contributions of one-half the cost but not more than 0.5 percent of the employee's weekly wages. Employers are liable for the remainder of the cost of the plan.

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The 2008 maximum weekly employee taxable wage base is set at \$842.56; the maximum weekly deduction is \$4.21. For most workers, temporary disability benefits equal 58 percent of average weekly wages, up to a maximum of \$489 per week. Benefits are available for 26 weeks for any single disability or during any benefit year, following a 7-day waiting period.

Employers must obtain private coverage, self-insure this coverage or provide coverage through a sick leave plan under a collectively bargained agreement.

For more information, call 808-586-9188 or visit <http://dilir.state.hi.us/>

New Jersey

New Jersey's temporary disability law covers all employers subject to the state unemployment insurance law. The standard tax rate for employers is 0.5 percent of an employee's taxable wages, for employers who have not contributed to the plan in each of the last three calendar years. Those who have made contributions in each of the last three years are entitled to an experience rate.

Employee withholdings are 0.5 percent of taxable wages; the taxable wage base in 2008 is \$27,700, or \$2.66 weekly, \$11.54 monthly.

Temporary disability benefits range from 66 2/3 percent of average weekly wages to a maximum weekly benefit of \$524.00. Benefits are available for up to 26 weeks or the period necessary for benefits to equal 1/3 of total wages in the base year, whichever is less. Benefits become payable after a 7-day waiting period for each disability. However, if benefits are payable for 3 consecutive weeks, payment is made retroactive to the first day of eligible disability.

Employers can participate in the state temporary disability plan or a private plan that provides benefits equal to or exceeding those available from the state plan. Private plans can also be commercially insured or self-insured.

For more information, call 609-292-7060 or visit <http://www.nj.gov/labor>.

New York

New York's disability insurance program requires most employers to provide coverage for employees. Both employers and employees contribute to the plan via payroll deductions. For 2008, each employee contributes .05 percent of wages up to a maximum of \$.60 per week. Employers pay the balance.

Temporary disability benefits equal 50 percent of an employee's weekly wages to a maximum of \$170 per week. (This amount has not changed since May 1, 1989.) Benefits may last for up to 26 weeks following a 7-day waiting period; however, employees cannot receive temporary disability benefits for any period in which workers' compensation benefits, unemployment insurance benefits or payments from an employer fund exceeding the state disability benefit are payable or paid.

Coverage may be provided through private insurance or self-insurance, and must meet minimum state requirements.

For more information, call the Disability Benefits Bureau at 800-353-3092 or visit <http://www.web.state.ny.us>

Puerto Rico

Puerto Rico requires employers to pay into a temporary disability plan. The cost may be shared by employer and employee.

In 2008, employees contribute .3% of taxable wages, up to \$9,000. Employer contributions are the same.

Temporary disability benefits range from \$12 to \$113 (agricultural workers receive a maximum of \$55 per week). Benefits are computed at 65% of average weekly wages to a maximum of \$113 (unchanged since 1985) and are available for 26 weeks.

There is generally a 7-day waiting period for each disability; however, if the employee is hospitalized during the first 7 days, benefits begin on the first day of hospitalization.

Employees usually cannot receive temporary disability benefits in any period when unemployment or workers' compensation benefits, pension or retirement pay is received.

A death benefit of \$4,000 may also be payable if the disabled individual dies within 52 weeks of the start of the disability. A dismemberment benefit of \$2,000-\$4,000 may also be payable.

Coverage may be provided through Puerto Rico's public temporary disability insurance plan, or through a private or self-insured plan with benefits at least equal to those of the public plan.

For more information, call 787-754-5826 or visit <http://www.dtrh.gobierno.pr/>

Rhode Island

Employers can elect to contribute to a state temporary disability fund which otherwise is funded solely through employee contributions via payroll deductions. For 2008, contributions are set at 1.3 percent of the first \$54,400 of an employee's wages.

Claimants can receive up to \$625 per week. Those supporting children may also receive an allowance of 7 percent of their weekly benefit per child, for up to five children. Benefits are available for up to 30 weeks, but claimants may be disqualified for receiving unemployment insurance or workers' compensation benefits. There is a 7-day waiting period for each benefit year, but benefits are payable for the first 7 days if disability is continuous for 21 additional days following the expiration of the 7-day waiting period.

Rhode Island requires all employers to participate in the state temporary disability fund; coverage may not be provided through private or self-funded plans.

For more information, call 401-462-8420 or visit <http://www.dlt.ri.gov/tdi>.

Source: Metropolitan Life Insurance Company

This article is intended as an overview and should not be viewed as legal or tax advice. Please consult with your attorney or tax professional if you have any questions about this legislation.