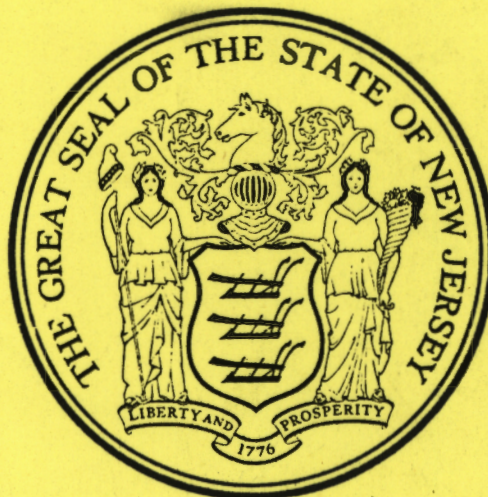


F I N A L R E P O R T

O F



T H E

C O M M I S S I O N O N

I N C O M E M A I N T E N A N C E

Report to the Governor and the Legislature

(pursuant to P.L. 1975, c. 359)

JUNE 13, 1980



JUNE 13, 1980

Governor Brendan T. Byrne

President of the Senate


Speaker of the General Assembly

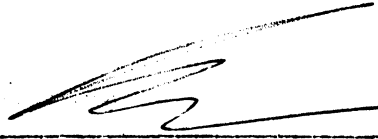
Members of the Legislature

Ladies and Gentlemen:

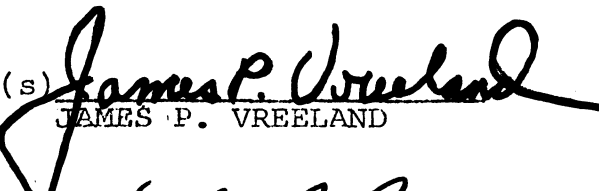
The Commission on Income Maintenance, created pursuant to P.L. 1975, c. 359 (approved March 3, 1976), herewith respectfully submits its final report in compliance with the terms of P.L. 1975, c. 359.

Respectfully submitted,

(s) 
ROBERT E. LITTELL
CHAIRMAN

(s) 
STEVEN L. LEFELT
VICE-CHAIRMAN

**(s) _____
MURRAY WEINGARTNER

(s) 
JAMES P. VREELAND

*** (s) _____
BRUCE GAETA

(s) 
WILLIE B. BROWN

(s) 
ROBERT MENENDIZ

(s) 
MYLES K. SCHILANK

(s) 
ROBERT J. SINKIER

*(s) _____
JAMES FRAZER

*A dissenting statement appears on page 49.

**A dissenting statement appears on page 50.

***Resigned July 1, 1979, to assume municipal judgeship of South Hackensack (Bergen County)

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NEW JERSEY LEGISLATIVE STUDY COMMISSION TO RECOMMEND
IMPROVEMENTS IN PROGRAMS OF INCOME MAINTENANCE
FOR THE INJURED AND DISABLED

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PURPOSE, OBJECTIVES, AND ACTIVITIES

The Commission on Income Maintenance, created pursuant to P.L. 1975, c. 359 (approved March 3, 1976), was mandated the task of reviewing existing income maintenance programs in the state for the injured and disabled. The programs reviewed were: Supplemental Security Income (SSI); Unemployment Insurance (UI); Temporary Disability Benefits (TDB's); Workers' Compensation Benefits (WCB'S): Income Maintenance Programs of the Division of Public Welfare, State Department of Human Services; Veterans Benefits; Compensation to Victims of Violent Crimes; the "New Jersey Automobile Reparation Reform Act"; and the Work Incentive (WIN) Program.

Each of the income maintenance programs has its own professional staff and clientele. As reported in the Commission's first report, released January 1, 1979,* this fragmented approach to providing income maintenance benefits has become undesirable because of the skyrocketing costs of funding and administering the entire system, the increasing number of eligible recipients, and delays in payments attributable to jurisdictional conflicts among the several programs. While the Commission was aware that the State Legislature has no authority to affect federally mandated programs, or even state programs which must follow federal guidelines or are federally financed, it recognized that the Legislature can sponsor reforms of state income maintenance programs that would integrate them more effectively with federal programs.

*For copies, contact Peter Guzzo , Office of Legislative Services, State House, Trenton.

The Commission outlined its objectives at an organizational meeting on November 20, 1978, shortly after the final appointment of members to the Commission was made. They were to:

1. Identify income maintenance programs in the state.
2. Identify which programs are state and local and to what extent they are federally funded and operate under federal guidelines.
3. Identify the overlapping eligibility standards and types of income maintenance payments.
4. Identify benefits for similar injuries of no-fault automobile insurance and state income maintenance programs.
5. Determine the cost to the state of the funding and administration of state income maintenance programs.
6. Identify the state and local agencies that administer income maintenance programs.
7. Review and suggest proposals for combining two or more of the income maintenance programs into a single administrative system or making one program the primary payer and the other program the secondary payer of benefits for the injured and disabled. For no-fault automobile insurance, determine if there are overlapping benefits and whether one set of benefits should be primary (if not already the case) and the other secondary.
8. Evaluate all feasible merger proposals for state income maintenance programs.

9. Consider the creation of a single purpose application and a unified referral, information, and "screening" system to determine probable eligibility for the various income maintenance benefits.

The Commission met on October 26, 1978, November 20, 1978, and December 4, 1978. Prior to November 20, 1978, a letter was addressed on behalf of the Commission to government officials involved in the administration of the following income maintenance programs: Unemployment and Disability Insurance; Workers' Compensation; Public Welfare; Medical Assistance and Health Services; Violent Crimes Compensation; and Social Security. The letter invited written responses to the following questions:

1. Who is covered and not covered? Does the program overlap with other income maintenance programs? If so, which one(s)? And how?

2. What is the cost of administering and funding the program? How is the program funded?

3. What are the benefits paid and the purposes of the benefits?

4. Are there problems in the administration of the program, e.g., in determining eligibility, making payments, location of geographic offices, and existing coordination among various income maintenance programs?

As a follow-up to the responses, the same officials were invited to speak to the Commission at the November 20, 1978 meeting. All attended or sent their designees, except for the respondent from the Social Security Office. The Commission did not see a need at the time to meet with someone from that office because the state has no jurisdiction over federal programs. Many of the speakers also presented Commission members with descriptive brochures of their respective income maintenance programs. A final report of the "Commissioner's Task Force On Integrated Wage Replacement Policy," released on April 11, 1975 was also presented to the Commission. This report, prepared by the State Department of Labor and Industry, was extremely valuable to the Commission in its study.

After completing its preliminary study, the Commission decided to focus its attention on the following income maintenance programs designed to replace a portion of earnings lost due to disability or injury rather than programs such as welfare which are intended to provide some level of subsistence for people who, for any of several reasons, are not receiving adequate income from other sources: Temporary Disability, Workers' Compensation, No-Fault Automobile Insurance, and Aid to Victims of Violent Crimes. Excluded were federal maintenance programs; as noted above, they are outside the jurisdiction of the State legislature.

With these four programs in mind, the Commission re-defined its objectives as three broad areas of possible reform:

1. Establishing an effective "screening" system to determine the eligibility and to expedite the processing of applications for income maintenance benefits provided by the four programs. Such a system should be designed to function efficiently, to improve services to qualified applicants, and to minimize fraud.

2. Integrating the administration and funding of those portions of the four programs which apply to temporary disabilities.

