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SYNOPSIS
Establishes a partial return to work TDI program.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT permitting the payment of temporary disability benefits on a part-time basis and amending P.L.1948, c.110.

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

1. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read as follows:

5. (a) In the case of the disability of a covered individual, disability shall be compensable subject to the limitations of P.L.1948, c.110 (C.43:21-25 et al.) if the disability is the result of the covered individual suffering an accident or sickness not arising out of and in the course of the individual's employment or if so arising not compensable under the workers' compensation law, R.S.34:15-1 et seq. and the disability results in the individual's total inability to perform the duties of employment, except that an individual who is otherwise eligible for benefits but only able to return to work on a reduced basis while recovering from the disability may receive benefits pursuant to the provisions of subsection (b) of section 16 of P.L.1948, c.110 (C.43:21-40).

(b) In the case of an individual taking family temporary disability leave, the leave shall be compensable subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.).

2. Section 16 of P.L.1948, c.110 (C.43:21-40) is amended to read as follows:

16. (a) With respect to periods of disability commencing on or after July 1, 1961, an individual's weekly benefit amount shall be determined and computed by the division on the same basis as the weekly benefit rate is determined and computed pursuant to subsection (c) of R.S.43:21-3, except that for periods of disability commencing on or after October 1, 1984, an individual's weekly benefit rate shall be two-thirds of his average weekly wage, subject to a maximum of 53% of the Statewide average weekly remuneration paid to workers by employers, as determined under subsection (c) of R.S.43:21-3; provided, however, that such individual's benefit rate shall be computed to the next lower multiple of $1.00 if not already a multiple thereof. The amount of benefits for each day of disability for which benefits are payable shall be one-seventh of the corresponding weekly benefit amount; provided that the total benefits for a fractional part of a week shall be computed to the next lower multiple of $1.00 if not already a multiple thereof.

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.
(b) For any week beginning on or after the effective date of P.L. , c. (pending before the Legislature as this bill), with respect to a period of disability of an individual who is otherwise eligible for benefits but only able to return to work on a reduced basis while recovering from the disability, the individual, if permitted by the employer to return to work on the reduced basis, shall be paid an amount of benefits with respect to that week such that the sum of the wages and those benefits paid to the individual, rounded to the next lower multiple of $1.00, will equal the weekly benefit amount the individual would have been paid if totally unable to perform the duties of employment due to disability, provided that:

(1) The individual must have been totally unable to perform the duties of employment due to disability and receiving full benefits for at least seven consecutive days prior to claiming partial benefits under this subsection;

(2) The maximum duration of partial benefits paid pursuant to this subsection is eight weeks, unless the division, after a review of medical documentation from a qualified healthcare provider, approves in writing an extension beyond eight weeks, but in no case shall the duration be extended to more than 12 weeks; and

(3) If the individual is able to return to work on a reduced basis but the employer is unable or otherwise chooses not to permit the individual to do so, the individual will continue to be eligible for benefits until the individual is fully recovered from the disability and able to perform the duties of employment, but nothing in this subsection shall be construed as increasing the total number of weeks of disability benefits for which the individual is eligible.

For the purposes of this section, “qualified healthcare provider” means a legally licensed physician, dentist, podiatrist, chiropractor, certified nurse midwife, advanced practice nurse or public health nurse designated by the division.

(cf:  P.L.1984, c.104, s.3)

3. This act shall take effect on the 180th day after the date of enactment.

STATEMENT

This bill establishes a partial return to work program which permits the payment of temporary disability insurance (TDI) benefits on a reduced basis to temporarily disabled workers who are otherwise eligible for TDI benefits, but only able to return to work on a reduced basis while recovering from disability. The bill permits such partial benefits only after a worker has been completely unable to work due to disability and receiving full TDI benefits for at least seven days. Currently, the TDI law provides for
benefits only during the time that the worker is completely unable
to work due to the disability. The bill provides that the amount of
the part-time TDI benefit is the full-time TDI benefit amount minus
the wages paid to the worker during a week.

The bill sets a maximum duration of eight weeks for partial
benefits, unless the division, after a review of medical
documentation, approves an extension beyond eight weeks, but not
more than 12 weeks in any case. Employers are not required to
permit a worker to return to work on a reduced basis, but if a
worker is able to return to work on a reduced basis but the employer
does not permit the worker to do so, the worker will remain eligible
for benefits until fully recovered from the disability and able to
perform the duties of employment. The bill does not, in any case,
increase the total number of weeks of disability benefits for a
worker.

The purpose of the bill is to allow workers to transition back to
work by initially working on a part time basis, and to provide cost
savings to the TDI fund by reducing TDI benefit costs during those
transitions. The bill is based on a partial TDI benefit program
implemented in Rhode Island in 2007. It is reported that the
program resulted in savings every year the program has been
operational.