



Short Term Disability Program

Public Utility District #1 of Douglas County (“District”) recognizes the requirements of the State of Washington’s Paid Family and Medical Leave (WA PFML) law, RCW 50A, and desires to offer a qualified voluntary medical plan under RCW 50A.30.010, hereafter called “the Short Term Disability Program (“STD Program”)” to eligible employees.

Purpose

The STD Program provides eligible employees of the District with short-term benefits if they become disabled from a non-work related illness or injury. The STD Program description was revised to ensure it qualifies as a viable voluntary plan by meeting or exceeding the paid medical leave benefits of the WA PFML plan, effective for not less than one year, beginning July 1, 2020.

The STD Program is funded by the District and employee premiums do not apply. The STD Program is a governmental plan and, therefore, is exempt from rules of the Employee Retirement Income Security Act (ERISA).

The District reserves the right to engage with a third-party claims administrator (TPA) whose primary responsibility is to review medical claims on behalf of the District. In the event such agreement is severed, the duties and responsibilities of the TPA will revert back to the District.

Definitions

“Benefit year”: 52 consecutive weeks measured forward from the Sunday prior of the day you first filed an application and took medical leave.

“Claim Week”: A period of seven consecutive calendar days beginning on Sunday at 12:00 a.m. and ending at 11:59 p.m. the following Saturday.

“Qualifying period”: The first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application of leave.

“Serious health condition”: An illness, injury, impairment, or physical or mental condition that involves inpatient care or involves continued treatment that includes one or more of the following: 1) a period of incapacity of more than three consecutive calendar days, 2) pregnancy, 3) chronic conditions, 4) conditions that are permanent/long-term due to a condition for which treatment may not be effective, or 5) require multiple treatments as defined by RCW 50A.05.10 (see Appendix A).

“Third party”: Any person or legal entity whose act or omission, in full or in part, causes you to suffer a disability for which benefits are paid or payable under the STD Program.

“Waiting Period”: A period of seven consecutive calendar days. The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration of eight consecutive hours of leave and ends on Saturday. The waiting period does not exceed 40 consecutive hours.

**Coverage
Begin**

All current and future employees are eligible for coverage under the STD Program and will be automatically enrolled:

Regular full-time, part-time, seasonal, or limited assignment employees:

You are covered immediately upon being hired or promoted into a regular full-time, part-time, seasonal or limited assignment full-time position.

Temporary or on-call employees and Commissioners:

You will be covered when you have worked 820 hours for any Washington employer during the qualifying period and you have worked 340 of those hours for the District; or you were covered under a voluntary plan by your most recent previous employer.

**Waiting
Period**

Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when medical leave is required due to a serious health condition as certified by a licensed, competent provider. The waiting period begins the previous Sunday of the week when you take leave for the minimum duration of eight hours. Eligible employees satisfy the waiting period requirement while simultaneously using accrued paid time off, if available, for any part of the waiting period. Please see Appendix A for a complete description of a serious health condition. You are only required to fulfill one waiting period per benefit year.

If your leave is pregnancy related the waiting period does not apply. Certification of a serious health condition is not required for paid medical leave benefits used in the postnatal period.

**Leave
Duration**

The STD Program minimum benefit period is eight consecutive hours per claim week. The leave can be taken for qualified medical intermittent leave, episodic leave, or concurrent leave.

The STD Program maximum benefit period, excluding the waiting period per benefit year, is twelve times the typical workweek hours as defined by RCW 50A.05.010(27) or fourteen times the typical workweek hours if the leave is due to pregnancy complications.

**Benefit
Amount**

Regular full-time, part-time, seasonal, or limited assignment employees:

Following the waiting period, your benefit will be calculated in accordance with the WA PFML, RCW 50A.15.020 and will be paid in the amount equal to the WA PFML benefit, or at seventy percent (70%) of your regular straight-time base pay, whichever is greater. In accordance with RCW 50A.15.020, the maximum weekly benefit amount will be adjusted annually. At no time will benefit payments fall below the state calculations for benefits.