3. Determining the feasibility of and reviewing options for reforming those portions of the programs which apply to permanent disabilities.

Currently, the four programs are partially integrated. Temporary disability benefits and workers' compensation benefits are primary coverages for victims of automobile accidents. A victim of an automobile accident cannot elect to recover medical expense benefits or income continuation benefits (so-called personal injury protection benefits) under no-fault automobile insurance coverage if there are collectible workers' compensation and temporary disability benefits (N.J.S.A. 39:6A-6). The benefits under no-fault automobile insurance are reduced by such collectible amounts. Likewise, in determining the amount of compensation to be allowed to a victim of a violent

crime, the State Violent Crimes Compensation Board must take into consideration amounts received or receivable from any other sources by the victim or his dependents (N.J.S.A. 52:4B-19).

The Temporary Disability and Workers' Compensation Programs operate cooperatively through a "lien case" mechanism. That is, both programs operate a cooperative benefit payment program to assist workers whose claims for workers' compensation income replacement benefits are "contested" and thereby "delayed." Such claimants may receive temporary disability insurance benefits upon application and proof that the workers' compensation claim is contested. Temporary disability insurance then places a "lien" against any future workers' compensation award to assure the replenishment of temporary disability insurance reserves upon final settlement of the workers' compensation case. The objective of this practice, first established by law in 1948 (P.L. 1948, c. 110; C. 43:21-30), is to minimize jurisdictional disputes and utilize the relatively efficient payment procedure of the temporary disability insurance program for the benefit of workers' compensation claimants whose income replacement benefits might be delayed in normal litigation.

Of the nearly 41,324 workmen's compensation cases in 1979 which could be generally classified as "contested," however, approximately only 600* claimants filed for and received benefits under the temporary disability benefits law. From the above

*These figures refer to the State plan only.

data, it appeared to the Commission that the "lien case" mechanism was not efficient in expediting the payment of benefits or avoiding jurisdictional disputes, as intended.

In 1973, the New Jersey Workmen's Compensation Study Commission concluded that "one of the most shocking situations in New Jersey's workmen's compensation system is the delay which is often encountered in the payment of an injured worker's medical bills or workmen's compensation benefits for temporary disability." The Commission indicated that on occasion "administrative roadblocks" created by the Division of Worker's Compensation and the Division of Employment Security (which administers temporary disability benefits) resulted in "delays of eight months or more before a worker receives the funds to which he and his family were entitled within a matter of several weeks after his injury." No recent data were supplied to the Commission to indicate delays have been reduced.

Eliminating both the jurisdictional and delay problems in the payment of benefits for temporary disabilities covered under workers' compensation and temporary disability coverage became this Commission's principal objectives.

Based on material submitted to the Commission by officials responsible for administering the various income maintenance programs, testimony presented to it by the same officials or their designees, and the input of Commission members the Commission released its findings, proposed recommendations, and a summary description of the various income maintenance programs in New Jersey in its first report released on January 1, 1979.

Thereafter the Commission met on February 8, 1979, March 5, 1979, April 1, 1979, and May 1, 1979, to refine and elaborate upon its proposed recommendations. At the May 16, 1979 meeting the Commission drafted a detailed proposal for a short-term integrated income maintenance program for temporary disabilities and a central intake or "screening" office.

The details of the proposal were:

1. A short-term, integrated income maintenance program for temporarily disabled, employed persons should be established with income replacement benefits payable from a single office and a single fund. Benefits to be included in such a program are: Temporary Disability, Workers' Compensation, No-Fault Auto Insurance (PIP Benefits), and Aid to Victims of Violent Crimes. All temporary disabilities would be compensated under the current Temporary Disability Program for a maximum of 26 weeks, which is the maximum duration of coverage under the existing Temporary Disability Program. The maximum weekly wage replacement benefit would be the TDI rate (which is currently \$123). A disabled person who would normally be eligible for income replacement benefits under either Workers' Compensation, No-Fault Auto Insurance (PIP Benefits), or Aid to Victims of Violent Crimes would be entitled to recover the difference between the maximum TDI benefit rate and the maximum benefit rate available under the applicable type of coverage. And after 26 weeks the claimant could continue collecting benefits under the applicable coverage, if eligible.

2. Offsetting the added cost of covering all temporary disabilities by temporary disability benefits would involve adjusting the workers' compensation rates accordingly to reflect the removal of all temporary disability claims from workers' compensation coverage, increasing the temporary disability insurance tax rate, and adopting a system of classifications and experience rating (as in the Workers' Compensation Program) to offset the added costs of having all temporary disabilities included under temporary disability coverage. Private temporary disability plans could continue to operate as long as they meet the minimum TDI (state plan) standards.

3. The following are three options for standardizing the eligibility requirements for receiving payments from the integrated program:

a. TDI eligibility requirements could be rewritten so that in order to receive payments a claimant must be employed and disabled. Coverage could be from the first day of disability.

b. TDI eligibility requirements could be rewritten so that they conform to those of workers' compensation, i.e., employment, a disability, and a one week waiting period so that payments will be made on the eighth day after a disability.

c. Leave TDI requirements as they are. Thus, a person who does not qualify under TDI would have to look to other coverage.

4. After or during the 26 week period, an individual

would be referred to the appropriate income maintenance program for extended coverage.

5. There would be direct application by mail for TDI benefits, as is presently done.

6. A statewide computerized management information system to keep track of the recipients of various income maintenance benefits, e.g., workers' compensation and unemployment insurance, assist in audits, and prevent fraud should be adopted. This system could be built into the present TDI (state) computer program system.

7. Central intake or "screening" income maintenance offices should be established in the various State Employment Service Offices (ESO) throughout the state. Such offices would be staffed by personnel trained in and knowledgeable of the procedures, paperwork, and various eligibility requirements and benefits of the four income maintenance programs to be integrated. Staff would have contacts with the four programs and all other public and private programs providing assistance to disabled persons. A current employee of ESO could be selected and trained. His responsibility would be to provide information and help a claimant proceed through the system.

After drafting its proposal, the Commission directed its staff to discuss the proposal with the appropriate personnel in the State Department of Labor and Industry. A number of meetings were held during the following year to discuss and work out the details of the recommendations;

Commission members were informed of the results. Finally, the Commission concluded its study by adopting the following findings, recommendations, and proposing legislation.

FINDINGS

The Commission finds that there is merit to the concept of a short-term integrated income maintenance program for temporary disabilities. This program would include the short-term disability portion of the following ongoing programs: (1) Temporary Disability Insurance; (2) No-Fault Automobile Insurance (personal injury protection coverage); (3) Workers' Compensation; and (4) Aid to Victims of Violent Crimes. Fully integrating these four programs would require establishing uniform requirements for eligibility and coverage, as well as uniform benefit levels, disqualification standards, and a uniform waiting period. Decisions of this magnitude and scope must await more study and hearings.

There is one step that should be taken immediately toward a complete integration of short-term income maintenance programs for temporary disabilities. Legislation should be enacted to make temporary disability insurance the primary source of lost earnings payments for the first twenty-six weeks of a work-related temporary disability currently being paid by workers' compensation carriers and self-insurers. If a worker satisfies the eligibility criteria* for temporary disability insurance coverage he will be eligible

*A worker must be covered by unemployment insurance and have earned at least \$15 per week for 17 weeks or a total of \$2,200 or more in New Jersey during the 52 weeks immediately preceding the week in which the disability began.

to receive payments. This reform has as its objective the elimination of jurisdictional disputes between workers' compensation and temporary disability insurance programs, the prompt payment of benefits to workers temporarily disabled, and the utilization of the relatively efficient payment procedure of the temporary disability insurance program.

