

# **FAMILY LEAVE INSURANCE**

Department of Labor and Workforce Development

Division of Temporary Disability Insurance



# GENERAL INFORMATION

- Signed into law May 2, 2008
- Employee contribution started January 1, 2009
- Claims filing begins July 1, 2009
  - Care of a Family Member
  - Bonding with a newborn or newly adopted child.
  - Estimate of 40,000 claims (80% to 85% for bonding) per year based on statistics gathered from the California Family Leave Insurance Program.
- 3<sup>rd</sup> state to enact Family Leave Insurance
  - California (2004)
  - Washington (2008)-claims to begin October 2009). However, program was postponed until 2012, and then again until 2015, due to budget shortfalls
- Benefit entitlement program
- No employment protection provision to hold job. Employees may have rights under other laws including NJFLA and FMLA.

# COVERAGE

- Workers covered under the New Jersey Unemployment Compensation Law, including government entities.
- All business, regardless of the size.
- Employees may be covered under:
  - the State Plan;
  - an approved Private Plan or;
  - Family Leave During Unemployment (if the period of leave begins more than 14 days after the last day of work and the employee has been separated from all employment OR the care giver is not on an approved leave of absence)
- Information regarding the type of coverage provided by an employer must be posted at the worksite.

# PROGRAM FUNDING

- 100% funded by employee contributions through payroll deductions
- No employer contributions
- In 2015, employees contribute 0.09% of the taxable wage base (\$32,000). The taxable wage base changes each year. The 2015 deduction is \$28.80.

# CARE OF A FAMILY MEMBER

- Benefits are payable for care of a family member with a serious health condition supported by a certification provided by a health care provider.
- Family Member
  - Child: biological, adopted, foster, stepchild, legal ward of a covered individual, child of a domestic or civil union partner who is less than 19 years or age or over 19 and incapable of self care
  - Spouse
  - Domestic partner
  - Civil union partner
  - Parent
- Claims may be filed for:
  - 6 consecutive weeks
  - Intermittent weeks
  - 42 intermittent days

# BONDING

- Benefits are payable for bonding with a newborn or newly adopted child during the first 12 months after the birth or adoption.
- Newborn must be:
  - Biological child
  - Biological child of a domestic or civil union partner.
- Claim must be for:
  - Continuous period of 7 days or more
  - Non-consecutive periods of 7 days or more if permitted by the employer.

# FAMILY LEAVE INSURANCE FACTS

- An employer can require an employee to use up to two weeks of paid time off.
- The maximum allowance may be reduced by up to two weeks of any paid time off if the employer requests the reduction.
- The claimant must give the employer notice of family leave.
  - Care of family member
    - Reasonable and practicable notice unless time of leave is unexpected or changes for unforeseeable reasons
    - 15 days for leave on an intermittent basis.
  - Bonding
    - 30 days notice

# FAMILY LEAVE INSURANCE FACTS

- A formal appeal can be filed by an employee or employer who disagrees with a determination.
- The maximum payable is 6 weeks of benefits in a 12-month period. The 12-month period is the 365 consecutive days beginning with the first day a claim is established



# APPLYING FOR BENEFITS

- Application can be obtained:
  - By writing to the Division of Temporary Disability Insurance, PO Box 387, Trenton, NJ 08625-0387
  - Telephoning Customer Service Section 609-292-7060
  - Website – [www.nj.gov/labor](http://www.nj.gov/labor)
- Claimants who receive State Plan temporary disability benefits for pregnancy will receive a New Mother Bonding Notice (FL-2) 35 days after giving birth and providing medical documentation of birth date, type of birth, and expected/actual recovery date.
- Applications should not be completed and returned by the claimant until the family leave period begins.



# **STATE PLAN OPERATIONS**

# STATE PLAN ELIGIBILITY

- Covered Wages in Base Year
  - Base Week Requirement
    - 2015 = 20 base weeks, either at \$165\* a week or a non-paid week (up to 13) in which you were separated from employment due to a declared state of emergency during the base year wages (or 770 hours for agricultural workers)
  - Alternative Earnings Test  
2015 - \$8,300
- Base Year is the 52 weeks immediately prior to the week in which the family leave claim begins.

