

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 4172

STATE OF NEW JERSEY
217th LEGISLATURE

ADOPTED FEBRUARY 15, 2017

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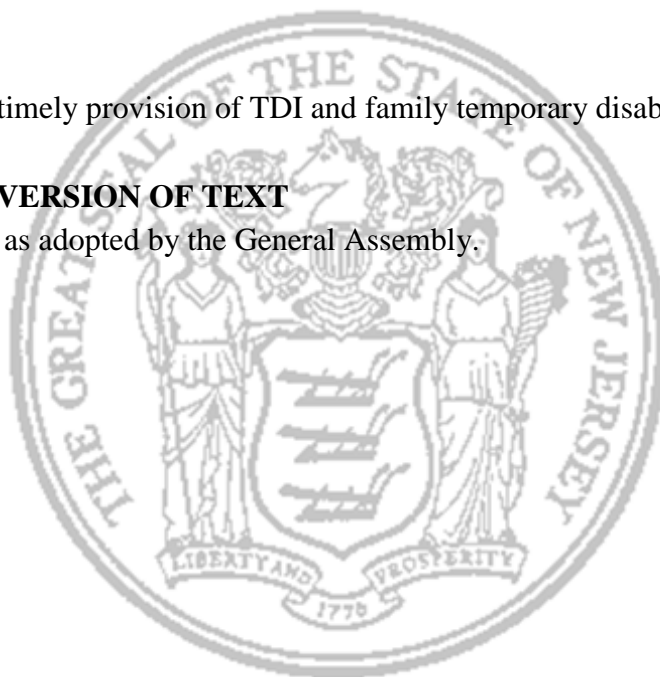
Assemblywoman Lampitt

SYNOPSIS

Concerns timely provision of TDI and family temporary disability benefits.

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.



(Sponsorship Updated As Of: 3/17/2017)

1 AN ACT concerning the timely provision of temporary disability
2 and family temporary disability benefits and amending and
3 supplementing P.L.1948, c.110.
4

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

7
8 1. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to
9 read as follows:

10 31. Penalties. (a) Whoever makes a false statement or
11 representation knowing it to be false or knowingly fails to disclose
12 a material fact, and each such false statement or representation or
13 failure to disclose a material fact shall constitute a separate offense,
14 to obtain or increase any disability benefit under the State plan or
15 an approved private plan, or for a disability during unemployment,
16 including any benefit during a period of family temporary disability
17 leave, either for himself or for any other person, shall be liable for a
18 fine of \$250 to be paid to the division. Upon refusal to pay such
19 fine, the same shall be recovered in a civil action by the division in
20 the name of the State of New Jersey. If in any case liability for the
21 payment of a fine as aforesaid shall be determined, any person who
22 shall have received any benefits hereunder by reason of the making
23 of such false statements or representations or failure to disclose a
24 material fact, shall not be entitled to any benefits under this act for
25 any disability occurring prior to the time he shall have discharged
26 his liability hereunder to pay such fine.

27 (b) Any employer or any officer or agent of any employer or
28 any other person who makes a false statement or representation
29 knowing it to be false or knowingly fails to disclose a material fact,
30 to prevent or reduce the benefits to any person entitled thereto, or to
31 avoid becoming or remaining subject hereto or to avoid or reduce
32 any contribution or other payment required from an employer under
33 this act, or who willfully fails or refuses to make any such
34 contributions or other payment or to furnish any reports required
35 hereunder or to produce or permit the inspection or copying of
36 records as required hereunder, or who fails to provide any
37 notification or disclosure to the division or the employee required
38 by subsection (a) of section 25 of P.L.1948, c.110 (C.43:21-49) or
39 subsections f. or g. of section 10 of P.L.2008, c.17 (C.43:21-39.1) at
40 the time and in the manner required by those sections, including
41 disclosure of the information the division requires for the
42 processing of a claim, shall be liable for a fine of \$250 to be paid to
43 the division, and, if a failure of an employer to provide the
44 notification or disclosure to the division or the employee results in a
45 delay in the payment of benefits, the employer shall also be liable

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 for an added amount, to be paid to the claimant, equal to the
2 benefits due from the time that the employer was required to
3 provide the notification or disclosure until the time that the benefit
4 payments commenced. Upon refusal to pay such fine or added
5 payments to a claimant, the same shall be recovered in a civil action
6 by the division in the name of the State of New Jersey.

7 (c) Any person who shall willfully violate any provision hereof
8 or any rule or regulation made hereunder, for which a fine is neither
9 prescribed herein nor provided by any other applicable statute, shall
10 be liable to a fine of \$500 to be paid to the division. Upon the
11 refusal to pay such fine, the same shall be recovered in a civil
12 action by the division in the name of the State of New Jersey.

