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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE - BENEFITS

Introduced By: Senators Lawson, Seveney, Coyne, Quezada, Euer, Cano, DiPalma,
Ciccone, McCaffrey, and Mack

Date Introduced: February 08, 2022

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-41-5, 28-41-34 and 28-41-35 of the General Laws in Chapter 28-
2 41 entitled "Temporary Disability Insurance - Benefits" are hereby amended to read as follows:

3 **28-41-5. Weekly benefit rate -- Dependents' allowances.**

4 (a)(1) Benefit rate. The benefit rate payable under this chapter to any eligible individual
5 with respect to any week of his or her unemployment due to sickness, when that week occurs within
6 a benefit year, shall be, for benefit years beginning on or after October 7, 1990, four and sixty-two
7 hundredths percent (4.62%) of the wages paid to the individual in that calendar quarter of the base
8 period in which the individual's wages were highest; provided, however, that the benefit rate shall
9 not exceed eighty-five percent (85%) of the average weekly wage paid to individuals covered by
10 chapters 42 -- 44 of this title for the preceding calendar year ending December 31. If the maximum
11 weekly benefit rate is not an exact multiple of one dollar (\$1.00) then the rate shall be raised to the
12 next higher multiple of one dollar (\$1.00). Those weekly benefit rates shall be effective throughout
13 the benefit years beginning on or after July 1 of the year prior to July of the succeeding calendar
14 year.

15 (2) The benefit rate of any individual, if not an exact multiple of one dollar (\$1.00), shall
16 be raised to the next higher multiple of one dollar (\$1.00).

17 (b) Dependents' allowances. An individual to whom benefits for unemployment due to
18 sickness are payable under this chapter with respect to any week, shall, in addition to those benefits,

1 be paid with respect to each week a dependent's allowance of ~~ten dollars (\$10.00)~~ twenty dollars
2 (\$20.00) or seven percent (7%), of the individual's benefit rate, payable under subsection (a) of this
3 section, whichever is greater for each of that individual's children, including adopted and
4 stepchildren or that individual's court appointed wards who, at the beginning of the individual's
5 benefit year, is under eighteen (18) years of age and who is at that time in fact dependent on that
6 individual. A dependent's allowance shall also be paid to that individual for any child, including an
7 adopted child or a stepchild or that individual's court appointed ward, eighteen (18) years of age or
8 over, incapable of earning any wages because of mental or physical incapacity, and who is
9 dependent on that individual in fact at the beginning of the individual's benefit year, including
10 individuals who have been appointed the legal guardian of that child by the appropriate court.
11 However, in no instance shall the number of dependents for which an individual may receive
12 dependents' allowances exceed five (5) in total. The weekly total of dependents' allowances payable
13 to any individual, if not an exact multiple of one dollar (\$1.00), shall be rounded to the next lower
14 multiple of one dollar (\$1.00). The number of an individual's dependents, and the fact of their
15 dependency, shall be determined as of the beginning of that individual's benefit year; provided, that
16 only one individual shall be entitled to a dependent's allowance for the same dependent with respect
17 to any week. Each individual who claims a dependent's allowance shall establish his or her claim
18 to it to the satisfaction of the director under procedures established by the director.

19 (c) Any individual's benefit rate and/or dependents' allowance in effect for a benefit year
20 shall continue in effect until the end of that benefit year.

21 (d) Partial unemployment due to sickness. For weeks beginning on or after January 1, 2006,
22 an individual partially unemployed due to sickness and otherwise eligible in any week shall be paid
23 sufficient benefits with respect to that week, so that his or her wages, rounded to the next higher
24 multiple of one dollar (\$1.00), and his or her benefits combined will equal in amount the weekly
25 benefit rate to which he or she would be entitled if totally unemployed due to sickness in that week;
26 provided that an individual must have been totally unemployed due to sickness for at least seven
27 (7) consecutive days prior to claiming partial benefits under this provision; provided, that this
28 provision shall not apply if the individual is entitled to lag day benefits pursuant to § 28-41-9;
29 provided, further, that nothing contained herein shall permit any individual to whom remuneration
30 is payable for any work performed in any week in an amount equal to or greater than his or her
31 weekly benefit rate to receive benefits or waiting period credit for that week.