If enacted, this legislation would place workers' compensation in the same position relative to temporary disability insurance as the personal injury protection coverage portion of no-fault automobile insurance and aid to victims of violent crimes; i.e., temporary disability insurance is primary.

(See N.J.S.A. 39:6A-6 and N.J.S.A. 52:48-19.) To accomplish this reform, the "Workers' Compensation Law" (Title 34 of the Revised Statutes) should be amended to make temporary disability benefits primary and to require that income benefits collectible under the "Temporary Disability Benefits Law" (P.L. 1948, c. 110; C. 43:21-25 et seq.) should be deducted from additional workers' compensation benefits collectible simultaneously under R.S. 34:15-12. (This amendment would not affect the payment of medical benefits provided under N.J.S.A. 34:15-15 of the Workers' Compensation Law.) In addition, the "Temporary Disability Benefits Law" should be amended to accomplish this reform. One such amendment should delete the so-called "lien mechanism" provision

which provides for the recovery of temporary disability benefits from workers' compensation awards; this provision would no longer be necessary.

To offset the added cost of covering all work-related temporary disabilities for twenty-six weeks under the Temporary Disability Fund, employers should annually pay an assessment which would raise enough monies to equal the amount estimated to be paid from the Temporary Disability Fund for work-connected temporary disabilities and for administering this program. Approved private plans should be exempted from this assessment. They are currently able to adjust their rates to reflect added costs. Similarly, workers' compensation rates could be adjusted annually to reflect the removal of such claims from workers' compensation coverage.

The establishment of central intake or "screening" income maintenance offices in the various employment offices throughout the state should be delayed until a cost estimate and need study is completed. Likewise, more information is desirable on the operation and effect of a statewide computerized management information system to keep track of the recipients of income maintenance benefits, assist in audits, and prevent fraud, and on the feasibility of reforming those portions of the four programs considered which apply to permanent disabilities.

RECOMMENDATIONS

AND

PROPOSED LEGISLATION

The Commission adopted the following recommendations:

(1) Amend N.J.S.A. 34:15-12 to make temporary disability insurance rather than workers' compensation insurance the PRIMARY SOURCE of replacement income for the first twenty-six weeks (the maximum period under temporary disability insurance) of a work-related temporary disability and to require that income benefits collectible under the "Temporary Disability Benefits Law" (P.L. 1948, c. 110; C. 43:21-25 et seq.) shall be deducted from additional workers' compensation benefits collectible under N.J.S.A. 34:15-12. Only when an injured worker did not satisfy the eligibility criteria for temporary disability insurance would he be excluded from receiving benefits. A claimant will be eligible for workers' compensation benefits in such amount that those benefits exceed those collectible under the "Temporary Disability Benefits Law."

(2) Amend N.J.S.A. 43:21-4(f) (1), 43:21-26 and 43:21-29 to make it clear that a disability will be compensable under temporary disability insurance, regardless of whether it is an occupational or non-occupational sickness or accident.

(3) Amend N.J.S.A. 43:21-30 to delete the so-called "lien mechanism" provision from the temporary disability insurance law.*

(4) Amend N.J.S.A. 43:21-49(c) to provide that all medical records of the Division of Unemployment and Disability

*See page 5 for an explanation of the "lien mechanism" provision.

Insurance which are otherwise confidential shall be open if necessary for the proper administration of the "Workers' Compensation Law" (Title 34 of the Revised Statutes).

(5) Repeal N.J.S.A. 34:15-57.1 and 34:15-57.2. Both of these sections of the "Workers' Compensation Law," which concern the reimbursement of benefits paid under the "Temporary Disability Benefits Law," would be irrelevant if temporary disability insurance is primary.

(6) Amend N.J.S.A. 43:21-46, which established the State Disability Benefits Fund, to authorize the Commissioner of Labor and Industry to make an additional assessment upon employers equal to the amount to be paid from the fund for work-connected temporary disabilities. A reasonable sum for the administration of payments from the fund for work-connected temporary disabilities shall be included in the assessment. Approved private plans will be exempt from this provision; private carriers can adjust their rates accordingly. Likewise, under the provisions of N.J.S.A. 34:15-88, 34:15-89 and 34:15-90, every insurance company or mutual association which provides workers' compensation insurance must also adjust their rates to reflect their experience, exclusive of all temporary disability claims for a maximum of twenty-six weeks.

The Commissioner of Labor and Industry will have until the first day of the sixth calendar month following the enactment of this legislation to take anticipatory action

before these reforms become effective. The additional assessment upon employers may begin immediately upon the enactment of the legislation, based upon an estimate of monies to be paid from the State Disability Fund for the remainder of the fiscal year following the enactment of this legislation. This will allow the fund to increase its monies in anticipation of increased payments.

A draft of legislation amending the appropriate statutes to accomplish these reforms follows. Underlined language denotes new statutory language, [brackets] denote where existing statutory language is deleted. Section 1 of the legislation amends N.J.S.A. 34:15-12 which incorporates the latest revisions of New Jersey Workers' Compensation Law made by P.L. 1979, c. 283.

The Commission also recommends that the Assembly Labor Committee and the Senate Labor, Industry and Professions Committee, sitting jointly, study the broader issue of creating a short-term fully integrated income maintenance program for temporarily disabled, employed persons. This program would integrate the workers' compensation and temporary disability insurance provisions dealing with disability benefits for twenty-six weeks. It would require establishing uniform requirements for eligibility and coverage, as well as uniform benefit levels, disqualification standards, and a waiting period requirement. The objective of this new

program would be to end the fragmented approach to providing income maintenance benefits, reduce the skyrocketing costs of funding and administering the system, and extend disability coverage to persons who currently fail to qualify under any income maintenance programs.

The joint committee should also study the concept of central intake or "screening" income maintenance offices and a statewide computerized management information system. Their purposes are discussed elsewhere in this report and in the Commission's first report. Finally, the joint committee should consider the feasibility of reforming those portions of the four programs considered which apply to permanent disabilities.

AN ACT concerning temporary disabilities, amending R.S. 34:15-12, R.S. 43:21-4, P.L. 1948, c. 110, and repealing sections 1 and 2 of P.L. 1950, c. 174 (C. 34:15-57.1 and 57.2).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S. 34:15-12 is amended to read as follows:

34:15-12. Following is a schedule of compensation:

a. For injury producing temporary disability, 70% of the worker's weekly wages received at the time of the injury, subject to a maximum compensation of 75% of the average weekly wages earned by all employees covered by the Unemployment Compensation Law (R.S. 43:21-1 et seq.) and a minimum of 20% of such average weekly wages a week. This compensation shall be paid during the period of such disability, not however, beyond 400 weeks. The amount of the maximum compensation shall be computed, determined, rounded out to the nearest dollar, and promulgated by the Commissioner of Labor and Industry on or before September 1 in each year based on said average weekly wages as of the calendar year preceding, and shall be effective as to injuries occurring in the calendar year following such promulgation. In any year in which the maximum benefit rate based upon said computation would not be increased or decreased beyond \$1.00 in amount, the rate promulgated theretofore shall continue. The benefits collectible under the "Temporary Disability Benefits Law" (P.L. 1948, c. 110; C. 43:21-25 et seq.) shall be deducted from the benefits collectible under this section.

