

# COMPLIANCE OVERVIEW

Provided by:  
The CIMA Companies, Inc

## State Disability Insurance Laws

### HIGHLIGHTS

- Only a few states require employers to provide disability insurance coverage to employees for non-work-related illnesses or injuries.
- Currently, there are state-mandated disability insurance requirements in **California, Hawaii, New Jersey, New York and Rhode Island**.

Disability insurance provides wage replacement benefits for employees who are unable to perform their jobs due to non-job-related illnesses or injuries. While most states do not require employers to provide disability insurance coverage for their employees, there are currently five states that require employees to be covered by disability insurance through state-run programs, private insurance or self-insured arrangements. These states are California, Hawaii, New Jersey, New York and Rhode Island.

State disability insurance programs provide temporary (or short-term) disability benefits for eligible workers. Key components of these state programs are as follows:

- In each of these states, employers are required to provide coverage for temporary wage replacement benefits for disabled workers.
- The duration of benefits, eligibility requirements and methods for determining the amount of weekly benefits vary from state-to-state.
- Both California's and Rhode Island's disability insurance programs include wage replacement benefits for employees who need time off from work to care for family members.

### STATE RESOURCES

- [California Employment Development Dept.](#)
- [Hawaii Dept. of Labor and Ind. Relations](#)
- [New Jersey Dept. of Labor and Workforce Dev.](#)
- [New York Worker's Compensation Board](#)
- [Rhode Island Dept. of Labor and Training](#)

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.



# COMPLIANCE OVERVIEW

## CALIFORNIA

PROGRAMS	FUNDING	BENEFITS
<p><b>State Disability Insurance Program (SDI)</b> includes the following benefits:</p> <p><b>Disability Insurance (DI)</b> – Provides short-term benefits to eligible workers who suffer a loss of wages when they are unable to work due to a non-work-related illness or injury, pregnancy or childbirth.</p> <p><b>Paid Family Leave (PFL)</b> – Provides wage replacement benefits for eligible workers when they need to take time off from work to care for a seriously ill child, spouse, parent, parent-in-law, grandparent, sibling or registered domestic partner or to bond with a new minor child (including newly fostered and adopted children).</p>	<p>Both SDI benefits (DI and PFL) are funded through mandatory employee payroll deductions. The SDI withholding rate for 2018 is 1.0 percent. The taxable wage limit is \$114,967 for each employee for calendar year 2018. The maximum to withhold for each employee is \$1,149.67.</p>	<p><b>DI Benefits:</b> An individual may receive up to 52 weeks of DI benefits. For claims beginning on or after Jan. 1, 2018, the weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages earned 5 to 18 months prior to an individual's claim start date, up to the maximum weekly benefit amount. Weekly benefits range from \$50 to a maximum of \$1,216. To qualify for the maximum weekly benefit amount (\$1,216) an individual must earn at least \$26,325.01 in a calendar quarter during the base period.</p> <p><b>PFL Benefits:</b> An individual may receive up to six weeks of PFL benefits during a 12-month period. For claims beginning on or after Jan. 1, 2018, the weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages, up to the maximum weekly benefit amount. Weekly benefits range from \$50 to a maximum of \$1,216.</p>
<p><b>Voluntary Plan (VP):</b> California law allows employers or a majority of employees to apply to the Employment Development Department (EDD) for approval of a VP for the payment of DI and PFL insurance benefits in place of the mandatory SDI coverage. To be approved for a VP, the</p>	<p>Once a VP is approved, the employer is no longer required to send SDI withholdings to the EDD. When an employer requires contributions from employees under the VP, the employer must place those contributions in a separate account to pay claims and approved expenses. A VP cannot cost employees more than the current SDI</p>	<p>A VP must provide all the benefits of SDI coverage and at least one benefit that is better than SDI.</p>

# COMPLIANCE OVERVIEW

employer must post a security deposit with the EDD to guarantee that it meets all obligations of the VP.

plan rate.

