STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2013

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- TEMPORARY DISABILITY INSURANCE

Introduced By: Representatives E Coderre, Ajello, Williams, Ferri, and Blazejewski

Date Introduced: March 19, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

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

Definitions as used in this chapter:

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

(2) “Newborn child” means a child under one year of age.

(3) “ Adopted child” means a child adopted by, or placed for adoption with, the employee, or other person who stood in loco parentis to the employee or the employee’s spouse or domestic partner when he/she was a child.

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

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

(6) “Spouse” means a party in a common law marriage, a party in a marriage conducted and recognized by another state or country, or in a marriage as defined by chapter 15-3.
“Grandparent” means a parent of the employee’s parent.

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

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

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

“Department” means the department of labor and training.

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

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

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

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

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

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

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

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

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

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

(3) The probable duration of the condition;

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

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

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

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

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

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

(1) To promulgate regulations relative to the operation of the temporary caregiver insurance program;
(2) To create all necessary applications and certificates to fulfill the purposes of this section; and

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

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

f) Misrepresentation with respect to benefits:

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

(2) If a physician or other qualified health care provider licensed by a foreign country is under investigation by the department for assisting in the filing of false claims and the department does not have the legal remedies to conduct a criminal investigation or prosecution in that country, the department may suspend the processing of all further certifications until the licensed qualified health care provider fully cooperates and continues to cooperate with the investigation.

A qualified health care provider licensed by and practicing in a foreign country who has been convicted of filing false claims with the department shall be barred indefinitely from filing a certificate in support of a temporary disability insurance or temporary caregiver insurance claim in the state of Rhode Island.

SECTION 2. This act shall take effect upon passage.
This act would establish within the state temporary disability insurance program, a temporary caregiver insurance program to provide benefits to workers who take time off for a seriously ill child, spouse, parent, domestic partner or to bond with a new child. This act would take effect upon passage.