A claimant shall be eligible for benefits under this section in such amount that those benefits exceed those collectible under the "Temporary Disability Benefits Law."

b. For disability total in character and permanent in quality, 70% of the weekly wages received at the time of injury, subject to a maximum and a minimum compensation as stated in paragraph "a" hereof. This compensation shall be paid for a period of 450 weeks, at which time compensation payments shall cease unless the employee shall have submitted to such physical or educational rehabilitation as may have been ordered by the rehabilitation commission, and can show that because of such disability it is impossible for the employee to obtain wages or earnings equal to those earned at the time of the accident, in which case further weekly payments shall be made during the period of such disability, the amount thereof to be the previous weekly compensation payment diminished by that portion thereof that the wage, or earnings, the employee is then able to earn, bears to the wages received at the time of the accident. If the employee's wages or earnings equal or exceed wages received at the time of the accident, then the compensation rate shall be reduced to \$5.00. In calculating compensation for this extension beyond 450 weeks the above minimum provision shall not apply. This extension of compensation payments beyond 450 weeks shall be subject to such periodic reconsiderations and extensions as the case may require, and shall apply only to disability

total in character and permanent in quality, and shall not apply to any accident occurring prior to July 4, 1923.

c. For disability partial in character and permanent in quality, weekly compensation shall be paid based upon 70% of the weekly wages received at the time of the injury, subject to a maximum compensation per week of 75% of the statewide average weekly wages (SAWW) earned by all employees covered by the Unemployment Compensation Law (R.S. 43:21-1 et seq.) and paid in accordance with the following "Disability Wage and Compensation Schedule" and a minimum of \$35.00 per week. The amount of awards for up to and including 180 weeks shall remain at the amounts listed in the "Disability Wage and Compensation Schedule" until January 1, 1982. On January 1, 1982, the dollar amounts listed for the first 180 weeks in the "Disability Wage and Compensation Schedule" shall be replaced by the following percentages of the statewide average weekly wage:

\$47-20% of the statewide	\$61-26% SAWW
average weekly	\$63-27% SAWW
wages, hereinafter	\$66-28% SAWW
referred to as "SAWW"	\$68-29% SAWW
\$49-21% SAWW	\$70-30% SAWW
\$51-22% SAWW	\$73-31% SAWW
\$54-23% SAWW	\$75-32% SAWW
\$56-24% SAWW	\$77-33% SAWW
\$59-25% SAWW	\$80-34% SAWW
	\$82-35% SAWW

In the event that the 20% limitation for attorney fees as set forth in R.S. 34:15-64 is reduced to a maximum of 10% before January 1, 1982, the above schedule shall be effective within 60 days of such reduction in attorney fees. All amounts in the "Disability Wage and Compensation Schedule" shall be rounded out to the nearest dollar. When a claim petition alleges more than one disability, the number of weeks in the award shall be determined and entered separately for each such disability and the number of weeks for each disability shall not be cumulative when entering an award.

DISABILITY WAGE AND COMPENSATION SCHEDULE

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
First 90 weeks	\$47
91 through 96 weeks	\$49
97 through 102 weeks	\$49 for the first 96 weeks then \$51 for each remaining week
103 through 108 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for each remaining week
109-114 weeks	\$49 for first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for each remaining week
115-120 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for each remaining week
121-126 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for each remaining week
127-132 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for each remaining week
133-138 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for each remaining week

Weeks of Allowable
Compensation

Maximum Weekly Compensation
Applicable

163-168 weeks

\$49 for the first 96 weeks
then \$51 for the next 6 weeks
then \$54 for the next 6 weeks
then \$56 for the next 6 weeks
then \$59 for the next 6 weeks
then \$61 for the next 6 weeks
then \$63 for the next 6 weeks
then \$66 for the next 6 weeks
then \$68 for the next 6 weeks
then \$70 for the next 6 weeks
then \$73 for the next 6 weeks
then \$75 for the next 6 weeks
then \$77 for each remaining week

169-174 weeks

\$49 for the first 96 weeks
then \$51 for the next 6 weeks
then \$54 for the next 6 weeks
then \$56 for the next 6 weeks
then \$59 for the next 6 weeks
then \$61 for the next 6 weeks
then \$63 for the next 6 weeks
then \$66 for the next 6 weeks
then \$68 for the next 6 weeks
then \$70 for the next 6 weeks
then \$73 for the next 6 weeks
then \$75 for the next 6 weeks
then \$77 for the next 6 weeks
then \$80 for each remaining week

175-180 weeks

\$49 for the first 96 weeks
then \$51 for the next 6 weeks
then \$54 for the next 6 weeks
then \$56 for the next 6 weeks
then \$59 for the next 6 weeks
then \$61 for the next 6 weeks
then \$63 for the next 6 weeks
then \$66 for the next 6 weeks
then \$68 for the next 6 weeks
then \$70 for the next 6 weeks
then \$73 for the next 6 weeks
then \$75 for the next 6 weeks
then \$77 for the next 6 weeks
then \$80 for the next 6 weeks
then \$82 for each remaining week

181-210 weeks

35% of the Statewide average
weekly wages, hereinafter re-
ferred to as "SAWW"

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
211-240 weeks	40% of SAWW
241-270 weeks	45% of SAWW
271-300 weeks	50% of SAWW
301-330 weeks	55% of SAWW
331-360 weeks	60% of SAWW
361-390 weeks	65% of SAWW
391-420 weeks	70% of SAWW
421-600 weeks	75% of SAWW

Said compensation shall be expressly subject to the provisions of R.S. 34:15-37, and shall be paid to the employee for the period named in the following schedule (subparagraphs 1 to 23 inclusive):

<u>Lost Member</u>	<u>Number of Weeks Compensation</u>
1. Thumb	75
2. First finger (commonly called index finger)	50
3. Second finger	40
4. Third finger	30
5. Fourth finger (commonly called little finger)	20
6. Great toe	40
7. Toe, other than a great toe	15
8. Hand, or thumb and first and second fingers (on one hand) or four fingers (on one hand)	245
9. Arm	330
10. Foot	230
11. Leg	315

12. The loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of $\frac{1}{2}$ of such thumb or finger, and the compensation shall be for $\frac{1}{2}$ of the periods of time above specified. The loss of any portion of the thumb or any finger between the terminal joint and the end thereof shall be compensated for a like proportion of the period of time prescribed for the loss of the first phalange of such member.

13. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

14. The loss of the first phalange of any toe shall be considered to be equal to the loss of $\frac{1}{2}$ of such toe, and compensation shall be for $\frac{1}{2}$ of the period of time above specified.

15. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire toe.

16. For the loss of vision of an eye 200 weeks.

17. For the enucleation of an eye, 25 weeks, in addition to such compensation, if any, as may be allowable under subparagraph 16.

18. For the loss of a natural tooth, 4 weeks for each tooth lost.

19. For the total loss of hearing in one ear, 60 weeks. For the total loss of hearing in both ears by one accident, 200 weeks.

20. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof as the result of any one accident, shall constitute total and permanent disability to be compensated according to the provisions of paragraph "b."

21. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand and amputation at the elbow shall be considered equivalent to the loss of the arm. Amputation between the knee and ankle shall be considered

equivalent to the loss of the arm. Amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot, and amputation at the knee shall be considered equivalent to the loss of the leg. An additional amount of 30% of the amputation award shall be added to that award to compute the total award made in amputations of body members, provided however that this additional amount shall not be subject to legal fees.