## **Disability Insurance Elective Coverage**

**(DIEC):** California's DIEC program serves as a safety net for self-employed individuals who are not required to pay into the SDI, but want to be covered by DI and PFL.

For calendar year 2018, DIEC premiums are based on net profit reported on 2016 IRS Form 1040 Schedule SE or Schedule C. Each quarter, one-fourth of this amount is reported as "wages." Premiums are calculated at a percentage of these "quarterly wages."

The DIEC premium rate for 2018 is 4.59 percent of the first \$114,967 in net income. The premium includes contributions for the DI and PFL programs.

Individuals who are covered by the DIEC program may be eligible for DI and PFL benefits. Eligible individuals may receive up to 39 weeks of DI benefits. Under the PFL program, eligible individuals may receive up to six weeks of benefits in a 12-month period to care for a seriously ill family member or to bond with a new child.

The weekly benefit amounts are the same for DI and PFL claims. For claims beginning on or after Jan. 1, 2018, the minimum weekly benefit is \$50 and the maximum weekly benefit is \$1,216.

**MORE INFORMATION:** More information on California's disability insurance law is available through the state's [Employment Development Department](#).

# COMPLIANCE OVERVIEW

## HAWAII

PROGRAMS	FUNDING	BENEFITS
<p>Hawaii requires most employers to provide partial wage replacement insurance coverage to their eligible employees for non-work-related illnesses or injuries (including pregnancy). If an employee is unable to work because of an off-the-job sickness or injury and that employee meets the qualifying conditions of the law, the disabled employee will be paid disability or sick leave benefits to partially replace the wages lost. This program does not include medical care.</p> <p>To be eligible for wage replacement benefits, an employee must have at least 14 weeks of Hawaii employment during each of which the employee was paid for 20 hours or more and earned not less than \$400 in the 52 weeks preceding the first day of disability. The 14 weeks need not be consecutive nor with only one employer. The employee must also be currently employed to be eligible.</p>	<p>An employer may adopt one or more of the following methods of providing disability benefits:</p> <ul style="list-style-type: none"><li>• Purchase insurance from an authorized insurance carrier;</li><li>• Adopt a self-insured plan, which must be approved by the state's Disability Compensation Division (Division) or enter into a collective bargaining agreement that contains sick leave benefits at least as favorable as required by the disability benefits law.</li></ul> <p>An employer may pay for the entire cost of disability benefits, or the employer may share the cost with employees. However, the employee's contribution cannot exceed 0.5 percent of the employee's weekly wages, with the maximum deduction not to exceed \$5.34.</p>	<p>If the employer has a statutory plan (that is, a plan that provides benefits according to the minimum benefit standards as required by law), the employee is entitled to disability benefits from the eighth day of disability for a maximum of 26 weeks at 58 percent of the employee's average weekly wages. For claims beginning on or after Jan. 1, 2018, the maximum weekly benefit is \$620.</p> <p>If the employer has a sick leave plan that differs from statutory benefits and has been approved by the Division as an equivalent or better-than-statutory plan, the weekly benefit amount, duration of payments and whether or not a waiting period is required will be determined by the plan.</p>

**MORE INFORMATION:** More information on Hawaii's disability insurance law is available through Hawaii's [Department of Labor and Industrial Relations](#).

