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SENATE BILL 761

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO INSURANCE; ENACTING THE TEMPORARY DISABILITY
BENEFITS ACT; PROVIDING FOR TEMPORARY DISABILITY BENEFITS FOR
NON-WORK-RELATED ILLNESS OR INJURY; ESTABLISHING PRIVATE PLANS
FOR THE PAYMENT OF TEMPORARY DISABILITY BENEFITS; ESTABLISHING
A STATE PLAN FOR THE PAYMENT OF TEMPORARY DISABILITY BENEFITS;
CREATING THE ADVISORY COUNCIL ON TEMPORARY DISABILITY BENEFITS;
CREATING THE STATE TEMPORARY DISABILITY BENEFITS FUND;
PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Temporary Disability Benefits Act".

Section 2. DEFINITIONS.--As used in the Temporary
Disability Benefits Act:

A. "average weekly wage" means the amount derived

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1 by dividing a covered individual's total wages earned from the
2 individual's most recent covered employer during the base weeks
3 in the eight calendar weeks immediately preceding the calendar
4 week in which disability commenced by the number of base weeks;

5 B. "base week" means a period of seven consecutive
6 days starting with the day of disability;

7 C. "council" means the advisory council on
8 temporary disability benefits;

9 D. "covered employer" means an individual or
10 organization, including a partnership, association, trust,
11 estate, joint-stock company, insurance company or corporation,
12 or the receiver, trustee in bankruptcy, trustee or successor,
13 or the legal representative of a deceased individual, who is an
14 employer, except the state, its political subdivisions or an
15 instrumentality of the state unless the governmental entity
16 elects to become a covered employer;

17 E. "covered individual" means an individual who is
18 in employment for which the individual is entitled to
19 remuneration from a covered employer or who has been out of
20 employment for less than two weeks;

21 F. "day" means a span of time beginning at midnight
22 of one calendar day and ending at midnight of the next calendar
23 day;

24 G. "department" means the labor department;

25 H. "disability" means an accident or sickness not

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1 arising from or in the course of the individual's employment
2 or, if so arising, not compensable under the workers'
3 compensation law and resulting in the individual's temporary
4 total inability to perform the duties of employment;

5 I. "fund" means the state temporary disability
6 benefits fund;

7 J. "period of disability" means the entire period
8 of time during which an individual is continuously and totally
9 unable to perform the duties of employment, except that two
10 periods of disability due to the same or related cause or
11 condition and separated by a period of not more than fourteen
12 days shall be considered as one continuous period of
13 disability; provided that the individual has earned wages
14 during the fourteen-day period with the employer who was the
15 individual's last employer immediately preceding the first
16 period of disability;

17 K. "private plan" means a private plan of
18 disability benefits approved by the department;

19 L. "secretary" means the secretary of labor;

20 M. "state plan" means the state temporary
21 disability benefits plan;

22 N. "temporary disability benefits" means cash
23 payments that are payable to a covered individual; and

24 O. "wages" means all compensation payable by
25 covered employers to covered individuals for personal services,

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1 including commissions and bonuses and the cash value of all
2 compensation payable in a medium other than cash.

3 Section 3. COMPENSABLE DISABILITY.--Disability shall be
4 compensable subject to the limitations of the Temporary
5 Disability Benefits Act.

6 Section 4. NONDUPLICATION OF TEMPORARY DISABILITY
7 BENEFITS.--

8 A. Temporary disability benefits shall not be paid
9 under the Temporary Disability Benefits Act for a period in
10 which such benefits:

11 (1) are paid or payable under unemployment
12 compensation or similar law, or under a disability or sickness
13 benefit or similar law of this state, another state or the
14 federal government; or

15 (2) are paid or payable on account of the
16 disability of the covered individual under a workers'
17 compensation law, occupational disease law or similar
18 legislation of this state, another state or the federal
19 government, except for benefits for permanent partial or
20 permanent total disability previously awarded.