22. In all lesser or other cases involving permanent loss, or where the usefulness of a member of any physical function is permanently impaired, the duration of compensation shall bear such relation to the specific periods of time stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. In cases in which the disability is determined as a percentage of total and permanent disability, the duration of the compensation shall be a corresponding portion of 600 weeks. Should the employer and employee be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, either party may appeal to the Division of Workers' Compensation for a settlement of the controversy.

23. Where there is a traumatic hernia compensation will be allowed if notice thereof is given by the claimant to the employer within 48 hours after the occurrence of the hernia but any Sunday, Saturday or holiday shall be excluded from this 48-hour period.

d. If previous loss of function to the body, head, a

member or an organ is established by competent evidence, and subsequently an injury or occupational disease arising out of and in the course of an employment occurs to that part of the body, head, member or organ, where there was a previous loss of function, then and in such case, the employer or the employer's insurance carrier at the time of the subsequent injury or occupational disease shall not be liable for any such loss and credit shall be given the employer or the employer's insurance carrier for the previous loss of function and the burden of proof in such matters shall rest on the employer.

e. In case of the death of the person from any cause other than the accident or occupational disease, during the period of payments for permanent injury, the remaining payments shall be paid to such of the deceased person's dependents as are included in the provisions of said section 34:15-13 or, if no dependents, the remaining amount due, but not exceeding \$2,000.00, shall be paid in a lump sum to the proper person for funeral expenses; but no compensation shall be due any other person than the injured employee on account of compensation being paid in excess of 450 weeks on account of disability total in character and permanent in quality as provided by paragraph b. of this section.

2. R.S. 43:21-4 is amended to read as follows:

43:21-4. Benefit eligibility conditions.

An unemployed individual shall be eligible to receive benefits with respect to any week only if it appears that:

(a) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the division may prescribe, except that the division may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs, and as to such other types of cases or situations with respect to which the division finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this act; provided, that no such regulation shall conflict with subsection (a) of R.S. 43:21-3.

(b) He has made a claim for benefits in accordance with the provisions of subsection (a) of R.S. 43:21-6.

(c) He is able to work, and is available for work, and has demonstrated that he is actively seeking work, except as hereinafter provided in this subsection or in subsection (f) of this section:

The director may, in his discretion, modify the requirement of actively seeking work if, in his judgment, such modification of this requirement is warranted by economic conditions.

No individual, who is otherwise eligible, shall be deemed ineligible, or unavailable for work, because he is on vacation, without pay, during said week, if said vacation is not the result of his own action as distinguished from any collective action of a collective bargaining agent or other action beyond his individual control. Subject to such limitations and conditions as the division may prescribe, an individual who is otherwise eligible, shall not be deemed unavailable for work or

for him by the division to enhance his employment opportunities or because he failed or refused to accept work while attending such program. An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of his attendance before a court in response to a summons for service on a jury.

(d) He has been totally or partially unemployed for a waiting period of 1 week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, he shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) If benefits have been paid, or are payable with respect thereto; provided, that the requirements of this paragraph shall be waived with respect to any benefits paid or payable for a waiting period as provided in this subsection;

(2) If it has constituted a waiting period week under temporary disability benefits law;

(3) Unless the individual fulfills the requirements of subsections (a) and (c) of this section;

(4) If with respect thereto, claimant was disqualified for benefits in accordance with the provisions of subsection (d) of R.S. 43:21-5.

(e) With respect to a base year as defined in subsection (c) of R.S. 43:21-19 he has established at least 20 base weeks as defined in subsection (t) of R.S. 43:21-19, or, in the alternative, has earned \$2,200.00 or more in his base year, except that with respect to benefit years commencing on or after

January 1, 1978, an individual's base week wages in his base year shall include wages paid for previously uncovered services. For the purposes of this subsection, the term "previously uncovered services" means services

(1) Which were not employment as defined in R.S. 43:21-19

(i) (1) and were not services covered pursuant to R.S. 43:21-8 at any time during the 1-year period ending December 31, 1975; and

(2) Which

(A) are agricultural labor (as defined in R.S. 43:21-19

(i) (1) (I) or domestic service (as defined in R.S. 43:21-19

(i) (1) (J)), or

(B) are services performed by an employee of a governmental unit or instrumentality in employment as defined in R.S.

43:21-19 (i) (1) (B) (ii), or by an employee of a nonprofit educational institution which is not an institution of higher education, as provided in R.S. 43:21-19 (i) (1) (D) (iii):

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services. To the extent that the unemployment compensation fund is reimbursed pursuant to Section 121 of the Federal Unemployment Compensation Amendments of 1976

(Public Law 94-566), an employer's account shall not be charged for that portion of benefits paid to any individual attributable to base year wages for previously uncovered services, nor shall any nonprofit organization or governmental unit or instrumentality which elects to make payments in lieu of contributions

into the unemployment fund be liable to make payments with respect to that portion of benefits paid to any individual attributable to base year wages for previously uncovered services as defined herein.

(f) (1) He has suffered any accident or sickness [not compensable under the Workers' Compensation Law (Title 34 of the Revised Statutes) and] resulting in his total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S. 43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for his inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S. 43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual" as defined in R.S. 43:21-27(b); provided further, that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist or podiatrist;

(B) For any period of disability due to pregnancy or resulting childbirth, miscarriage, or abortion, except for disability existing during the 4 weeks immediately before the expected birth of child, and the 4 weeks following the termination of the pregnancy;

(C) For any period of disability due to willfully or intentionally self-inflicted injury, or to injuries sustained in the perpetration by the individual of a high misdemeanor;

(D) For any week with respect to which or a part of which he has received or is seeking benefits under any unemployment compensation or disability benefit law or any other state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such benefits, this disqualification shall not apply;

(E) For any week with respect to which or part of which he has received or is seeking disability benefits under the temporary disability benefits law;

(F) For any period of disability commencing while such individual is a "covered individual" as defined in subsection 3(b) of the temporary disability benefits law (P.L. 1948, c. 110).

(2) Benefit payments under this subsection shall be charged to and paid from the State disability benefits fund established by the temporary disability benefits law, and shall not be charged to any employer account in computing any employer's experience rate for contributions payable under this chapter.

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S. 43:21-19 (i) (1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other service subject to the Unemployment Compensation Law; except that notwithstanding any other provisions of the Unemployment Compen-

sation Law;

(1) With respect to service performed after December 31, 1977, in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(2) With respect to service performed after December 31, 1977, in any other capacity for an educational institution (other than an institution of higher education as defined in R.S. 43:21-19 (y) (2)) benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms of such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(3) With respect to those services described in paragraphs (1) and (2) above, benefits shall not be paid on the basis of such services to any individual for any week which

commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such period or holiday recess.

(h) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(i)(1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act); provided, that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act as provided by Public Law 94-566 which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifi-

cations are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(j) Notwithstanding any other provision of this chapter, the director may, to the extent that he deems efficient and economical provide for consolidated administration by one or more representatives or deputies of claims made pursuant to subsection (f) of this section with those made pursuant to Article III (State plan) of the Temporary Disability Benefits Law.

