



Benefits For Family Leave Under New Jersey's Temporary Disability Law

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While most New Jersey employers are familiar with the mandatory leave provisions of New Jersey's Family Leave Act, some may not be aware of the partial wage replacement benefits available to employees on family leave under New Jersey's Temporary Disability Benefits law.

The New Jersey Family Leave Act grants eligible employees up to twelve weeks of continuous leave to care for a new child, parent, child under 18, spouse, or civil union partner who has a serious health condition requiring in-patient care, continuing medical treatment or medical supervision. In order to be eligible, an employee must have worked at least 1,000 hours over the previous twelve months for an employer with fifty or more employees. Although an employer must maintain an employee's benefits during their leave, the Family Leave Act does not mandate any state or employer-sponsored wage replacement.

However, under the New Jersey Temporary Disability Insurance Law, employees may be eligible for partial wage replacement benefits for a portion of their job-protected leave under the Family Leave Act via either the state-sponsored or a private plan. Under the Family Leave Insurance provision, in effect since 2009, an eligible employee is entitled to up to six weeks of wage replacement benefits to bond with a newborn or newly adopted child or to care for a seriously ill family member.

To be eligible for Family Leave Insurance benefits, an employee must have worked in New Jersey immediately preceding the condition warranting the leave for at least twenty base weeks earning \$168 or more, or a base yearly earning of \$8,400 or more. An employee's weekly wage replacement benefit is approximately two-thirds of his or her average weekly wage, less all applicable taxes and withholdings. An individual's weekly benefit is generally based on how much the employee earned in the eight weeks immediately preceding the week in which the family leave

begins, up to the weekly maximum set for the calendar year. For example, for claims beginning January 1, 2015, the maximum weekly benefit rate was \$604; for claims beginning January 1, 2016, the maximum weekly benefit rate is \$615. An employee may receive benefits for up to six weeks during a twelve-month period or until he or she receives benefits equal to one-third of their total wages during the base year, whichever is less. The twelve-month period is the 365 consecutive days beginning on the first day of a valid family leave insurance claim.

To be eligible for benefits associated with leave to bond with a newborn or newly-adopted child, the leave must be within the first twelve months after the child's birth or placement with the employee. Bonding leave must be for a period of more than seven consecutive days, unless the employer permits the leave to be taken in intermittent, non-consecutive periods. However, each non-consecutive leave period must be at least seven days. An employee must give his or her employer at least thirty days' notice before bonding leave begins. If proper notice is not given, the employee's weekly benefit could be reduced by fourteen days.

To be eligible for leave associated with caring for a seriously-ill family member, the leave may be taken for six consecutive weeks, intermittent weeks, or forty-two intermittent days during a twelve-month period beginning with the first date of the family leave insurance claim. "Family member" is defined as the employee's spouse, domestic partner, civil union partner, parent, or child who is under nineteen years old or otherwise incapable of self-care due to a mental or physical impairment. Employees are required to give their employers reasonable notice of this type of leave unless the family member's condition develops unexpectedly. For an employee to take intermittent leave and still receive wage-replacement benefits, he or she must give the employer at least fifteen days' notice.

Once notified of an employee's need for leave that may qualify for Family Leave Insurance benefits, employers must notify the employee of the availability of the program and provide the employee with a copy of the state notice. Employers can direct employees to the New Jersey Department of Labor and Workforce Development website to obtain additional information (available [here](#)), as well as the application necessary for an employee to make a claim for benefits. The application can be filled out and submitted online or hardcopy by mail (available [here](#)). Employers must also conspicuously post a notice detailing program information and employee rights to New Jersey Family Leave Insurance benefits and deliver a copy of the notice to all new hires. The notice is available on the New Jersey Department of Labor and Workforce Development website (available [here](#)).

Depending on the need for the leave, a benefits application will include a medical certification from the employee's family member's physician, or a certification from the employee authorizing the release of information regarding the newborn or newly-adopted child to the New Jersey Division of Temporary Disability Insurance. The application also includes a form to be completed by the employer detailing the employee's wages, work schedule, any available paid time off, and other benefits information (available [here](#)). Employees must file their completed applications within thirty days after the beginning of their family leave. Forms may not be submitted prematurely, even if the

need for the leave is known before it begins.

If you have any questions about how New Jersey's Family Leave Insurance program could affect your organization, please contact [Scott Ohnegian](#), [Daniel Zappo](#), or any member of Riker Danzig's [Labor & Employment Group](#).

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