21 B. When a covered individual's claim for
22 compensation for a temporary disability is contested and
23 therefore delayed and the individual is otherwise eligible for
24 benefits, the individual shall be paid the benefits provided by
25 the Temporary Disability Benefits Act until and unless the

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1 individual receives compensation for the temporary disability.

2 Section 5. NOTICE OF UNEMPLOYMENT COMPENSATION--
3 CONDITIONS.--The department shall provide notice to each
4 covered individual receiving compensation under the provisions
5 of the Temporary Disability Benefits Act explaining the
6 conditions under which the individual may receive unemployment
7 compensation.

8 Section 6. ESTABLISHMENT OF PRIVATE PLANS.--

9 A. A covered employer may establish a private plan
10 for the payment of temporary disability benefits in lieu of the
11 temporary disability benefits of the state plan. Temporary
12 disability benefits under a private plan may be provided by a
13 contract of insurance issued by an insurer authorized and
14 admitted to do business in this state or by an agreement
15 between the employer and a union or association representing
16 employees or by a specific undertaking by the employer as a
17 self-insurer.

18 B. Subject to the insurance laws of this state, a
19 contract of insurance may be between an insurer and a covered
20 employer; or may be between the insurer and two or more covered
21 employers, acting for the purpose through a nominee, designee
22 or trustee; or may be between the insurer and the union or
23 association with which the employer has an agreement. The
24 private plan shall be submitted in detail to the department and
25 shall be approved by the department to take effect on the first

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1 day of the next calendar quarter, or on an earlier date if
2 requested by the employer and approved by the department, if
3 the department finds that:

4 (1) all of the employer's employees are to be
5 covered under the provisions of the private plan with respect
6 to a disability commencing after the effective date of such
7 plan, except as otherwise provided in this section;

8 (2) eligibility requirements for temporary
9 disability benefits are no more restrictive than as provided in
10 the Temporary Disability Benefits Act for temporary disability
11 benefits payable by the state plan;

12 (3) the weekly temporary disability benefits
13 payable under the private plan for a week of disability are at
14 least equal to the weekly temporary disability benefit amount
15 payable by the state plan, taking into consideration the
16 coverage with respect to concurrent employment by another
17 employer, and the total number of weeks of disability for which
18 temporary disability benefits are payable under the private
19 plan is at least equal to the total number of weeks for which
20 temporary disability benefits would have been payable by the
21 state plan;

22 (4) no greater amount is required to be paid
23 by employees toward the cost of temporary disability benefits
24 than that prescribed by law as the amount of worker
25 contribution to the fund for covered individuals under the

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1 state plan;

2 (5) coverage is continued under the private
3 plan while an employee remains a covered individual, but not
4 after the employee becomes employed by another employer
5 following termination of employment to which the private plan
6 relates; and

7 (6) a majority of the employees to be covered
8 by the private plan have or shall have agreed to such plan
9 prior to the effective date, if employees are required to
10 contribute to the cost of the private plan, as provided in this
11 section.

12 Section 7. ELECTION BY EMPLOYEES--DEDUCTION OF
13 CONTRIBUTIONS.--

14 A. If a covered employer requires its employees to
15 contribute toward the cost of temporary disability benefits
16 under a private plan, the private plan shall not become
17 effective unless, prior to the effective date, a majority of
18 the employees in the class to be covered have agreed thereto by
19 written election. In such an event, the employer may, during
20 the continuance of the approved private plan, collect the
21 required contributions by deduction from the wages paid to
22 covered individuals under such plan; provided that if an
23 employer fails to deduct the contributions of any employees at
24 the time their wages are paid or fails to make a deduction at
25 the time wages are paid for the next succeeding payroll period,

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1 the employer may not thereafter collect a contribution with
2 respect to the wages previously paid.

3 B. A covered individual shall not be entitled to
4 temporary disability benefits from the fund with respect to a
5 period of disability commencing while the individual is covered
6 under an approved private plan.