3. Section 2 of P.L. 1948, c. 110 (C. 43:21-26) is amended to read as follows:

2. Purpose. This act shall be liberally construed as remedial legislation enacted upon the following declarations of public policy and legislative findings of fact:

The public policy of this State, already established, is to protect employees against the suffering and hardship generally caused by involuntary unemployment. But the unemployment compensation law provides benefit payments to replace wage loss caused by involuntary unemployment only so long as an individual is "able to work, and is available

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
139-144 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$68 for each remaining week
145-150 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for each remaining week
151-156 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 3 weeks then \$70 for the next 6 weeks then \$73 for each remaining week
157-162	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for the next 6 weeks then \$73 for the next 6 weeks then \$75 for each remaining week

for work," and fails to provide any protection against wage loss suffered because of inability to perform the duties of a job interrupted by illness. Nor is there any other comprehensive and systematic provision for the protection of working people against loss of earnings due to [nonoccupational] sickness or accident.

The prevalence and incidence of [nonoccupational] sickness and accident among employed people is greatest among the lower income groups, who ei-

ther cannot or will not voluntarily provide out of their own resources against the hazard of earnings loss caused by [nonoccupational] sickness or accident. Disabling sickness or accident occurs throughout the working population at one time or another, and approximately fifteen per centum (15%) of the number of people at work may be expected to suffer disabling illness of more than one week each year.

It has been found that existing voluntary plans for the payment of cash sickness benefits cover less than one-half of the number of working people of this State who are now covered by the unemployment compensation law, and that even this degree of voluntary protection affords uneven, unequal and sometimes uncertain protection among the various voluntary benefit programs. It is therefore desirable and necessary to fill the gap in existing provisions for protection against the loss of earnings caused by involuntary unemployment, by extending such protection to meet the hazard of earnings loss due to inability to work caused by [nonoccupational] sickness or accident.

The foregoing facts and considerations require that there be a uniform minimum program providing in a systematic manner for the payment of reasonable benefits to replace partially such earnings loss and to meet the continuing need for benefits where an individual becomes disabled during unemployment. In order to maintain consumer purchasing power, relieve the serious menace to health, morals and welfare of the people caused by insecurity and the loss of earnings, to reduce the necessity for public relief of needy persons, and in the interest of the health, welfare and security of the people of this State, such a system, enacted under the police power, is hereby established, requiring the payment of reasonable cash benefits to eligible individuals suffering accident or illness [which is not compensable under the workmen's compensation law].

4. Section 5 of P.L. 1948, c. 110 (C. 43:21-29) is amended to read as follows:

5. Compensable disability. Disability shall be compensable subject to the limitations of this act, where a covered individual suffers any accident or sickness [not arising out of and in the course of his employment or if so arising not compensable under the workmen's compensation law (Title 34 of the Revised Statutes), and] resulting in his total inability to perform the duties of his employment. For the purposes of this act, pregnancy may be deemed to be a sickness during the 4 weeks immediately preceding the expected birth of child and the 4 weeks immediately following the termination of the pregnancy.

5. Section 6 of P.L. 1948, c. 110 (C. 43:21-30) is amended to read as follows:

6. Nonduplication of benefits. No benefits shall be required or paid under this act for any period with respect to which benefits are paid or payable under any unemployment compensation or similar law, or under any disability or cash sickness benefit or similar law, of this State or of any other State or of the Federal Government. Nor shall any benefits be required or paid under this act for any period with respect to which benefits, other than benefits for permanent partial or permanent total disability previously incurred, are paid or payable on account of the disability of the covered individual under any workmen's compensation law, occupational disease law, or similar legislation [of this State or] of any other State or the Federal Government. [Where a claimant's claim for compensation for temporary disability, under the provisions of subparagraph a. of section 34:15-12 of the Revised Statutes, is contested, and thereby delayed, and such claimant is otherwise eligible for benefits under this chapter, said claimant shall be paid the benefits provided by this chapter until and unless said claimant receives compensation under the provisions of subparagraph a. of section 34:15-12 of the Revised Statutes. In the event that workmen's compensation benefits, other than benefits for permanent partial or permanent total disability previously incurred, are subsequently awarded for weeks with respect to which the claimant has received disability benefits pursuant to this act, the State fund, or the private plan, as the case may be, shall be entitled to be subrogated to such claimant's rights in such award to the extent of the amount of disability payments made hereunder.] Disability benefits otherwise required hereunder shall be reduced

by the amount paid concurrently under any governmental or private retirement, pension or permanent disability benefit or allowance program to which his most recent employer contributed on his behalf.

6. Section 22 of P.L. 1948, c. 110 (C. 43:21-46) is amended to read as follows:

22. State disability benefits fund. (a) The State disability benefits fund, hereinafter referred to as the fund, is hereby established. The fund shall remain in the custody of the State Treasurer, and to the extent of its cash requirements shall be deposited in authorized public depositories in the State of New Jersey. There shall be deposited in and credited to the fund the amount of worker and employer contributions provided under subsections (d) and (e) of R. S. 43:21-7, less refunds authorized by the chapter (R. S. 43:21-1 et seq.) to which this act is a supplement, and the entire amount of interest and earnings from investments of the fund, and all assessments, fines and penalties collected under this act. The fund shall be held in trust for the payment of disability benefits pursuant to this act, for the payment of benefits pursuant to subsection (f) of R. S. 43:21-4, and for the payment of any authorized refunds of contributions. All warrants for the payment of benefits shall be issued by and bear only the signature of the Director of the Division of Unemployment and Temporary Disability

Insurance or his duly authorized agent for that purpose. All other moneys withdrawn from the fund shall be upon warrant signed by the State Treasurer and countersigned by the Director of the Division of Unemployment and Temporary

Disability Insurance of the

Department of Labor and Industry of the State of New Jersey. The Treasurer shall maintain books, records and accounts for the fund, appoint personnel and fix their compensation within the limits of available appropriations. The expenses of the treasurer in administering the fund and its accounts shall be charged against the administration account, as hereinafter established. A separate account, to be known as the administration account, shall be maintained in the fund, and there shall be credited to such account an amount determined to be sufficient for proper administration, not to exceed, however, 8/100 of 1% of the wages with respect to which current contributions are payable into the fund, and the entire amount of any assessments against covered employers, as hereinafter provided, for costs of administration prorated among approved private plans. The costs of administration of this act including R. S. 43:21-4 (f) shall be charged to the administration account.

(b) A further separate account, to be known as the unemployment disability account, shall be maintained in the fund. Such account shall be charged with all benefit payments under R. S. 43:21-4 (f).

Prior to July 1 of each calendar year, the Division of Unemployment and Temporary Disability Insurance of the Department of Labor and Industry of the

State of New Jersey shall determine the average rate of interest and other earnings on all investments of the State disability benefits fund for the preceding calendar year. An amount equal to the sum of the amounts withdrawn from the unemployment trust fund pursuant to section 23 hereof multiplied by such average

rate shall be determined by the division and credited to the unemployment disability account as of the end of the preceding calendar year.

If the unemployment disability account shall show an accumulated deficit in excess of \$200,000.00 at the end of any calendar year after interest and other earnings have been credited as provided hereinabove, the division shall determine the ratio of such deficit to the total of all taxable wages paid during the preceding calendar year, and shall make an assessment against all employers in an amount equal to the taxable wages paid by them during such preceding calendar year to employees, multiplied by such ratio, but in no event shall any such assessment exceed $\frac{1}{10}$ of 1% of such wages; provided, however, that the assessment made against the State (including Rutgers, The State University of New Jersey, the College of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology) shall not exceed the sum of all benefits paid under the provisions of R.S. 43:21-4(f) as a result of employment with the State.

