

CHAPTER 18**TEMPORARY DISABILITY BENEFITS****Authority**

N.J.S.A. 43:21-25 et seq.

Source and Effective Date

R.2003 d.214, effective April 28, 2003.
See: 35 N.J.R. 1039(a), 35 N.J.R. 2226(a).

Chapter Expiration Date

Chapter 18, Temporary Disability Benefits, expires on April 28, 2008.

Chapter Historical Note

The provisions of Chapter 18, Temporary Disability Benefits, were filed and became effective prior to September 1, 1969. Pursuant to Executive No. 66(1978), Chapter 18, Temporary Disability Benefits, was readopted as R.1993 d.141. See: 25 N.J.R. 262(a), 25 N.J.R. 1515(c). Added Appendix by R.1994 d.406, effective August 1, 1994. See: 26 N.J.R. 2174(a), 26 N.J.R. 3154(a).

Pursuant to Executive No. 66(1978), Chapter 18, Temporary Disability Benefits, was readopted as R.1998 d.157. See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

Pursuant to Executive No. 66(1978), Chapter 18, Temporary Disability Benefits, was readopted as R.2003 d.214. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 12:18-1.1 Definitions
- 12:18-1.2 Application for exemptions
- 12:18-1.3 Service of papers
- 12:18-1.4 Reimbursement of funds
- 12:18-1.5 Offset by workers' compensation award when temporary disability benefits are payable based on claimant's employment with another employer
- 12:18-1.6 Completion of medical certifications by licensed medical practitioner
- 12:18-1.7 Non-duplication of benefits under the Temporary Disability Benefits Law, N.J.S.A. 43:21-25 et seq. and the Workers' Compensation Act, N.J.S.A. 34:15-1 et seq.; temporary disability benefit liens in workers' compensation cases
- 12:18-1.8 Payment of Benefits

SUBCHAPTER 2. PRIVATE PLANS

- 12:18-2.1 Extent of coverage
- 12:18-2.2 Benefits
- 12:18-2.3 Proof of coverage
- 12:18-2.4 Choice of doctor
- 12:18-2.5 Nonprofit provision
- 12:18-2.6 Appeals
- 12:18-2.7 Review
- 12:18-2.8 Application for approval
- 12:18-2.9 Minimum plan requirements
- 12:18-2.10 Concurrent coverage
- 12:18-2.11 Employee consent
- 12:18-2.12 Evidence of consent
- 12:18-2.13 Certificate of approval; effective date
- 12:18-2.14 Withdrawal of certificate of approval
- 12:18-2.15 Termination on petition by employees
- 12:18-2.16 Eligibility to petition
- 12:18-2.17 Requirements of election

- 12:18-2.18 Retention of election records
- 12:18-2.19 Certification of election results
- 12:18-2.20 Discontinuance
- 12:18-2.21 Responsibility of employer on withdrawal of certificate of approval
- 12:18-2.22 Insurer liability
- 12:18-2.23 Mandatory provision
- 12:18-2.24 Security required
- 12:18-2.25 Security exemption
- 12:18-2.26 Disposition of security upon termination
- 12:18-2.27 Exchange of information
- 12:18-2.28 Notice from employers
- 12:18-2.29 Reports by self-insurers
- 12:18-2.30 Reports by unions and other benefit payers
- 12:18-2.31 Reports by insurance companies
- 12:18-2.32 Reports by employers having two or more plans
- 12:18-2.33 Unemployment disability account deficit
- 12:18-2.34 Assessment of costs of administration
- 12:18-2.35 Assessment of amount of refund of workers' contributions applicable to private plans
- 12:18-2.36 Liability of successor employer
- 12:18-2.37 Continuation of plan on successor employer

SUBCHAPTER 3. STATE PLAN

- 12:18-3.1 Extent of coverage
- 12:18-3.2 Notice and proof of disability
- 12:18-3.3 Filing of claims for benefits
- 12:18-3.4 Reduction of benefits
- 12:18-3.5 Concurrent coverage
- 12:18-3.6 Notice to claimant and employer
- 12:18-3.7 Notice required from employers
- 12:18-3.8 Filing of appeals by claimants or employers
- 12:18-3.9 Rules on appeal
- 12:18-3.10 (Reserved)
- 12:18-3.11 Reduced work week

APPENDIX PRIVATE PLAN TEMPORARY DISABILITY INSURANCE CASES**SUBCHAPTER 1. GENERAL PROVISIONS****12:18-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Temporary Disability Benefits Law (N.J.S.A. 43:21-25 et seq.).