7 Section 8. EXISTING PLANS.--

8 A. If, upon the effective date of the Temporary
9 Disability Benefits Act, a covered employer has in effect a
10 plan for the payment of temporary disability benefits to its
11 employees or has in effect an agreement with a union or
12 association whereby there is in effect a plan for the payment
13 of temporary disability benefits to its employees, the plan
14 shall, regardless of the requirements of the Temporary
15 Disability Benefits Act, be deemed to be an approved private
16 plan until the earliest date upon which the employer shall have
17 the right to modify the temporary disability benefits or
18 discontinue the plan or discontinue contributions toward the
19 cost. In this case, the employer shall notify the department
20 of the circumstances.

21 B. During the continuance of the private plan, the
22 covered individuals shall not be entitled to any temporary
23 disability benefits under the state plan with respect to a
24 period of disability commencing while they are covered under
25 the private plan.

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1 Section 9. TERMINATION OF PRIVATE PLANS.--

2 A. If the department is furnished satisfactory
3 evidence that a majority of the employees covered by an
4 approved private plan have made election in writing to
5 discontinue the private plan, the department shall withdraw its
6 approval of such plan effective at the end of the next calendar
7 quarter following that in which the evidence is furnished.
8 Upon receipt of a petition signed by not less than ten percent
9 of the employees covered by an approved private plan, the
10 department shall require the employer upon thirty days' written
11 notice to conduct an election by ballot in writing to determine
12 whether a majority of the employees covered by the private plan
13 favor discontinuance; provided that such election shall not be
14 required more often than once in a twelve-month period.

15 B. Unless sooner permitted, for cause, by the
16 department, an approved private plan shall not be terminated by
17 an employer until at least thirty days after written notice of
18 intention to do so has been given by the employer to the
19 department and after notices are conspicuously posted so as to
20 reasonably ensure their being seen, or after individual notices
21 are given to the employees.

22 C. The department may after notice and hearing
23 withdraw its approval of an approved private plan if it finds
24 that there is danger that the temporary disability benefits
25 accrued or that will accrue will not be paid, that the security

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1 for payment is insufficient or for other good cause shown. An
2 employer, union or association representing employees shall not
3 administer or apply the provisions of an approved private plan
4 to derive profit. The department may withdraw its approval
5 from a private plan that is administered or applied in
6 violation of this provision.

7 D. In accordance with the provisions of the private
8 plan, termination of an approved private plan shall not affect
9 the payment of temporary disability benefits to disabled
10 employees whose period of disability commenced prior to the
11 date of termination. Employees who have ceased to be covered
12 by an approved private plan because of its termination shall,
13 subject to the limitations and restrictions of the Temporary
14 Disability Benefits Act, become eligible for temporary
15 disability benefits from the fund for disability commencing
16 after such cessation, and contributions with respect to their
17 wages shall immediately become payable.

18 Section 10. ADDITIONAL TEMPORARY DISABILITY BENEFITS.--
19 The Temporary Disability Benefits Act shall not be construed to
20 prohibit the establishment by a covered employer, without
21 approval, of a supplementary plan or plans providing for the
22 payment to employees of temporary disability benefits in
23 addition to the temporary disability benefits of an approved
24 private plan or to prohibit the collection or receipt of
25 additional voluntary contributions from employees toward the

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1 cost of additional temporary disability benefits.

2 Section 11. INDIVIDUALS ENTITLED TO TEMPORARY DISABILITY
3 BENEFITS.--A covered individual who, on the date of the
4 commencement of a period of disability, is not entitled to
5 temporary disability benefits under an approved private plan
6 shall be entitled to temporary disability benefits under the
7 state plan as provided in the Temporary Disability Benefits
8 Act.