# BENEFIT DURATION

- 6 Weeks during a 12-month period (365 consecutive days beginning with the first day of a valid first claim).
- First Claim is the claim for Family Leave Insurance benefits initially filed. It begins the running of the 12-month period.
- Re-established claim is a claim filed subsequent to the first claim with the same 12-month period. The claim is for either a different care recipient or following employment with an different employer.

# BENEFIT CALCULATION

- Weekly Benefit Rate
  - 2/3 of the Average Weekly Wage
  - Average Weekly Wage is based on earnings in the 8 calendar weeks immediately prior to start of family leave
  - Weekly Benefits Rate will be the same as for State Plan temporary disability claim if family leave claim is filed immediately after the State Plan temporary disability claim
- Daily Rate
  - 1/7 of the weekly benefit rate
- Maximum Amount
  - 6 weeks (42 days) during the 12-month period or 1/3 of the base year earning, whichever is less

# Benefit Limitations

- Waiting Week (no waiting week if the State Plan Family Leave Insurance Claim is immediately after the State Plan temporary disability insurance claim)
- Pensions reduce entitlement dollar for dollar if the most recent employer contributed to the pension benefit and the pension is based on wages earned in the base year.

# OTHER BENEFIT PROVISIONS

- No benefits are payable if:
  - Receiving Temporary Disability Benefits
  - Receiving Workers' Compensation Benefits
  - Receiving benefits from a disability or cash sickness program or similar law of any state or the federal government
  - Receiving Unemployment Benefits
  - Receiving Full Paid Time Off
  - Is Working
  - Is not in covered employment within 14 days of the last day worked and not on an approved leave of absence
  - Care recipient not under the care or supervision of a health care provider
  - Involved in a Labor Dispute
  - Discharged for Gross Misconduct
  - Is an employee of an educational institution between academic year or terms or during a school-wide recess who has a reasonable assurance of returning to work.

# IMPARTIAL EXAMINATIONS

- Performed by a state-appointed physician
- No cost to claimant or care recipient
- Mandatory if scheduled



# Tax Information

- Subject to Federal Income Tax
  - Claimant can request that 10% of weekly benefit rate be withheld
- Not Subject To:
  - FICA
  - State Income Tax
- 1099G mailed by Division at beginning of next calendar year

# PRIVATE PLAN COVERAGE

State Plan Coverage Is Automatic for Most Workers

But

Workers May Be Covered by an Employer's Approved Private Plan Instead

# PRIVATE PLAN CHOICES

- Self-Insured Employer
- Insurance Carrier
- Labor Agreements
  - Workers' consent is required if they must contribute

# RESPONSIBILITIES

- **Oversee the administration of Private Plan**
  - Approve / Modify / Terminate
- **Problems (Ombudsman Role)**
  - Resolves Disputed Claims
- **Denials**
  - Reviews All Private Plan Denials
- **Private Plan Claims Processing**
  - Provides Guidance to Private Plan Carriers

# FAMILY LEAVE INSURANCE BENEFITS DURING UNEMPLOYMENT

- Family leave begins more than 14 days after the claimant's last day of work and the care giver has been terminated from employment or is not on an approved leave of absence

# Program Information

- Must meet all requirements of the Unemployment Compensation Law, but not required to establish availability for work.
- Benefits are paid for full weekly periods, Sunday through Saturday.
- No provision for intermittent days of family leave (periods of less than 7 days are not payable).

# Benefits Information

- Weekly Benefit Rate
  - Formula is the same as UI
  - 2015 Maximum - \$646
- Maximum Benefit Amount
  - If no UI or DDU claim exists – 12-month benefit year established, 6 week maximum
  - If collect UI or DDU in same benefit year – 1 ½ x maximum benefit amount (39 weeks maximum)
- 12-Month Period of Family Leave
  - May not be the same period as the benefit year

# CUSTOMER SERVICE

- Conversant System for general and claim-specific topics
- Agent Assistance – during business hours  
609-292-7060
- Web Site  
[www.nj.gov/labor](http://www.nj.gov/labor)





Questions?