# COMPLIANCE OVERVIEW

## NEW JERSEY

PROGRAMS	FUNDING	BENEFITS
<p><b>Temporary Disability Insurance (TDI) State Plan:</b> All New Jersey employers covered by the state's unemployment compensation law (except for certain governmental entities) are required to provide temporary disability benefits for non-work-related illnesses or injuries, including pregnancy, that prevent employees from working. Covered employers must provide disability benefits under a state plan, unless benefits are provided through an approved private plan.</p> <p>To be eligible for disability benefits, a claimant must (1) have at least 20 calendar weeks in covered New Jersey employment in which he or she earned \$169 or more (called "base weeks"), or (2) have earned \$8,500 or more in covered employment during the "base year" period (that is, the 52 weeks immediately before the week in which the disability began). Only covered wages earned during the base year period can be used in determining a claim.</p>	<p>Both New Jersey workers and employers contribute to the cost of temporary disability coverage.</p> <p><b>Cost to Workers:</b> For 2018, workers contribute 0.19 percent on the first \$33,700 in coverage wages earned. This contribution is in the form of a salary deduction that the employer takes from weekly wages.</p> <p><b>Cost to Employers:</b> The contribution rate for employers is experience rated, with a wage limit of \$33,700 for 2018.</p>	<p><b>Weekly Benefit Rate:</b> The weekly benefit rate is calculated on the basis of the claimant's average weekly wage (AWW).</p> <p>Each claimant is paid two-thirds of his or her AWW up to the maximum amount payable set for that calendar year. The maximum weekly benefit amount is \$637 for disabilities beginning on or after Jan. 1, 2018.</p> <p>The AWW is generally based on the earnings in the eight calendar weeks immediately before the week in which the disability begins. The total wages earned during all base weeks worked in the eight week period are divided by the number of base weeks to obtain the AWW.</p> <p><b>Maximum Benefit Amount:</b> The maximum benefit amount that may be paid for each period of disability is one-third of the total wages the claimant earned in New Jersey covered employment during the base year, or 26 times the weekly benefit amount, whichever is less.</p>
<p><b>TDI Private Plan Coverage:</b> New Jersey permits employers to provide coverage for temporary disability benefits through an approved private plan instead of the state plan. The plan may be insured by the employer, by an insurance company or by a union welfare fund. All private plans must be approved by</p>	<p>Employees may be required to contribute to the cost of an employer's private plan. However, employees cannot be charged more than they would have contributed for state plan coverage. If employees must contribute</p>	<p>Private plans must be at least as generous in benefit amounts, eligibility requirements and duration of payments as the state plan.</p>



# COMPLIANCE OVERVIEW

the Division of Temporary Disability Insurance before they become effective.

to the cost of the plan, a written election must be held and a majority of employees must agree to the plan prior to the effective date of the plan.

**Disability During Unemployment Program:** If a worker becomes totally disabled and has been out of New Jersey covered employment for more than 14 days, he or she may be eligible for benefits under the state's Disability During Unemployment program.

To be eligible for benefits, a claimant must have had at least 20 base weeks in covered New Jersey employment during the base period. A base week is a week in which an individual earned a minimum of \$169. If the claimant does not meet the minimum weekly requirements, he or she may still be eligible for benefits if he or she earned a minimum of \$8,500 in covered employment during the base period. If a claimant does not satisfy either of these requirements, alternative base year provisions may apply.

In addition, the claimant must be totally disabled and under the care of a legally licensed physician, dentist, podiatrist, optometrist, chiropractor, psychologist, certified nurse midwife or advanced practice nurse.

Benefits are covered under the state temporary disability plan or an approved private plan.

**Weekly Benefit Rate:** A claimant's weekly benefit amount is 60 percent of his or her AWW, up to a maximum of 56 ⅔ percent of the statewide AWW. For a disability that begins on or after Jan. 1, 2018, the maximum weekly benefit rate is \$681. If the claimant's weekly benefit rate is less than the weekly benefit rate, the benefits might be increased if the claimant has unemployed dependents.

**Maximum Benefit Amount:** A claimant is entitled to one week of potential benefits for each base week during which he or she worked in covered employment, subject to a maximum of 26 weeks.

If a claimant has an unemployment insurance claim and becomes disabled while unemployed during the benefit year, he or she may be paid Disability During Unemployment benefits against that claim. In general, claimants will receive the same weekly benefit rate as they were receiving on their unemployment insurance claim. The maximum amount allowable to collect in unemployment insurance and Disability During Unemployment combined is one and one-half times the maximum benefit amount on a claim.

