



the work and family legal center

80 Maiden Lane, Suite 606, New York, NY 10038 | t: 212.430.5982 | info@abetterbalance.org | abetterbalance.org

Overview of Temporary Disability Insurance Laws in the United States

Five U.S. states¹ have laws giving workers the right to cash benefits when they are unable to work due to an off-the-job injury or illness. This document provides an overview and comparison of these temporary disability insurance (TDI) laws.²

	California ³	New Jersey ⁴	Rhode Island ⁵	New York ⁶	Hawaii ⁷
Who is covered? ⁸	Workers covered by the state unemployment insurance law, except for most public workers, are covered. Domestic workers are also covered. Those who are self-employed can opt in to coverage. Many public employers can opt in to coverage, but may need to do so through a negotiated agreement with an authorized bargaining unit.	Workers covered by the state unemployment insurance law, except for most public workers, are covered. Some domestic workers are covered. Most public employers can opt in to coverage.	Workers covered by the state unemployment insurance law, except for public workers, are covered. Some domestic workers are covered. Some public employers can opt in to coverage, as can some unions covering public workers through the collective bargaining process.	Most private-sector workers are covered, subject to several exceptions. ⁹ Full-time domestic workers are covered. Most employers not required to provide coverage, including many public employers, can opt in to coverage. Those who are self-employed can opt in to coverage.	Most workers, including public workers, are covered subject to several exceptions. ¹⁰ Some domestic workers are covered.
How is the program funded?	Workers cover the full cost of TDI. The program is funded by a payroll deduction from employee wages, currently set at 0.9%. This deduction, which includes funding for both TDI and the state's separate paid family leave program, does not apply to wages above \$106,742 per year. ¹¹	Workers and employers share the cost of TDI. ¹² Under the state plan, workers contribute 0.20% of their wages. Employers contribute a percentage of workers' wages ranging from 0.10% to 0.75%. These percentage contributions, for both employees and employers, do not apply to a worker's wages above \$32,600/year. ¹³	Workers cover the full cost of TDI. The program is funded by a payroll deduction from employee wages, currently set at 1.2%. This deduction, which includes funding for both TDI and the state's separate paid family leave program, does not apply to wages above \$66,300/year. ¹¹	Workers and employers share the cost of TDI. Employers can withhold 0.5% of each worker's wages, to pay for coverage, up to 60 cents per worker per week; employers cover the remaining cost. ¹⁴	Workers and employers share the cost of TDI. Employers can withhold half the cost of providing coverage from workers' wages to pay for coverage, up to 0.5% of each worker's wages or \$4.91 per worker per week (whichever is lower); employers cover the remaining cost.



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	California³	New Jersey⁴	Rhode Island⁵	New York⁶	Hawaii⁷
What is the weekly benefit level?	For most covered workers, approximately 55% of their weekly wage up to a cap, currently set at \$1,120/week. ¹⁵	For all covered workers, 2/3 of average weekly wage up to a cap, currently set at \$615/week. ¹⁶	For all covered workers, 4.62% of wages in the highest earning quarter of the base year (or approximately 60% of a worker's average weekly wage during that quarter), up to a cap, currently set at \$817/week. ¹⁷	For all covered workers, 1/2 of average weekly wage up to a cap of \$170/week.	For all covered workers, 58% of average weekly wage up to a cap, currently set at \$570/week. ¹⁸
For how long can a worker receive benefits?	While there is no time limit on receiving benefits, workers cannot receive benefits worth more than 52 times their weekly benefit rate in a year.	Up to 26 weeks for any period of disability. ¹⁹	While there is no time limit on receiving benefits, workers cannot receive benefits worth more than 30 times their weekly benefit rate in a year.	Up to 26 weeks for any period of disability or in any 52-week period. ²⁰	Up to 26 weeks for any period of disability or in any benefit year.
Is there an unpaid waiting period?	Yes—there is a 7 day unpaid waiting period	Yes—there is a 7 day unpaid waiting period. However, if a worker is eligible for benefits during each of three consecutive weeks after the waiting period, that worker can also be paid benefits for the waiting period.	No.	Yes—there is a 7 day unpaid waiting period.	Yes—the employer's insurance policy may require an unpaid waiting period of up to 7 days. ²¹
What is the application deadline to receive full benefits?	48 days after start of disability	30 days after start of disability	52 weeks after start of disability	30 days after start of disability	90 days after start of disability



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Are workers entitled to have their jobs back when they return? ²²	No. TDI does not provide job protection, though some workers may be eligible for job protection under other laws such as the FMLA, the California Family Rights Act (CFRA), or the Pregnancy Disability Leave Law (PDLL).	No. TDI does not provide job protection, though some workers may be eligible for job protection under other laws, such as the FMLA or the New Jersey Family Leave Act (NJFLA).	No. TDI does not provide job protection, though some workers may be eligible for job protection under other laws, such as the federal Family and Medical Leave Act (FMLA) or the Rhode Island Parental and Family Medical Leave Act (RIPFMLA). ²³	No. TDI does not provide job protection, though some workers may be eligible for job protection under other laws, such as the FMLA. ²⁴	No. TDI does not provide job protection, though some workers may be eligible for job protection under other laws, such as the FMLA or the Hawaii Family Leave Law (HFLL).
Are workers entitled to keep their health benefits while receiving TDI?	No. TDI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA, the CFRA, or the PDLL.	No. TDI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA or the NJFLA.	No. TDI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA or the RIPFMLA. ²⁵	No. TDI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA. ²⁶	No. TDI does not protect workers' health insurance, though some workers may be eligible for protection under other laws, such as the FMLA or the HFLL.
How is the insurance provided?	Most workers are covered through the state-run program, which is paid for through payroll deductions and is centrally administered. Employers can apply for approval of a voluntary plan, which must provide benefits greater than those available through the state plan.	By default, workers are covered through the state-run FLI program ("the state plan"). Employers can apply for approval of a private plan, which must provide at least as much coverage as the state plan.	All covered workers are covered through the state fund.	Employers can provide coverage by purchasing insurance (either from the state fund or a private insurer) or by becoming an approved self-insurer.	Employers can provide coverage by purchasing insurance, becoming an approved self-insurer, or through a collective-bargaining agreement that provides benefits at least as favorable as those required by law.
Enforcing agency	Employee Development Department's Disability Insurance Branch	Department of Labor and Workforce Development, Division of Temporary Disability Insurance	Department of Labor and Training	Workers Compensation Board, Disability Benefits Bureau	Department of Labor and Industrial Relations, Disability Compensation Division