Such amounts shall be collectible by the division in the

same manner as provided for the collection of employee contributions under this chapter (R. S. 43:21-1 et seq.). In making this assessment, the division shall furnish to each affected employer a brief summary of the determination thereof. The amount of such assessments collected by the division shall be credited to the unemployment disability account.

As used in this section, "taxable wages" shall mean wages with respect to which employer contributions have been paid or are payable pursuant to subsections (a), (b) and (c) of R. S. 43:21-7.

(c) A board of trustees, consisting of the State Treasurer, the Secretary of State, the Commissioner of Labor and Industry, the director of the division, and the State Comptroller, is hereby created. The board shall invest and reinvest all moneys in the fund in excess of its cash requirements, and such investments shall be made in obligations legal for savings banks; provided, however, that the provisions of this subsection shall in all respects be subject to the provisions of chapter 270 of the laws of 1950.

(d) There is hereby appropriated, to be paid out of the fund, such amounts as may from time to time be required for the payment of disability benefits, and such amounts as may be required each year, as contained in the annual appropriation act, for the administration of this act including R. S. 43:21-4 (f).

(e) In addition to the assessments provided to be collected herein there shall be an additional assessment upon employers which shall be a percentage of wages determined by the Commissioner of Labor and Industry to be necessary to annually equal the monies estimated to be paid from the fund by reason of work-connected disabilities during each calendar year following the adoption of this act. The basis of such estimate shall be data collected by the Department of Labor and Industry and the Compensation Rating and Inspection Bureau in the Department of Insurance, pursuant to the provisions of R.S. 34:15-88 et seq. The data shall include the estimated experience of employers carrying their own liability insurance against injuries or illnesses caused to employees arising out of and in the course of their employment and a reasonable sum toward the cost of the administration of payments from this fund to workers disabled because of work-connected conditions. Approved private plans will be exempt from this provision. There shall be an initial assessment made under this subsection as determined by the commissioner to be necessary to equal the monies estimated to be paid from the fund for the remainder of the fiscal year following the enactment of this act.

7. Section 25 of P.L. 1948, c. 110 (C. 43:21-49) is amended to read as follows:

25. Notice and proof of claim.

(a) In the event of the disability of any individual covered under the State plan, the employer shall on the ninth day of disability issue to the individual and to the division printed notices on division forms containing the name, address, and Social Security number of the individual, such wage information as the division

may require to determine the individual's eligibility for benefits, and the name, address, and division identity number of the employer, together with a printed copy of benefit instructions of the division. Not later than 30 days after the commencement of the period of disability for which such notice is furnished, the individual shall furnish to the division a notice and claim for disability benefits under the State plan or for disability during unemployment. Upon the submission of such notices by the employer and the individual, the division may issue benefit payments for periods not exceeding 3 weeks pending the receipt of medical proof. When requested by the division, such notice and proof shall include certification of total disability by the attending physician, or a record of hospital confinement. Failure to furnish notice and proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the division not to have been reasonably possible to furnish such notice and proof and that such notice and proof was furnished as soon as reasonably possible.

(b) A person claiming benefits under the State plan or for disability during unemployment shall, when requested by the division, submit himself at intervals, but not more often than once a week, for examination by a legally licensed physician, dentist, chiropodist, or public health nurse designated by the division. In all cases of physical examination of a female claimant, the examination shall be made by a female designee of the division, if the claimant so requests. All such examinations by physicians, dentists, chiropodists, or nurses designated by the division shall be without cost to the claimant and shall be held at a reasonable time and place. Refusal to submit to such a requested examination shall disqualify the claimant from all benefits for the period of disability in question, except as to benefits already paid.

(c) All medical records of the division, except to the extent necessary for the proper administration of this act, shall be confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the identity of the claimant, or the nature or cause of his disability nor admissible in evidence in any action or special proceeding other than one arising under this act.

and the Workers'
Compensation Law
(Title 34 of the
Revised Statutes)

8. Sections 1 and 2 of P.L. 1950, c. 174 (C. 34:15-57.1 and 57.2) are repealed.

9. Section 6 of this act shall take effect immediately; the remainder of the act shall take effect 6 months after enactment, except that anticipatory action may be taken immediately by the Commissioner of Labor and Industry.

STATEMENT

The purpose of this bill is to make temporary disability insurance rather than workers' compensation the primary source of income replacement for the first twenty-six weeks of a work-related temporary disability. Temporary disability insurance currently provides twenty-six weeks of partial wage replacement for covered workers who cannot perform their job because of sickness or injury suffered off the job. Benefits collectible under the "Temporary Disability Benefits Law" (P.L. 1948, c. 110; C. 43:21-25 et seq.) would be deducted from additional workers' compensation benefits collectible simultaneously under R.S. 34:21-25 for the same injury or sickness. This reform would not affect the payment of medical benefits provided under the Workers' Compensation Law (R.S. 34:15-15). Additionally, a claimant would be otherwise eligible for workers' compensation benefits above those collectible under temporary disability insurance coverage.

After the twenty-six week period, a claimant could continue to collect workers' compensation benefits, if eligible.

Only when a worker did not satisfy the eligibility criteria for temporary disability insurance coverage would he be excluded from recovering under temporary disability insurance. This bill would thus place temporary disability insurance in the same primary position relative to workers' compensation as it is to the personal injury protection coverage portion of no-fault automobile insurance and aid to victims of violent crimes.

The provisions of this bill are the result of a two-year study by the Commission on Income Maintenance created pursuant to P.L. 1975, c. 359. Sections 1 to 4 of the bill eliminate the problem of jurisdictional disputes between workers' compensation and temporary disability claims by making temporary disability insurance primary and extending the relatively efficient and prompt payment procedure of the temporary disability insurance program to workers' compensation claimants for the first twenty-six weeks of a temporary disability claim. Section 5 deletes the so-called "lien mechanism" provision from the temporary disability law (R.S. 43:21-30).

The temporary disability and workers' compensation programs currently operate cooperatively through a "lien case mechanism pursuant to R.S. 43:21-30. That is, both programs operate a cooperative benefit payment program to assist workers' whose claims for income replacement benefits from workers' compensation are "contested" and thereby "delayed." Such claimants may receive temporary disability insurance benefits upon application and proof that the workers' compensation claim

is contested. Temporary disability insurance then places a "lien" against any future workers' compensation award to assure the replenishment of temporary disability insurance reserves upon final settlement of the workers' compensation case.

The objective of this practice, first established by law in 1948 (P.L. 1948, c. 110, C. 43:21-30), is to minimize jurisdictional disputes and utilize the relatively efficient payment procedure of the temporary disability insurance program for the benefit of workers' compensation claimants whose benefits might be delayed in normal litigation of a workers' compensation case. Of the nearly 41,324 workmens' compensation cases in 1979 which could be generally classified as "contested," however, approximately only 600 claimants filed for and received benefits under the temporary disability benefits law (State plan). It appears that the "lien case" mechanism is not as efficient in promptly paying benefits or avoiding jurisdictional disputes, as intended.