13 (d) Any person, employing unit, employer or entity violating
14 any of the provisions of the above subsections with intent to
15 defraud the division shall in addition to the penalties hereinbefore
16 described, be liable for each offense upon conviction before the
17 Superior Court or any municipal court for a fine not to exceed
18 \$1,000 or by imprisonment for a term not to exceed ninety days, or
19 both, at the discretion of the court. The fine upon conviction shall
20 be payable to the State disability benefits fund of the division. Any
21 penalties imposed by this subsection shall be in addition to those
22 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

23 (e) Any sum collected as a fine or penalty pursuant to this
24 section shall be deposited in the administration account of the State
25 disability benefits fund and applied toward enforcement and other
26 administrative costs of the division.

27 (cf: P.L.2008, c.17, s.8)

28

29 2. (New section) a. The division shall implement disability
30 insurance goals for the timely determination and payment of
31 temporary disability benefits and family temporary disability
32 benefits under the State plan, as follows:

33 (1) for temporary disability benefits, in each calendar year:

34 (a) not less than 25 percent of the original benefit
35 determinations shall be completed within seven days after the
36 receipt of the benefit claims by the division;

37 (b) not less than 65 percent of the original benefit
38 determinations shall be completed within 14 days after the receipt
39 of the benefit claims by the division;

40 (c) not less than 75 percent of the original benefit
41 determinations shall be completed within 21 days after the receipt
42 of the benefit claims by the division; and

43 (d) not less than 85 percent of the original benefit
44 determinations shall be completed within 28 days after the receipt
45 of the benefit claims by the division.

46 (2) for family temporary disability benefits, in each calendar
47 year:

- 1 (a) not less than 50 percent of the original benefit
2 determinations shall be completed within seven days after the
3 receipt of the benefit claims by the division;
- 4 (b) not less than 75 percent of the original benefit
5 determinations shall be completed within 14 days after the receipt
6 of the benefit claims by the division;
- 7 (c) not less than 85 percent of the original benefit
8 determinations shall be completed within 21 days after the receipt
9 of the benefit claims by the division; and
- 10 (d) not less than 95 percent of the original benefit
11 determinations shall be completed within 28 days after the receipt
12 of the benefit claims by the division.
- 13 b. The commissioner shall, not later than September 30 of 2017
14 and each subsequent year, issue, provide to the Legislature, and
15 make available to the public on the department's webpage, a report
16 regarding division efforts in the preceding calendar year to attain
17 the disability insurance goals set pursuant to this section for
18 temporary disability benefits, and a report regarding those efforts
19 for family temporary disability benefits. Each report shall include:
- 20 (1) the number and percentage of original determinations
21 completed within each number of days specified in the goals set
22 pursuant to this section, and the number and percentage of original
23 determinations completed within the following number of days after
24 the receipt of the benefit claims: 35 days, 42 days, 49 days and 56
25 days, and the number and percentage of original determinations
26 completed more than 56 days after the receipt of the claims and the
27 average number of days to make the determinations for the claims
28 that took more than 56 days;
- 29 (2) the number and percentage of claims received with
30 insufficient information, what portion of those claims were because
31 of failure of claimants to provide sufficient information, what
32 portion of those claims were because of failures of medical
33 providers of claimants to provide sufficient information, and what
34 portion of those claims were because of failures of employers to
35 provide sufficient information;
- 36 (3) the number and percentage of claims for which
37 determinations were delayed because of a failure of the employer to
38 make the notifications or disclosures to employees and the division
39 within the amount of time required by subsection (a) of section 25
40 of P.L.1948, c.110 (C.43:21-49) or subsections f. or g. of section 10
41 of P.L.2008, c.17 (C.43:21-39.1), and the number of employers
42 which have been, because of the failures, required, pursuant to
43 section 31 of P.L.1948, c.110 (C.43:21-55), to pay fines or penalties
44 to the division or added amounts to claimants, the total amount of
45 payments to the division, and the total amount of payments to
46 claimants;
- 47 (4) the number of personnel in the division and the budgeted
48 cost of salaries and benefits for those personnel; the number of

1 personnel who are processing temporary disability benefit claims
2 and the budgeted cost of salaries and benefits for those personnel;
3 the number of personnel who are processing family temporary
4 disability benefit claims and the budgeted cost of salaries and
5 benefits for those personnel; what percentage of total division
6 administrative costs is comprised of those categories of personnel
7 costs; and a comparison of total division administrative costs to the
8 maximum amount permitted to be expended for those division
9 administrative costs pursuant to section 22 of P.L.1948, c.110
10 (C.43:21-46); and

11 (5) if any of the disability insurance goals set pursuant to this
12 section were not attained during the year, the report shall provide an
13 evaluation of the causes of the deficiencies and a plan to correct
14 them and that plan shall include:

15 (a) any increase in personnel needed to process claims;

16 (b) any measures needed to enforce notification and reporting
17 requirements;

18 (c) any measures needed to inform employees of their
19 responsibilities to facilitate the timely provision of benefits; and

20 (d) any improvements needed in data processing and other
21 administrative services and equipment.

