

## New Jersey Temporary Disability & Family Leave Insurance

# WHAT HUMAN RESOURCES & EMPLOYERS NEED TO KNOW



**NJ Temporary Disability Insurance** provides cash benefits to employees in New Jersey who are unable to work due to an illness, injury or other disability unrelated to their work, including pregnancy/childbirth recovery and COVID-19.

**NJ Family Leave Insurance** provides cash benefits to employees in New Jersey who are unable to work because they need to bond with a new child, care for a seriously ill or injured family member (see the generous definition of “family” under the law [here](#)), or handle certain matters related to domestic or sexual violence.

These programs can **help NJ businesses retain employees and increase productivity**. See our **employer toolkit** for more information at [myleavebenefits.nj.gov](https://myleavebenefits.nj.gov).

## EMPLOYER’S ROLE

- Employers must participate in these public programs and deduct payroll taxes for employees to fund them, or you may choose to provide your employees coverage through a private insurance plan. Only out-of-state employers and the federal government are exempt from the requirement to participate. Local governments, including school districts, are not required to participate in the Temporary Disability Insurance State plan or provide a private plan, but must participate in the Family Leave Insurance State plan or provide a private plan.
- As of 2019, employers are not required to complete an “employer portion” of the application. When an employee is approved for Temporary Disability Insurance or Family Leave Insurance benefits, the employer is sent an approval notice in the mail. Additionally, for employees claiming Temporary Disability Insurance benefits, the employer will receive a “DS-7C” form each time benefits are issued and we advise employers to check it for accuracy. Any incorrect benefit payments should be reported to the Division immediately. We suggest keeping a separate file on each employee receiving Temporary Disability Insurance benefits, and adding the DS-7C received from each benefit payment to it. This way you can keep track of the charges per employee for the life of the claim.

## Disclosure of claim information

We may only provide claim information to the employee, unless you are listed as a representative in the claim application. We reach out to employers for information on an as-needed basis by mailing forms.

### Information that we may request from an employer can include:

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| ✓ Federal employment identification numbers | ✓ Paid time off, vacation, or sick time used                                 |
| ✓ Any intermittent days an employee worked  | ✓ Employee’s last date of work   |
| ✓ Confirmation of valid wages               | ✓ Wages paid to your employee during their disability or family leave period |



## **The application**

It is the employee's responsibility to complete Parts A and B of the application, and Parts C & D, if applicable, for Family Leave Insurance. We encourage the employer to assist the employee in the process, but it is the employee's responsibility to submit a complete application.

## **Paid time off prior to disability and family leave**

Employers are not prohibited from requiring employees to use accrued paid time off before claiming Temporary Disability Insurance benefits. The State of NJ may only require state employees to use up two weeks of accrued sick time before receiving Temporary Disability Insurance benefits, although the State of NJ may not require state employees to use their last week of sick time before receiving Temporary Disability Insurance benefits.

Employees may choose to use accrued paid time off before claiming Family Leave benefits, although employers cannot require it. If an employee chooses to use paid time off before claiming Family Leave Insurance benefits, it will not reduce the maximum duration of benefits to which the employee is entitled.

## **Is our company/organization chargeable?**

For Temporary Disability Insurance claims, benefits are charged against the experience rating account of the last employer the applicant worked for prior to the start of their claim. The law provides no alternate criteria for liability such as length of employment, if work was considered full- or part-time employment, amount of earnings, or circumstances surrounding separation with the last employer. For Family Leave Insurance claims, there is no charge against the employer's experience rating.

## **What do I need to know about income taxes?**

Temporary Disability Insurance: Year-end statements are available online for employers to download in January for the preceding calendar year. Only a portion of the Temporary Disability Insurance benefits paid are taxable by the federal government. They are considered third-party sick pay or other wages, and it is your responsibility to report the information on your employee's W-2.

For Family Leave Insurance: Every January, Form 1099-G is available online for all employees who received Family Leave Insurance benefits during the preceding year to download and use when completing their federal tax return. These benefits are taxable by the federal government.

## **Partial return to work for Temporary Disability Insurance**

With employer approval, employees who have been unable to work due to a disability can transition back into the workplace on a partial schedule and still receive partial Temporary Disability Insurance benefits *(as of June 2020)*.

## **Family Leave Insurance benefits for part-time employees**

Employees with more than one job may collect Family Leave Insurance benefits in relation to leave taken from work with one employer while continuing to work for another, provided that the employee does not exceed their usual work schedule in the second job. The employee's weekly benefit rate will be based only on wages from the employment from which they are taking leave. *(As of July 1, 2020)*



## Benefits for new & expecting parents

Temporary Disability Insurance can provide cash benefits for pregnant parents when they need to stop working before giving birth and while recovering afterward. Parents can transition directly from a Temporary Disability Insurance pregnancy-related claim to a Family Leave Insurance claim to bond with their newborn baby. Family Leave Insurance is also available for new fathers, and non-birth parents to bond with their newborn, or newly adopted child or newly placed foster child.



## Benefits related to COVID-19

An employee may be eligible for Family Leave Insurance benefits if their family member's healthcare provider certifies that the family member needs care due to COVID-19. In addition, an employee could be eligible for Temporary Disability Insurance benefits if their healthcare provider certifies that they are unable to work because they were diagnosed with COVID-19 or are at high risk for COVID-19 due to an underlying health condition.

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## Do these programs provide job protection?

These are wage replacement programs and they do not provide job protection. However, your business and your employee may be covered separately under the Federal Family and Medical Leave Act (FMLA) and/or the New Jersey Family Leave Act (NJFLA). For more information on NJFLA, contact the NJ Division on Civil Rights at (973) 648-2700 or visit [njcivilrights.gov](https://njcivilrights.gov). For more information on FMLA, see [dol.gov/agencies/whd/fmla](https://dol.gov/agencies/whd/fmla).

Please note that a parent may take up to 12 weeks of paid or unpaid job-protected FMLA leave for pregnancy and recovery from childbirth, and then an additional 12 weeks of paid or unpaid job-protected NJFLA leave to bond with or care for their baby after their doctor certifies they are fit to return to work or have exhausted their FMLA leave (whichever is earlier).

Your employee may be eligible for Temporary Disability Insurance and Family Leave Insurance wage replacement benefits regardless of whether they are covered under FMLA or NJFLA. In addition, if an employer retaliates against an employee for taking or seeking to take these benefits, the employee has the right to take private legal action.

**For more information** on Temporary Disability Insurance and Family Leave Insurance see [myleavebenefits.nj.gov](https://myleavebenefits.nj.gov).

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[myLeaveBenefits.nj.gov](https://myLeaveBenefits.nj.gov)