

# New Jersey Paid Family Leave Insurance

The law extends the state's existing Temporary Disability Insurance program to provide insurance benefits to New Jersey workers when they take time off to care for newborn and newly adopted children, or sick family members. All employers who are subject to the New Jersey Unemployment Compensation Law are subject to this law, which takes effect July 1, 2009. Employee contributions began January 1, 2009. Family Leave Insurance (FLI) provides covered individuals with wage replacement, not a leave entitlement.

## **Important Notes**

- FLI prevents fraudulent claims by using measures contained in the Temporary Disability Benefits Law, including criminal penalties and increased fines for those who improperly claim benefits.
- Employers receive notice when benefits are claimed and have the right to appeal eligibility determinations.

## **Use of Benefits**

FLI benefits can be claimed to:

- Bond with a child during the first twelve (12) months after the child's birth if the covered individual, domestic partner or civil union partner of the covered individual is a biological parent of the child, or the first twelve (12) months after the placement of the child for adoption with the covered individual.
- Care for a family member with a serious health condition supported by a certification from a health care provider. Claims may be filed for six consecutive weeks, for intermittent weeks or for forty-two (42) intermittent days during a twelve (12) month period beginning with the first date of the claim.

Family member means a child, spouse, domestic partner, civil union partner or parent of a covered individual.

Child means a biological, adopted, or foster child, stepchild or legal ward of a covered individual, child of a domestic partner of the covered individual, or child of a civil union partner of the covered individual, who is less than nineteen (19) years of age or is nineteen (19) years of age or older but incapable of self-care due to mental or physical impairment.

## **Covered Employers**

Employment, including employment with government entities, covered under the New Jersey Unemployment Compensation Law is covered for FLI. Employees may be covered under the State Plan, an approved Private

Plan, or FLI Benefits During Unemployment if the period of leave begins more than fourteen (14) days after the last day of work.

### **Who Pays for the Benefits**

FLI is 100% funded by employee contributions through payroll deductions beginning January 1, 2009. The taxable wage base is the same as for Unemployment Insurance and Temporary Disability Insurance (TDI) and changes each calendar year.

### **Substitution of Employer Paid Benefits**

An employer can require an employee to use up to two (2) weeks of any paid sick leave, vacation time or other leave at full pay made available by the employer. The benefit entitlement through FLI may be reduced by up to two (2) weeks for any paid sick leave, vacation time, or other leave at full pay required to be taken by the employer.

### **Notice Requirements**

Employers must conspicuously display the notification poster in each workplace, in a place accessible to all employees. A written copy of the notice must also be provided to each employee:

- no later than April 1, 2009
- at the time of an employee's hiring
- whenever an employee notifies the employer that he/she is taking time off to bond with a newborn or newly adopted child or to care for a seriously ill family member
- at any time, upon the first request of an employee

An employee who intends to take a leave and claim FLI to provide care for a family member with a serious health condition must give the employer reasonable and practical notice unless the need for leave is unforeseeable. An employee who intends to take leave on an intermittent basis must provide the employer with a minimum of fifteen (15) days notice.

An employee who intends to take a leave and claim FLI to bond with a newborn or newly adopted child must give the employer thirty (30) days notice prior to the beginning of the leave. Intermittent leave to bond with a newborn or newly adopted child must be taken in periods of seven (7) days or more and the intermittent schedule must be agreed to by the employee and the employer.

## **Job Restoration**

FLI does not establish a right to be restored to employment. However, any employee covered under the Family and Medical Leave Act (FMLA) or New Jersey Family Leave Act (NJFLA) may still be entitled to job restoration under those laws.

## **State Plan**

- *Wage Requirement-* claimant must have had employment in at least twenty (20) calendar weeks (base weeks) in New Jersey covered employment with earnings of \$143 or more, or have earned \$7,200 or more in such employment during the fifty-two (52) weeks (base year) immediately prior to the week in which the FLI claim begins.
- *Benefit Duration-* claimant can receive a maximum of six (6) weeks of FLI benefits in a twelve (12) month period. The twelve (12) month period is the 365 consecutive days that begins with the first day that the individual establishes a valid first claim for FLI benefits.
- *Benefit Amount-* the weekly benefit amount is based on the claimant's average weekly rate, which is generally based on the earnings in the eight (8) calendar weeks immediately before the week in which the leave begins. The weekly benefit rate is two-thirds (2/3) of the average weekly wage up to a maximum of \$546 for claims beginning 7/1/09. The daily benefit rate is one-seventh (1/7) of the weekly benefit rate. The maximum amount of benefits payable for FLI is 6 weeks (42 days) during the twelve (12) month period or one-third (1/3) of the base year earnings, whichever is less.
- *Filing a Claim-* Employees may file a claim using the form required by the Division of Temporary Disability Insurance, which is available on their website after June 1, 2009. Applications are also available by calling the Division's customer service at 609-292-7060 or by writing to the Division at PO Box 387, Trenton, NJ, 08625-0387.
- *Benefits Limitations-* the first seven (7) days following the filing of a claim is the waiting week. No benefits can be paid for this week or any part of the first week until benefits have been paid in each of the three (3) weeks immediately following the waiting week. If the period of FLI follows an eligible period of TDI for the individual's own illness, there is no waiting period for the FLI claim.

No FLI benefits are payable under the State Plan for:

- Any period the claimant receives temporary disability benefits or any benefits from a disability, cash sickness program or similar State or federal law.
- Any period the claimant receives Unemployment Insurance benefits.
- Any period the claimant receives Workers' Compensation benefits.
- Any period the claimant receives full salary or paid time off.
- Any period the claimant is working.

- Any period of family leave which did not start while the claimant was a covered individual or within fourteen (14) days of the claimant's last day of work.
- Any period of family leave for the care of a family member and the care recipient was not under the care or supervision of a health care provider.
- Any period the claimant is out of work due to a stoppage of work due to a labor dispute at the claimant's place of employment.
- Any period subsequent to being discharged by the most recent employer for gross misconduct connected with the work because of a commission of an act punishable as a crime under the New Jersey Code of Criminal Conduct.

### **Private Plan**

FLI Law allows employers to provide coverage through an approved Family Leave Private Plan instead of the State Plan. Private Plans must provide a benefit amount and duration that equals or exceeds the State Plan and eligibility requirements that are no more restrictive than the State Plan. The cost to the worker cannot be more than the cost to workers for State Plan coverage. All private plans must be approved by the Division of Temporary Disability Insurance.

Claimants who disagree with a decision on a Private Plan claim can file a complaint with the Private Plan Compliance Section, Claims Review Unit, PO Box 957, Trenton, NJ 08625-0957.

### **FLI During Unemployment**

If a claimant applies for FLI benefits more than fourteen (14) days after his/her last day of work, benefits may be payable under the provisions of the FLI Benefits During Unemployment program. Individuals claiming benefits under this program must meet all eligibility requirements of the Unemployment Compensation Law, but are not required to establish availability for work. If eligible, benefits are paid for full weekly periods and are not available on an intermittent basis.