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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY
INSURANCE

Introduced By: Senators Goldin, Paiva Weed, Miller, Nesselbush, and Metts

Date Introduced: February 06, 2013

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-41 of the General Laws entitled "Temporary Disability
2 Insurance - Benefits" are hereby amended by adding thereto the following sections:

3 **28-41-34. Temporary caregiver insurance.** – The purpose of this chapter is to establish,
4 within the state temporary disability insurance program, a temporary caregiver insurance program
5 to provide up to eight (8) weeks of wage replacement benefits to workers who take time off work
6 to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new child.

7 Definitions as used in this chapter:

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

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

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

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

16 (5) "Domestic partner" means a party to a civil union as defined by chapter 15-3.1.

17 (6) "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 15-3.

1 (7) “Grandparent” means a parent of the employee’s parent.

2 (8) “Parent-in-law” means the parent of the employee’s spouse or domestic partner.

3 (9) “Employee” means any person who is or has been employed by an employer subject
4 to chapters 39 through 41 of this title and in employment subject to those chapters.

5 (10) “Serious health condition” means any illness, injury, impairment, or physical or
6 mental condition that involves inpatient care in a hospital, hospice, residential health care facility,
7 or continued treatment or continuing supervision by a licensed health care provider.

8 (11) “Department” means the department of labor and training.

9 **28-41-35. Benefits.** – (a) Subject to the conditions set forth in this chapter, an employee
10 shall be eligible for temporary caregiver benefits for any week in which he or she is unable to
11 perform his or her regular and customary work because he or she is:

12 (1) Caring for a newborn child or a child newly placed for adoption or foster care with
13 the employee or domestic partner; or

14 (2) Caring for a child, a parent, parent-in-law, grandparent, spouse, or domestic partner,
15 who has a serious health condition, subject to a waiting period in accordance with the provisions
16 of section 28-41-12. Employees may use accrued sick time during eligibility waiting period in
17 accordance with the policy of the individual’s employer.

18 (b) Temporary caregiver benefits shall be available only to the caregiver. An employee
19 cannot file for both temporary caregiver benefits and temporary disability benefits for the same
20 purpose. Temporary caregiver benefits shall be limited to a maximum of eight (8) weeks per
21 employee per benefit year. In addition, no individual shall be paid temporary caregiver benefits
22 and temporary disability benefits which together exceed thirty (30) times his or her weekly
23 benefit rate in any benefit year.

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

30 (d) During any caregiver leave taken pursuant to this chapter, the employer shall maintain
31 any existing health benefits of the employee in force for the duration of the leave as if the
32 employee had continued in employment continuously from the date he or she commenced the
33 leave until the date the caregiver benefits terminate; provided, however, that the employee shall
34 continue to pay any employee shares of the cost of health benefits as required prior to the

1 commencement of the caregiver benefits

2 (e) No individual shall be entitled to waiting period credit or temporary caregiver benefits
3 under this section for any week beginning prior to January 1, 2014.

4 **28-41-36. Certification of eligibility for leave.** – (a) An individual may file a certificate
5 to establish medical eligibility of the serious health condition of the employee’s family member
6 that warrants the care of the employee. Said certificate shall contain:

7 (1) A diagnosis and diagnostic code prescribed in the international classification of
8 diseases, or where no diagnosis has yet been obtained, a detailed statement of symptoms;

9 (2) The date if known, on which the condition commenced;

10 (3) The probable duration of the condition;

11 (4) An estimate of the amount of time that the licensed qualified health care provider
12 believes the employee is needed to care for the family member;

13 (5) A statement that the serious health condition warrants the participation of the
14 employee to provide care for his or her family member. “Warrants the participation of the
15 employee” includes, but is not limited to, providing psychological comfort, arranging third-party
16 care for the family member as well as directly providing, or participating in the medical and
17 physical care of the patient; and

18 (6) A certificate filed to establish medical eligibility of the serious health condition of the
19 employee’s family member shall be made by the family member’s treating licensed qualified
20 health care provider. If the family member resides or is in care outside of Rhode Island, the
21 treating licensed qualified health care provider must be duly licensed or certified by the state or
22 foreign country in which the family member is receiving the care and treatment.

23 (b) Certification for eligibility for leave in the case of placement of a child for adoption
24 shall contain a certification form developed by the department for an employee taking leave for
25 reason of the birth of a child, or the placement of a child with the employee in connection with
26 the adoption or foster care of the child by the employee.

27 (c) Contributions: The temporary caregiver insurance program will be funded solely
28 through an employee contribution. The taxable rate will be in accordance with the employee
29 contribution rate to the temporary disability insurance fund as determined under the provisions of
30 section 28-40-1.

31 (d) The director of the department of labor and training shall have the following powers
32 and duties:

33 (1) To promulgate regulations relative to the operation of the temporary caregiver
34 insurance program;

1 (2) To create all necessary applications and certificates to fulfill the purposes of this
2 section; and

3 (3) To disseminate information regarding the program to Rhode Island employers.

4 (e) The temporary caregiver insurance program shall be part of the temporary disability
5 insurance fund. Unless otherwise specified to the contrary, all of the provisions of chapters 39
6 through 41 of this title shall apply to the temporary caregiver insurance program.

7 (f) Misrepresentation with respect to benefits:

8 (1) An individual who has been convicted by a court of competent jurisdiction of
9 knowingly or fraudulently making a false statement, or knowingly or fraudulently
10 misrepresenting a material fact, with intent to defraud the temporary disability insurance fund of
11 any benefit or wrongfully to obtain or increase any benefit, either for himself or herself or for any
12 other person, shall be disqualified from receiving benefits for a period of one year following that
13 conviction;

14 (2) If a physician or other qualified health care provider licensed by a foreign country is
15 under investigation by the department for assisting in the filing of false claims and the department
16 does not have the legal remedies to conduct a criminal investigation or prosecution in that
17 country, the department may suspend the processing of all further certifications until the licensed
18 qualified health care provider fully cooperates and continues to cooperate with the investigation.
19 A qualified health care provider licensed by and practicing in a foreign country who has been
20 convicted of filing false claims with the department shall be barred indefinitely from filing a
21 certificate in support of a temporary disability insurance or temporary caregiver insurance claim
22 in the state of Rhode Island.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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