32 **28-41-34. Temporary caregiver insurance.**

33 The purpose of this chapter is to establish, within the state temporary disability insurance
34 program, a temporary caregiver insurance program to provide wage replacement benefits in

1 accordance with the provisions of this chapter, to workers who take time off work to care for a
2 seriously ill child, spouse, domestic partner, parent, parent-in-law, grandparent, [grandchild, sibling,](#)
3 or to bond with a new child.

4 Definitions as used in this chapter:

5 (1) "Child" means a biological, adopted, or foster son or daughter, a stepson or
6 stepdaughter, a legal ward, a son or daughter of a domestic partner, or a son or daughter of an
7 employee who stands in loco parentis to that child.

8 (2) "Newborn child" means a child under one year of age.

9 (3) "Adopted child" means a child adopted by, or placed for adoption with, the employee.

10 (4) "Bonding or bond" means to develop a psychological and emotional attachment
11 between a child and his or her parent(s) or persons who stand in loco parentis. This shall involve
12 being in one another's physical presence.

13 (5) "Parent" means a biological, foster, or adoptive parent, a stepparent, a legal guardian,
14 or other person who stands in loco parentis to the employee or the employee's spouse or domestic
15 partner when he/she was a child.

16 (6) "Domestic partner" means a party to a civil union as defined by chapter 3.1 of title 15.

17 (7) "Spouse" means a party in a common law marriage, a party in a marriage conducted
18 and recognized by another state or country, or in a marriage as defined by chapter 3 of title 15.

19 (8) "Grandparent" means a parent of the employee's parent.

20 (9) "Parent-in-law" means the parent of the employee's spouse or domestic partner.

21 (10) "Employee" means any person who is or has been employed by an employer subject
22 to chapters 39 -- 41 of this title and in employment subject to those chapters.

23 (11) "Serious health condition" means any illness, injury, impairment, or physical or mental
24 condition that involves inpatient care in a hospital, hospice, residential healthcare facility, or
25 continued treatment or continuing supervision by a licensed healthcare provider.

26 (12) "Department" means the department of labor and training.

27 (13) "Persons who stand in loco parentis" means those with day-to-day responsibilities to
28 care for and financially support a child or, in the case of an employee, who had such responsibility
29 for the employee when the employee was a child. A biological or legal relationship shall not be
30 required.

31 [\(14\) "Grandchild" means the child of the employee's child.](#)

32 [\(15\) "Sibling" means a brother or sister, whether related through half blood, whole blood](#)
33 [or adoption, a foster sibling or a stepsibling.](#)

34 **28-41-35. Benefits.**

1 (a) Subject to the conditions set forth in this chapter, an employee shall be eligible for
2 temporary caregiver benefits for any week in which he or she is unable to perform his or her regular
3 and customary work because he or she is:

4 (1) Bonding with a newborn child or a child newly placed for adoption or foster care with
5 the employee or domestic partner in accordance with the provisions of § 28-41-36(c)(1); or

6 (2) Caring for a child, parent, parent-in-law, grandparent, spouse, or domestic partner, who
7 has a serious health condition, subject to a waiting period in accordance with the provisions of §
8 28-41-12 [repealed]. Employees may use accrued sick time during the eligibility waiting period in
9 accordance with the policy of the individual's employer.

10 (b) Temporary caregiver benefits shall be available only to the employee exercising his or
11 her right to leave while covered by the temporary caregiver insurance program. An employee shall
12 file a written intent with his or her employer, in accordance with rules and regulations promulgated
13 by the department, with a minimum of thirty (30) days' notice prior to commencement of the family
14 leave. Failure by the employee to provide the written intent may result in delay or reduction in the
15 claimant's benefits, except in the event the time of the leave is unforeseeable or the time of the leave
16 changes for unforeseeable circumstances.

17 (c) Employees cannot file for both temporary caregiver benefits and temporary disability
18 benefits for the same purpose, concurrently, in accordance with all provisions of this act and
19 chapters 39 -- 41 of this title.