¹ Puerto Rico also has a temporary disability insurance law. For more information, visit http://www.trabajo.pr.gov/det_content.asp?cnt_id=160&cn_id=32.

² **Please note that this chart does not provide an exhaustive overview of these laws. It is possible that additional provisions not described in this fact sheet may apply to a worker's specific circumstances or category of employment.**



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³ Cal. Unemp. Ins. Code § 2601 *et seq.*

⁴ N.J. Stat. Ann. § 43-21-25 *et seq.* For more information on New Jersey's TDI law, as well as the state's paid family leave program, see A Better Balance's comprehensive guide at http://www.abetterbalance.org/web/images/stories/Documents/familyleave/general/2015_NJ_Family_Leave_Guide.pdf.

⁵ R.I. Gen. Laws § 28-39-1 *et seq.*

⁶ N.Y. Workers' Comp. Law § 200 *et seq.* For more information on New York's TDI law, see A Better Balance's fact sheet at <http://www.abetterbalance.org/web/images/stories/Documents/general/TDIWorkerFactSheet.pdf>.

⁷ Haw. Rev. Stat. § 392-1 *et seq.*

⁸ Each state discussed in this chart also provides some coverage for previously covered workers who become disabled while they are unemployed, but details vary by state.

⁹ For a list of exceptions, visit http://www.wcb.ny.gov/content/main/offthejob/WhoCovered_DB.jsp.

¹⁰ For a list of exceptions, visit http://www.capitol.hawaii.gov/hrscurrent/Vol07_Ch0346-0398/HRS0392/HRS_0392-0005.htm.

¹¹ For more information on state paid family leave programs, visit A Better Balance's comparison chart at http://www.abetterbalance.org/web/images/stories/Documents/familyleave/fact_sheets/familyleavechart.pdf.

¹² New Jersey's paid family leave is funded separately and is fully employee-funded. For more information, visit A Better Balance's comparison chart at http://www.abetterbalance.org/web/images/stories/Documents/familyleave/fact_sheets/familyleavechart.pdf.

¹³ If an employer chooses a private plan, employees can only be required to contribute as much as they would have contributed to the state plan; these employees can only be required to contribute if a majority of employees agree to the private plan before it goes into effect. See http://lwd.dol.state.nj.us/labor/tidi/worker/private/pp_cost.html.

¹⁴ New York's paid family leave will be funded separately and be fully employee-funded. For more information, visit A Better Balance's New York paid family leave page at <http://www.abetterbalance.org/web/nyneeds.pdf>.

¹⁵ The benefit cap is set based on changes in the statewide average weekly wage. On January 1, 2018, benefits will increase to either 60% or 70% of a worker's average weekly wage, depending on income, up to a cap.

¹⁶ The benefit cap is equal to 53% of the statewide average weekly wage.

¹⁷ The benefit cap is equal to 85% of the statewide average weekly wage. In addition, workers may also be entitled to a dependency allowance for minor children or adult children who are incapacitated due to physical or mental illness.

¹⁸ The benefit cap is set by a formula and is equivalent to approximately 70% of the statewide average weekly wage.

¹⁹ In addition, no worker can receive benefits worth more than 26 times their weekly benefit amount in a year.

²⁰ Beginning in 2018, eligible workers will also be able to receive up to 12 weeks of paid family leave. Workers will be limited to a total of 26 weeks of paid family leave and TDI in a 52-week period.

²¹ This waiting period does not apply to workers receiving disability benefits while unemployed.

²² In addition, workers may be entitled to job-protected leave as a form of reasonable accommodation under disability or pregnancy accommodation laws. For example, New York, New Jersey, and Rhode Island have all passed specific pregnancy accommodation laws and Hawaii has created similar protections through regulation. For state-by-state information on pregnancy protections, visit babygate.abetterbalance.org.

²³ Rhode Island does provide job protection for workers receiving Temporary Caregiver Insurance (the state's paid family leave program). For more on Rhode Island's Temporary Caregiver Insurance program, see http://www.abetterbalance.org/web/images/stories/Documents/familyleave/fact_sheets/familyleavechart.pdf. For more on the federal Family and Medical Leave Act, see A Better Balance's fact sheet at http://www.abetterbalance.org/web/images/stories/Documents/ForFamilies/ABB_Fact_Sheet_-_Family_and_Medical_Leave_Act.pdf.

²⁴ New York will provide job protection for workers receiving paid family leave under its new state law.

²⁵ Rhode Island does provide protection of workers' health insurance benefits for workers receiving Temporary Caregiver Insurance.

²⁶ New York will provide protection of workers' health insurance benefits for workers receiving paid family leave under its new state law.