**MORE INFORMATION:** More information on New Jersey's disability insurance programs is available through the [Department of Labor and Workforce Development](#).

# COMPLIANCE OVERVIEW

## NEW YORK

PROGRAMS	FUNDING	BENEFITS
Employers must provide disability benefits coverage to employees for an off-the-job injury or illness.	<p>Coverage for disability benefits can be obtained through a disability benefits insurance carrier who is authorized by the New York's Workers' Compensation Board (Board) to write those policies. Another option for large employers is to become authorized by the Board to self-insure.</p> <p>An employer is allowed, but not required, to collect contributions from its employees to offset the cost of providing benefits. An employee's contribution is computed at the rate of one-half of 1 percent of his or her wages, but no more than 60 cents per week.</p> <p>When employees are required to make contributions, the employer must add a contribution to make up the balance of the cost of the insurance.</p>	<p>Disability benefits are temporary cash benefits paid to an eligible wage earner when he or she is disabled by an off-the-job injury or illness. New York's disability benefits law provides weekly cash benefits to replace, in part, wages lost due to injuries or illnesses that do not arise out of or in the course of employment. Disability benefits are also paid to an unemployed worker to replace unemployment insurance benefits lost because of illness or injury.</p> <p>Disability benefits include cash payments only. Medical care is the responsibility of the claimant. Cash benefits are 50 percent of a claimant's average weekly wage, but no more than the maximum benefit allowed, currently \$170 per week.</p> <p>Benefits are paid for a maximum of 26 weeks of disability during 52 consecutive weeks. For employed workers, there is a seven-day waiting period for which no benefits are paid. Benefit rights begin on the eighth consecutive day of disability.</p>

**MORE INFORMATION:** More information on New York's disability insurance law is available through New York's [Workers' Compensation Board](#).

# COMPLIANCE OVERVIEW

## RHODE ISLAND

PROGRAMS	FUNDING	BENEFITS
<p><b>Temporary Disability Insurance (TDI):</b> TDI provides benefit payments to insured Rhode Island workers for weeks of unemployment caused by disability or injury. It protects workers against wage loss resulting from a non-work-related illness or injury.</p> <p>Most individuals who work in Rhode Island, regardless of place of residence, are covered by TDI. Exceptions include federal, state and some municipal employees as well as partners and non-incorporated self-employed workers. To be eligible, an individual must meet certain earnings requirements and be medically certified by a qualified health care provider as unable to work.</p> <p><b>Temporary Caregiver Insurance (TCI):</b> TCI provides up to four weeks of wage replacement benefits for eligible workers who need to take time off to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law or grandparent, or to bond with a newborn child, new adopted child or new foster-care child.</p>	<p>The TDI/TCI program is funded exclusively by employee payroll deductions.</p> <p>Employers are responsible for deducting the tax from each employee's pay and remitting the tax to the Employer Tax Unit of the Rhode Island Division of Taxation quarterly. As of Jan. 1, 2018, employers must deduct 1.1 percent of the first \$69,300 earned.</p>	<p>An insured's weekly benefit rate is equal to 4.62 percent of the worker's wages in the highest quarter of his or her base period.</p> <p>For claims with a benefit year begin date of July 2, 2017, or later, \$831 is the maximum benefit rate and \$89 is the minimum benefit rate. The minimum benefit rate, which is based on the minimum wage rate, changes to \$94 for 2018. This does not include a dependency allowance. The weekly benefit rate remains the same throughout the entire benefit year.</p> <p>If an employee has dependent children under 18 years of age, the employee may be entitled to a dependency allowance. Disabled children over 18 may also be counted toward the allowance. The dependency allowance is limited to five dependents and is equal to the greater of \$10 or 7 percent of the benefit rate. Any dependency allowance is determined at the start of the benefit year and remains the same for the entire period.</p>
<p><b>MORE INFORMATION:</b> More information on Rhode Island's disability insurance law is available through the state's <a href="#">Department of Labor and Training</a>.</p>		