20 (d) Temporary caregiver benefits may be available to any individual exercising his or her
21 right to leave while covered by the temporary caregiver insurance program, commencing on or
22 after January 1, 2014, which shall not exceed the individual's maximum benefits in accordance with
23 chapters 39 -- 41 of this title. The benefits for the temporary caregiver program shall be payable
24 with respect to the first day of leave taken after the waiting period and each subsequent day of leave
25 during that period of family temporary disability leave. Benefits shall be in accordance with the
26 following:

27 (1) Beginning January 1, 2014, temporary caregiver benefits shall be limited to a maximum
28 of four (4) weeks in a benefit year;

29 (2) Beginning January 1, 2022, temporary caregiver benefits shall be limited to a maximum
30 of five (5) weeks in a benefit year;

31 (3) Beginning January 1, 2023, temporary caregiver benefits shall be limited to a maximum
32 of ~~six (6) weeks~~ eight (8) weeks in a benefit year.

33 (4) Beginning January 1, 2024, temporary caregiver benefits shall be limited to a maximum
34 of ten (10) weeks in a benefit year.

1 (e) In addition, no individual shall be paid temporary caregiver benefits and temporary
2 disability benefits that together exceed thirty (30) times his or her weekly benefit rate in any benefit
3 year.

4 (f) Any employee who exercises his or her right to leave covered by temporary caregiver
5 insurance under this chapter shall, upon the expiration of that leave, be entitled to be restored by
6 the employer to the position held by the employee when the leave commenced, or to a position with
7 equivalent seniority, status, employment benefits, pay, and other terms and conditions of
8 employment including fringe benefits and service credits that the employee had been entitled to at
9 the commencement of leave.

10 (g) During any caregiver leave taken pursuant to this chapter, the employer shall maintain
11 any existing health benefits of the employee in force for the duration of the leave as if the employee
12 had continued in employment continuously from the date he or she commenced the leave until the
13 date the caregiver benefits terminate; provided, however, that the employee shall continue to pay
14 any employee shares of the cost of health benefits as required prior to the commencement of the
15 caregiver benefits.

16 (h) No individual shall be entitled to waiting period credit or temporary caregiver benefits
17 under this section for any week beginning prior to January 1, 2014. An employer may require an
18 employee who is entitled to leave under the federal Family and Medical Leave Act, Pub. L. No.
19 103-3 and/or the Rhode Island Parental and Family Medical Leave Act, § 28-48-1 et seq., who
20 exercises his or her right to benefits under the temporary caregiver insurance program under this
21 chapter, to take any temporary caregiver benefits received, concurrently, with any leave taken
22 pursuant to the federal Family and Medical Leave Act and/or the Rhode Island Parental and Family
23 Medical Leave Act.

24 (i) Temporary caregiver benefits shall be in accordance with the federal Family and
25 Medical Leave Act (FMLA), Pub. L. No. 103-3 and the Rhode Island Parental and Family Medical
26 Leave Act in accordance with § 28-48-1 et seq. An employer may require an employee who is
27 entitled to leave under the federal Family and Medical Leave Act, Pub. L. No. 103-3 and/or the
28 Rhode Island Parental and Family Medical Leave Act, § 28-48-1 et seq., who exercises his or her
29 right to benefits under the temporary caregiver insurance program under this chapter, to take any
30 temporary caregiver benefits received, concurrently, with any leave taken pursuant to the federal
31 Family and Medical Leave Act and/or the Rhode Island Parental and Family Medical Leave Act.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - TEMPORARY DISABILITY
INSURANCE - BENEFITS

1 This act would increase the weekly dependency allowances for workers receiving
2 temporary disability insurance benefits, from ten dollars (\$10.00) to twenty dollars (\$20.00). It
3 would add "grandchild" and "sibling" to the list of members eligible to receive state temporary
4 disability insurance benefits and temporary caregiver benefits. Finally, it would increase the
5 maximum weeks that temporary caregivers benefits may be given from six (6) weeks to eight (8)
6 weeks in 2023 and to ten (10) weeks in 2024.

7 This act would take effect upon passage.

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