9 Section 12. DURATION OF TEMPORARY DISABILITY BENEFITS.--

10 A. Temporary disability benefits that are not in
11 excess of a covered individual's maximum benefits shall be
12 payable with respect to a disability that commences while an
13 individual is a covered individual under the Temporary
14 Disability Benefits Act and shall be payable on the eighth
15 consecutive day of the disability and each day thereafter that
16 the period of disability continues; and if temporary disability
17 benefits shall be payable for three consecutive weeks with
18 respect to a period of disability, then such benefits shall
19 also be payable with respect to the first seven days.

20 B. The maximum total temporary disability benefits
21 payable to a covered individual for a period of disability
22 shall be either twenty-six times the covered individual's
23 weekly temporary disability benefit amount or one-third of the
24 covered individual's total wages in the base year, whichever is
25 less.

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1 Section 13. LIMITATION OF TEMPORARY DISABILITY

2 BENEFITS.--Notwithstanding any other provision of the Temporary
3 Disability Benefits Act, temporary disability benefits shall
4 not be payable under the state plan to a covered individual:

5 A. for the first seven consecutive days of each
6 period of disability; except that if temporary disability
7 benefits shall be payable for three consecutive weeks with
8 respect to a period of disability, then such benefits shall
9 also be payable with respect to the first seven days;

10 B. for more than twenty-six weeks with respect to
11 one period of disability;

12 C. for a period of disability that did not commence
13 while the individual was a covered individual;

14 D. for a period during which the individual is not
15 under the care of a legally licensed physician, dentist,
16 optometrist, podiatrist, psychologist or chiropractic
17 physician, who, when requested by the department, shall certify
18 within the scope of the practitioner's practice the disability
19 of the individual, the probable duration and, where applicable,
20 the medical facts within the practitioner's knowledge;

21 E. for a period of disability due to willfully and
22 intentionally self-inflicted injury, or to an injury sustained
23 in the perpetration by the individual of a crime;

24 F. for a period during which the individual
25 performs work for remuneration or profit;

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1 G. for a period during which the claim is
2 contested;

3 H. in a weekly amount that, together with
4 remuneration the individual continues to receive from the
5 employer, would exceed regular weekly wages immediately prior
6 to disability; or

7 I. for a period during which an individual would be
8 disqualified from unemployment compensation benefits.

9 Section 14. WEEKLY AND DAILY TEMPORARY DISABILITY BENEFIT
10 AMOUNTS.--With respect to periods of disability, a covered
11 individual's weekly temporary disability benefit rate shall be
12 two-thirds of the individual's average weekly wage. The amount
13 of temporary disability benefits for each day of disability for
14 which such benefits are payable shall be one-seventh of the
15 corresponding weekly temporary disability benefit amount.

16 Section 15. ENTITLEMENT FOR TEMPORARY DISABILITY
17 BENEFITS.--With respect to periods of disability, a covered
18 individual shall not be entitled to temporary disability
19 benefits under the Temporary Disability Benefits Act unless the
20 individual has, within the fifty-two calendar weeks preceding
21 the week in which the individual's period of disability
22 commenced, established at least twenty base weeks or earned not
23 less than one thousand times the minimum wage in effect on
24 October 1 of the calendar year preceding the calendar year in
25 which the disability commences.

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1 Section 16. STATE DISABILITY TEMPORARY BENEFITS FUND--
2 CREATED.--

3 A. The "state disability temporary benefits fund"
4 is created in the state treasury.

5 B. The fund shall be administered by the
6 department. The state treasurer shall deposit in and credit to
7 the fund the amount of worker and employer contributions
8 provided in the Temporary Disability Benefits Act, the entire
9 amount of interest and earnings from investments of the fund
10 and all assessments, fines and penalties collected under that
11 act. The fund shall pay disability benefits pursuant to the
12 Temporary Disability Benefits Act and administrative costs
13 associated with that act. The state treasurer shall invest the
14 fund as other state funds are invested. All balances in the
15 fund shall remain in the fund and shall not revert to the
16 general fund.

17 Section 17. PAYMENT OF TEMPORARY DISABILITY BENEFITS--
18 FUND--DECEASED INDIVIDUAL--MINORS--REPRESENTATIVE APPOINTED.--

19 A. Temporary disability benefits payable pursuant
20 to the Temporary Disability Benefits Act shall be paid out of
21 the fund.