22 The plan shall specify any added costs entailed in implementing
23 the plan, which shall be regarded as costs of administration of
24 temporary disability and family temporary disability benefits, and
25 shall specify the amount of any resulting increase in the estimate
26 made pursuant to subparagraphs (i) and (ii) of R.S.43:21-7(d)(G) of
27 the amount needed to provide 100 percent of the cost of
28 administration of temporary disability and family temporary
29 disability benefits.

30 The commissioner shall use that increased estimate in setting the
31 rate of contributions pursuant to those subsections, except that the
32 increase may not result in the total amount credited to those
33 administrative costs to exceed the maximum amount permitted
34 pursuant to subsection (a) of section 22 of P.L.1948, c.110
35 (C.43:21-46).

36

37 3. This act shall take effect immediately.

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STATEMENT

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42 This bill implements measures to facilitate the timely payment of
43 benefits under the temporary disability insurance (TDI) law,
44 P.L.1948, c.110 (C.43:21-25 et al.), and the family leave insurance
45 (FLI) law, P.L.2008, c.17 (C.43:21-39.1 et al.).

46 First, the bill expressly applies existing penalties of the TDI law
47 to employers who fail to provide the notifications and disclosures at
48 the time and in the manner required by the TDI and FLI laws to

1 employees, claimants, and program administrators. In addition, if
2 the failure results in a delay in benefit payments, the employer is
3 also required to pay the claimant an added amount equal to the
4 benefits due from the time that the notification or disclosure was
5 required until the benefit payments commence.

6 The bill also requires the division to implement goals for the
7 timely determination and payment of TDI and FLI benefits. For
8 TDI benefit claims, the goals specified by the bill set minimum
9 percentages of initial claims to be completed within specified time
10 spans as follows: 25 percent within seven days, 65 percent within
11 14 days, 75 percent within 21 days, and 85 percent within 28 days.
12 For FLI benefit claims, the goals specified by the bill set the
13 minimum percentages at 50 percent within seven days, 75 percent
14 within 14 days, 85 percent within 21 days, and 95 percent within 28
15 days.

16 Finally, the bill requires the Commissioner of Labor and
17 Workforce Development to issue annual reports regarding efforts to
18 attain those goals. Each report is required to include:

19 (1) The numbers and percentages of initial claims completed
20 within each number of days specified in the goals, and the number
21 and percentage of original determinations completed within 35
22 days, 42 days, 49 days, 56 days, and more than 56 days.

23 (2) The number and percentage of claims received with
24 insufficient information, what portions of those claims were
25 because of failures to provide sufficient, timely information by each
26 of the following groups: claimants, their medical providers, and
27 employers.

28 (3) The number and percentage of claims for which
29 determinations were delayed because of a failure of the employer to
30 make the required, timely notifications or disclosures to employees
31 and the division, and the number of employers which, because of
32 those failures, have been required to pay fines or penalties to the
33 division or added amounts to claimants, and the total payments to
34 the division and to claimants.

35 (4) The number of personnel in the division and the cost of their
36 salaries and benefits; the number and salary and benefits of
37 personnel processing TDI and FLI claims, what percentage of total
38 division administrative costs is comprised of those personnel costs;
39 and a comparison of total division administrative costs to the
40 maximum amount permitted to be expended for those division
41 administrative costs under the TDI and FLI laws.

42 (5) An evaluation of the causes of any failures to meet the goals,
43 and a plan to correct them, which would include: any needed
44 increase in personnel to process claims; any measures needed to
45 enforce notification and reporting requirements; any measures
46 needed to inform employees of their responsibilities to facilitate the
47 timely provision of benefits; any needed improvements in data
48 processing and other administrative services and equipment; and

1 any increase needed to implement the plan in the estimate made
2 pursuant to the TDI and FLI laws of the amounts needed to provide
3 100 percent of the cost of administration of TDI and FLI benefits.

4 The commissioner is required to use that increased estimate in
5 setting the rate of TDI and FLI worker taxes, except that the
6 increase may not result in the total amount credited to TDI and FLI
7 administrative costs to exceed the maximum amount permitted by
8 the TDI and FLI laws, which is 0.1 percent of wages subject to TDI
9 taxes.