"Base year" with respect to a period of disability means the 52 consecutive calendar weeks immediately preceding the calendar week in which the period of disability commenced.

"Benefits" means the disability benefits provided by the Temporary Disability Benefits Law.

"Claimant" means an individual who has filed a claim for disability benefits or who has notified the Division or the employer, nominee, designee, trustee, union, association of employees, insurer or organization paying benefits under a private plan that he or she expects to file such a claim.

“Claimant’s authorized representative” means an individual who represents or acts in behalf of a claimant who is incapable of fulfilling the requirements of filing claims for disability benefits, and who is so authorized by a power of attorney or other authorization satisfactory to the Division. Such authorized representative must file with the Division, on a form prescribed by the Director, a duly sworn affidavit that the claimant is incapable of making a claim for disability benefits and that he or she assumes the responsibility of acting in behalf of such claimant in accordance with the Act and this chapter. Such filing must be supported by medical documentation of incapacity by a licensed medical practitioner.

“Commissioner” means the Commissioner of Labor.

“Director” means the Director of the Division of Temporary Disability Insurance in the Department of Labor.

“Disability” or “disabled” means both mental or physical illness and mental or physical injury.

“Division” means the Division of Temporary Disability Insurance in the Department of Labor Program.

“Employee” means a covered individual as defined in N.J.S.A. 43:21-27(b). With respect to any one employer the term shall mean such a covered individual who is in employment, as defined by the Unemployment Compensation Law and Regulations promulgated thereunder, for which he or she is entitled to remuneration from such employer or who has been out of such employment for less than two weeks and has not become employed by another employer, during such period.

“Employer” means a covered employer as defined in N.J.S.A. 43:21-27(a).

“Fund” means the State Disability Benefits Fund, as set forth in N.J.S.A. 43:21-46.

“Insurer” means any insurance company duly authorized to do business in the State of New Jersey, employer acting as a self-insurer, nominee, designee, trustee, union, association of employees or organization which has undertaken to pay benefits under a private plan.

“Licensed medical practitioner” means a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, or chiropractor.

“Private plan” means a private plan approved by the Division as defined in N.J.S.A. 43:21-32.

“Proof and claim for disability benefits” means the proof of disability and claim for benefits initially filed with respect to a period of disability on a form prescribed by the Director.

“Supplemental proof and claim for disability benefits” means the proof and claim certifying to the continuance of disability on a form prescribed by the Director.

“Week” means a period of seven consecutive days starting with the day of disability.

Amended by R.1994 d.241, effective May 16, 1994.

See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

In “Base year”, deleted “commencing on or after January 1, 1953” following “disability”, and decreased the base year from 53 consecutive calendar weeks to 52 consecutive calendar weeks; in “Claimant”, added “by a licensed medical practitioner” at the end; inserted “Division” and “Licensed medical practitioner”; and in “Private plan”, added a reference to N.J.S.A. 43:21-32.

Case Notes

Musicians hired by band were employees rather than independent contractors, and thus band was required to pay unemployment and disability taxes on wages paid to musicians. *Kiely v. Department of Labor*, 96 N.J.A.R.2d (LBR) 5.

12:18-1.2 Application for exemptions

Any employee desiring to secure exemption from the provisions of the Act shall make application therefor on a form and in a manner prescribed by the Director.

12:18-1.3 Service of papers

(a) Any and all written communications issued by the Division may be served personally or by registered or certified mail or by telegram. A copy of the notice may be left at the principal office or place of business in New Jersey of the person required to be served.

(b) Such service shall constitute due notice.

(c) The verification by the individual who served the notice, or the return post office receipt of the registered or certified mail, or telegram receipt shall be proof that notice was served.

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

Rewrote (a) and (c).

12:18-1.4 Reimbursement of funds

If benefits have been paid in error to a claimant by one program (either the State plan, Disability During Unemployment, or a private plan) for a period of disability and the claimant is correctly entitled to benefits under another program (either the State plan, Disability During Unemployment, or a private plan) for that same period of disability, the Division may arrange for a reimbursement of funds between the two programs. If it is determined that the benefits were received as a result of the claimant’s making a false statement knowing it to be false or knowingly failing to disclose a material fact, the individual shall be subject to a fine and repayment of the overpaid amount under the provisions of N.J.S.A. 43:21-55(a).

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

Rewrote the section.