22 B. If a claim for temporary disability benefits is
23 not filed by an otherwise covered individual prior to the
24 individual's death, the first claim for such benefits may be
25 filed by the surviving spouse or any other person who may be

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1 legally entitled. Payment of temporary disability benefits
2 shall be made upon receipt of a completed first claim form
3 accompanied by an affidavit executed by the person. The
4 payment by the department of temporary disability benefits upon
5 receipt of the affidavit shall discharge the obligations of the
6 department to the extent of the payment. The department shall
7 prescribe the form of affidavit to be executed.

8 C. In the event an infant or minor under the age of
9 eighteen years is entitled to receive a sum in payment for
10 temporary disability benefits under the Temporary Disability
11 Benefits Act, the father, mother or natural guardian of the
12 infant or minor shall be authorized to receive the money to the
13 same extent as a guardian of the person and property of the
14 infant or minor duly appointed by the surrogate or the court of
15 the county in which the infant or minor resides, and the
16 release or discharge of the father, mother or natural guardian
17 shall be a full and complete discharge of all claims or demands
18 of the infant or minor. The department shall prescribe the
19 form of affidavit and release to be executed by the parties
20 concerned.

21 D. The secretary is authorized to appoint a
22 representative to act for an individual who may be entitled to
23 temporary disability benefits by legally receiving and
24 disbursing the payments under the direction of the secretary
25 when it appears that the individual is mentally, legally or

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1 physically unable to properly receive or disburse the payments,
2 or when the individual, after due diligence, cannot be located.

3 E. An individual whose claim has been denied may
4 appeal to the advisory council on temporary disability
5 benefits.

6 Section 18. ADVISORY COUNCIL ON TEMPORARY DISABILITY
7 BENEFITS--CREATION.--

8 A. The "advisory council on temporary disability
9 benefits" is created and shall be composed of one ex-officio
10 and ten appointed members as follows:

11 (1) the secretary or the secretary's designee;

12 (2) four representatives of labor, who shall
13 be appointed by the governor;

14 (3) two representatives of employers, who
15 shall be appointed by the governor;

16 (4) two representatives of the insurance
17 industry, who shall be appointed by the governor; and

18 (5) two representatives of the medical
19 profession, who shall be appointed by the governor.

20 B. The council shall select a chair, a vice chair
21 and other officers as it deems necessary.

22 C. The council shall meet no less than twice
23 annually and may meet more frequently upon the call of the
24 chair. A majority of council members then serving constitutes
25 a quorum for the transaction of council business. The council

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1 shall:

2 (1) study the administration and operation of
3 the Temporary Disability Benefits Act;

4 (2) aid the department in formulating policies
5 and rules and consult and advise the secretary;

6 (3) report to the appropriate interim
7 legislative committee annually, and at such other times as it
8 may deem appropriate, its recommendations for legislation or
9 administration necessary or desirable to improve and perfect
10 the operation of the Temporary Disability Benefits Act; and

11 (4) hear and decide an appeal for a claim
12 denied.

13 D. Council members shall receive per diem and
14 mileage as provided for nonsalaried public officers in the Per
15 Diem and Mileage Act and shall receive no other compensation,
16 perquisite or allowance.

17 Section 19. RECIPROCAL AGREEMENTS FOR CERTAIN TEMPORARY
18 DISABILITY BENEFITS.--

19 A. The secretary is authorized to enter into a
20 reciprocal agreement with the department of labor of any other
21 state or other corresponding agency for the purpose of granting
22 a covered individual residing in this state eligibility for the
23 award of temporary disability benefits under the Temporary
24 Disability Benefits Act, based on employment in the other state
25 and granting a covered individual residing in the other state

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1 eligibility for the award of corresponding temporary disability
2 benefits under the statutory authority of the other state,
3 based on employment in this state.