To pay for the added financial burden on the Temporary Disability Fund, section 6 amends the Fund law (C. 43:21-46) to authorize the Commissioner of Labor and Industry to make an additional assessment upon employers equal to the monies to be paid from the fund for work-connected temporary disabilities. A reasonable sum for the administration of payments from the fund for work-connected temporary disabilities shall be included in the assessment. Approved private plans will be exempt from this provision; private carriers can adjust their rates accordingly. Likewise, every insurance company or mutual association

which provides workers' compensation insurance can also adjust their rates to reflect their experience, exclusive of all temporary disability claims for a maximum of twenty-six weeks.

The Commissioner of Labor and Industry will have until the first day of the sixth calendar month following the enactment of this legislation to take anticipatory action before these reforms become effective. The additional assessment upon employers may begin immediately upon the enactment of this bill so as to increase the fund in anticipation of increased payments.

DISSENTING STATEMENTS

A

New Jersey Bell

Employees' Benefit Committee
J. A. Frazer, Secretary

540 Broad Street
Newark, New Jersey 07101
Phone (201) 649-9900

June 3, 1980

Mr. Robert E. Littell, Chairman
Commission on Income Maintenance
Box 277, 47 Church Street
Franklin, New Jersey 07416

Dear Bob:

In accordance with your letter of March 27, 1980, I have reviewed the final report of the Commission on Income Maintenance dated March 1980.

I regret that I am unable to support the findings and recommendations of this report.

I respectfully suggest that I do not feel the Commission has adequately defined the "problem" and, therefore, it is difficult to assess whether or not the proposed recommendations would be relevant and cost/benefit effective.

It is stated on page 18 that "This reform has as its objective the elimination of jurisdictional disputes between Workers' Compensation and Temporary Disability Insurance Programs, the prompt payment of benefits to workers temporarily disabled and the utilization of the relatively efficient payment procedure of the Temporary Disability Insurance Program."

As to the first objective, i.e., "elimination of jurisdictional disputes", I am not aware of the existence of such disputes either in the written or verbal testimony or in the Commission report itself. If such disputes exist in any important degree, it would seem essential to analyze their nature and source in order to determine whether or not the best solution is to establish a new system or to revise present procedures within the existing system.

The second objective, which is the "prompt payment of benefits", is certainly an objective which I support. However, once again, I am not aware of the nature or degree of a slow payment problem nor of the causes if the problem does exist. In my letter of May 29, 1979 to Mr. Guzzo concerning the May 1979 proposed recommendation, I stated the following:

"Along with other members of the Commission, I have asked many questions in an effort to define more precisely the parameters of these "problems". Unfortunately, there have not been satisfactory answers. Let me cite some examples of statistics we need for each of the four programs which have been suggested for integration:

1. Number of claims processed
2. Number of claimants alleging "run around" treatment by
 - a. type of case, and
 - reason
3. Claim processing time, i.e., number of days from submission of completed claim to date payment made by
 - a. source
 - b. time intervals
 - c. source and reason for "delay" cases.

Having determined whether the "problems" involve 2%, 10% or 50% of the cases and having isolated the source and type of problem, we would then be in a position to suggest options and to assess these options based on cost-benefit considerations.

If a large part of the delays involve poor handling of routine Workers' Compensation cases, a different cost-benefit solution would seem to be indicated as compared to solving the problem of "contested" cases."

I can assure you that I completely support the "prompt payment" objective. However, I have not received any response to the information which I have requested. The questions which I raise are not technicalities. It appears to me fundamental that the Commission should demand information to determine whether and in what degree a delay problem exists and the source and reason for such delays. No matter how well intentioned the proposals may be, I cannot support recommendations which do not evolve from a more precise analysis.

The third stated objective is to utilize the payment procedure of the TDB Program. This, of course, is what the present "lien case" mechanism is designed to accomplish. The objective of this lien case mechanism (see page 10 of this Commission's report), ".... is to minimize jurisdictional disputes and utilize the relatively efficient payment procedure of the Temporary Disability Insurance Program for the benefit of Workers' Compensation claimants whose income replacement benefits might be delayed in normal litigation." Both existing law and the proposed recommendation have the same objective.

The question is whether or not the present system permits needed utilization of the prompt TDB payment procedure, and if not, why not. The final report states that only 600 claimants out of a total of 41,324 contested cases utilized the lien case mechanism in 1979. It concludes from this that the lien case mechanism doesn't work. But the figures are erroneous - they compare "apples and oranges". The "600" are temporary disability cases; the "41,324" include all claimants, of which only a portion

are temporary disability cases. Therefore, these figures certainly do not demonstrate whether or not the lien case mechanism usage is low. I am informed by Mr. Guzzo that Mr. Sklar and Judge Napier indicate that there are procedures under present law to ensure that a temporary disability claimant in a contested case is advised of his or her right to file a claim under TDI. Therefore, there does not appear to be anything inherent in the present lien case system which would limit its use for those claimants who elect to do so.

Therefore, while I agree with the objectives as stated, I do not feel that it has been established that the proposed legislation would most effectively accomplish these objectives.

In addition, the proposal involves a fundamental change in funding. It has not been established what the impact would be on various employers to transfer the cost from Workers' Compensation rate mechanism to the Temporary Disability Fund. The net impact on employers could vary significantly. This could have a poor effect on some employers.

Finally, as indicated in my letter of May 29, 1979, I have consistently and strongly opposed revising temporary disability eligibility requirements and coverage provisions. The Commission recommendation that the Assembly Labor Committee and the Senate Labor, Industry and Professions Committee study these broader issues implies that complete integration requiring uniform eligibility, coverage, benefit levels, etc., would be a desirable objective. There is no foundation in the record to indicate this is the desirable approach, and that it would, as alleged, reduce skyrocketing costs. There is no basis to suggest that coverage should be extended to persons who currently fail to qualify under either TDB or WC Programs.

I would be happy to review my position on this matter with you at any time. I have appreciated the opportunity to serve on this Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John Sklar", written in a cursive style.

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May 22, 1980

FILE:

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Honorable Robert E. Littell
Assemblyman District 15
Box 277, 47 Church Street
Franklin, New Jersey 07416

Re: Commission on Income Maintenance

Dear Assemblyman Littell:

I am terribly sorry to delay my response to the final report of this commission but, as you know, I have been wrestling with some personal doubts.

Firstly, there are some technical problems surrounding eligibility which would have to be changed before I could, in all good conscience, accept the position of the report.

Secondly, although I believe the concept expressed in the report is a sound one, I honestly do not believe that the Division of Unemployment Security really has the machinery or capability of administering the proposed changes.

As I have pointed out, by having the Division of Unemployment Security become primary for the payment of temporary total disability in compensation cases, I think you would have to anticipate their having to handle 150,000 to 200,000 more claims per year. Not only would there be the added burden in terms of number of claims but there would have to be systems devised under which that department would know when to stop the payment of temporary total disability. Presently, there are literally hundreds of people working for insurance carriers who follow the payment of temporary total disability in Workers' Compensation cases on a daily basis and we are still plagued with overpayments.

Lastly, I could not agree to the committee report unless the system of funding is changed, that is, while there is no doubt employers would be charged more for TDB, the legislation should direct a rebate in Workers' Compensation

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May 22, 1980

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because if the legislation as proposed in the report is adopted, an insurance carrier or self insured would be relieved, at least in 1980, of the first 26 weeks or less of temporary disability paid up to \$123.00 per week. It seems to me that this now becomes a simple underwriting calculation which to predicate a reduction in premium on the Workers' Compensation side.

Accordingly, I must respectfully decline to accept the report as written.

Respectfully yours,

MURRAY WEINGARTNER

MW/df

cc: Peter Guzzo