4 B. If the secretary has entered into a reciprocal
5 agreement with another state pursuant to Subsection A of this
6 section, the secretary is authorized to determine the amount of
7 temporary disability benefits to be paid to an individual, in
8 accordance with the provisions of the Temporary Disability
9 Benefits Act, based on the covered individual's employment in
10 the other state.

11 Section 20. NOTICE AND CLAIM FOR TEMPORARY DISABILITY
12 BENEFITS.--

13 A. In the event of the disability of an individual
14 covered under the state plan, the employer shall on the ninth
15 day of disability issue to the covered individual and the
16 department printed notices on department forms containing the
17 name, address and social security number of the individual,
18 wage information as the department may require to determine the
19 individual's eligibility for temporary disability benefits, the
20 name and address of the employer and a printed copy of
21 department benefit instructions. No later than thirty days
22 after the commencement of the period of disability for which
23 the notice is furnished, the covered individual shall furnish
24 to the department a notice and claim for temporary disability
25 benefits under the state plan or for disability during

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1 unemployment. Upon the submission of the notices by the
2 employer and the individual, the department may issue temporary
3 disability benefit payments for periods not exceeding three
4 weeks pending the receipt of medical proof. When requested by
5 the department, the notice and proof shall include
6 certification of total disability by the attending physician or
7 a record of hospital confinement. Failure to furnish notice
8 and proof in the time or manner provided in this section shall
9 not invalidate or reduce a claim if it is shown to the
10 satisfaction of the department not to have been reasonably
11 possible to furnish the notice and proof and that the notice
12 and proof was furnished as soon as reasonably possible.

13 B. A covered individual claiming temporary
14 disability benefits under the state plan or for disability
15 during unemployment shall, when requested by the department,
16 submit at intervals, but not more than once a week, to an
17 examination by a legally licensed physician, dentist,
18 podiatrist, chiropractic physician or public health nurse
19 designated by the department. In all cases of physical
20 examination of an individual, the examination shall be made by
21 a designee of the department, who shall be the same sex as the
22 individual if requested by the individual. All examinations by
23 physicians, dentists, podiatrists, chiropractic physicians or
24 nurses designated by the department shall be without cost to
25 the individual and shall be held at a reasonable time and

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1 place. Refusal to submit to a requested examination shall
2 disqualify the individual from all temporary disability
3 benefits for the period of disability in question, except as to
4 temporary disability benefits already paid.

5 C. All medical records of the department, except to
6 the extent necessary for the proper administration of the
7 Temporary Disability Benefits Act, shall be confidential and
8 shall not be published or be open to public inspection, other
9 than to public employees in the performance of their public
10 duties, in any manner revealing the identity of the individual
11 or the nature or cause of disability nor admissible in evidence
12 in an action or special proceeding other than one arising under
13 the Temporary Disability Benefits Act.

14 Section 21. REVIEW.--

15 A. If a covered individual claiming temporary
16 disability benefits under an approved private plan is unable to
17 agree with the employer or insurer as to the person's temporary
18 disability benefits, the individual may, within one year after
19 the beginning of the period for which such benefits are
20 claimed, file a complaint with the department, which shall
21 conduct an investigation, including information hearings, as it
22 deems proper. The complaint shall be filed in writing in a
23 form satisfactory to the department. The department shall:

24 (1) have the authority to make procedural
25 rules providing for a fair and impartial hearing;

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1 (2) designate one or more hearing officers,
2 who shall conduct a hearing on issues left unsettled in the
3 complaint, upon due notice to the person, the employer and the
4 insurer, if any, and during which time any party in interest
5 shall have the right to appear. During the hearing, the
6 hearing officer shall:

7 (a) not be bound by the rules of
8 evidence;

9 (b) ensure that the proceedings are
10 recorded, though they need not be transcribed unless the order
11 on the disputed claim is to be reviewed; and

12 (c) determine facts and issue an order
13 disposing of the issues presented, which shall be binding on
14 the person, the employer and the insurer; and

15 (3) serve the hearing officer's final order,
16 which shall not be appealable, on interested parties by
17 registered mail addressed to their last-known addresses.

18 B. The cost of recording and transcribing the
19 proceedings and of preparation of the entire record required on
20 review shall constitute a cost of administering the Temporary
21 Disability Benefits Act.

22 C. Any party in interest aggrieved by action of the
23 hearing officer may secure judicial review in district court
24 through a proceeding in lieu of prerogative writ.

25 Section 22. FEES OF ATTORNEY AND MEDICAL WITNESSES.--

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1 A. In a proceeding conducted as the result of a
2 complaint filed with the department as provided in the
3 Temporary Disability Benefits Act, the hearing officer may:

4 (1) if an award of temporary disability
5 benefits is made to a covered individual, allow a reasonable
6 fee, not exceeding twenty percent of the amount of the award,
7 to the attorney, if any, representing the individual, payable
8 by the employer or insurer; and

9 (2) allow reasonable appearance fees for
10 medical witnesses, the payment of which may be assessed against
11 the individual, the employer or the insurer as the hearing
12 officer shall determine.

13 B. Except for amounts allowed, it is unlawful for
14 an attorney or another person to ask for, contract for or
15 receive, directly or indirectly, a charge for services in
16 securing or attempting to secure temporary disability benefits
17 or for a medical witness to make a charge for appearance at a
18 hearing held pursuant to the Temporary Disability Benefits Act.

19 Section 23. RECORDS AND REPORTS.--

20 A. An employer shall keep true and accurate
21 employment records containing information as may reasonably be
22 prescribed by the department. The records shall be open to
23 inspection by the department or its authorized representative
24 at any time during ordinary business hours for the purpose of
25 ascertaining whether an employer is a covered employer and, if

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1 so, whether the employer is complying with the provisions of
2 the Temporary Disability Benefits Act. Obtained information
3 shall not be published or open to public inspection, other than
4 to public employees in the performance of their public duties,
5 in any manner revealing an employee's or employer's identity,
6 but an individual at a hearing before the department or a
7 hearing officer shall be supplied with information from the
8 records to the extent necessary for the proper presentation of
9 a claim.

10 B. Covered employers whose employees are
11 participating in an approved private plan and an insurer of an
12 approved private plan shall furnish reports and information and
13 make available to the department such records as the department
14 may by rule require for the proper administration of the
15 Temporary Disability Benefits Act.

16 C. The department shall make available to any
17 insurer or self-insurer, on request, information from its
18 records that is necessary for the determination of liability
19 under an approved private plan.

20 Section 24. PENALTIES.--

21 A. Whoever makes a false statement or
22 representation knowing it to be false or who knowingly fails to
23 disclose a material fact to obtain or increase a temporary
24 disability benefit under the state plan or an approved private
25 plan or for a disability during unemployment either for the

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1 individual or for another individual, shall be liable for a
2 fine of twenty dollars (\$20.00) to be paid to the department.
3 Each false statement or representation or failure to disclose a
4 material fact shall constitute a separate offense. Upon
5 refusal to pay the fine, it shall be recovered in a civil
6 action by the department in the name of the state.

7 B. An employer or officer or agent of an employer
8 or another person who makes a false statement or representation
9 knowing it to be false or who knowingly fails to disclose a
10 material fact to prevent or reduce the temporary disability
11 benefits to a covered individual therefore entitled, or to
12 avoid becoming or remaining subject to or to avoid or reduce
13 contribution or other payment required from an employer under
14 the Temporary Disability Benefits Act or who willfully fails or
15 refuses to make such contributions or other payment or to
16 furnish required reports or to produce or permit the inspection
17 or copying of records as required, shall be liable for a fine
18 of twenty dollars (\$20.00) to be paid to the department. Upon
19 refusal to pay the fine, it shall be recovered in a civil
20 action by the department in the name of the state.