Temporary or on-call employees and Commissioners:

Following the waiting period, your benefit will be calculated in accordance with the WA PFML, RCW 50A.15.020 and will be paid in the amount equal to the WA PFML benefit. In accordance with RCW 50A.15.020, the maximum weekly benefit amount will be adjusted annually. At no time will benefit payments fall below the state calculations for benefits.

Other provisions:

You may be eligible for a pro-rated benefit if you return to work on a temporary modified duty work capacity or temporarily modified duty work schedule.

Accrued leave is designated as a supplemental benefit payment. You may use accrued leave to make up the difference between the STD Program benefit payment and 100% of gross, straight-time base pay. In no case will your combined earnings exceed 100% of your regular, straight-time base pay.

Approved benefits are paid following the waiting period until you either recover and return to work or have reached the maximum duration of the STD program benefit.

Benefit Payments

You will receive your first benefit payment within 30 calendar days of the first day of leave, or the receipt of a properly completed application for benefits, whichever is later. Subsequent payments will follow the established regular pay schedule.

The STD Program does not cover any disability that is due to the following:

Benefit Exclusions

- An injury or illness arising out of, or in the course of, your engagement in an illegal act.
- An illness for which you are entitled to benefits under any Workers' Compensation Act, occupational disease law, Compulsory Benefit Act or law or similar law;
- Cosmetic or reconstructive surgery, except for complications arising from any such surgery or for surgery necessary to correct a deformity caused by accidental injury or illness.

Regular full-time, part-time, seasonal, or limited assignment employees:

You may be covered under the STD Program from the time of work related injury until eligible to receive an occupational disability allowance, provided you file for and/or comply with requirements to determine eligibility for worker's compensation benefits.

Your benefits end on the earliest of the following dates:

Benefits End

- The date your medical certification ends.
 - The end of the maximum benefit period.
 - If you established an employment termination date prior to the STD Program waiting period, the date you reach your established termination date.
 - The date of your death.
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Your coverage under the STD Program will end on the earliest of the following dates:

Coverage End

- The date your employment ends.
 - The date the STD Program is cancelled.
 - The last day you are in active employment.
 - The date you cease to be an eligible employee.
 - The date of your death.
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**Job and
Health
Benefits
Protection**

Your job and existing benefits are protected if you worked for the District for at least 965 hours within the 12 months preceding the date your leave begins. We will maintain your existing health benefits for the duration of your leave. You are responsible for your share of the cost of your existing health benefits. When you return from leave you are entitled to a) return to a position of employment held by you when your leave commenced; or return to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. Using benefits under the STD Program will not result in the loss of employment benefits accrued before leave begins, or any other right, benefit or condition of employment you would have been entitled to if you had not taken the leave.

Exception: You may be denied job protection if you are a salaried employee who is among the highest ten (10) percent of employees within seventy-five (75) miles of the facility you work in if a) denial is necessary to prevent substantial and grievous economic injury to the operations of the District; and b) the District notifies you of the intent of the District to deny restoration on this basis at the time the District learns that the injury would occur; and c) the leave has commenced and you elect not to return to employment after receiving the notice.

The District has the right to recover any benefits it has overpaid. The District may use any or all of the following to recover an overpayment:

- Request a lump sum payment of the overpaid amount;
- Reduce any amounts payable under the STD Program; or
- Take any appropriate collection activity available to it.

**Recovery of
overpayments**

In the event that you recover damages from any third party for the illness or injury that made you eligible for the STD Program benefit, you shall reimburse the District for the lesser of STD Program benefits payments received or the amount of damages recovered. You may be eligible to buy back any personal leave used in connection with the receipt of the STD benefit.

The District will be subrogated to any rights you may have against a third party and may, at the District's option, bring legal action against the third party to recover any payments made by the District in connection with the STD Program, if you:

- Suffer a disability because of the act or omission of a third party;
 - Become entitled to and are paid benefits under the STD Program in compensation for lost wages; and
 - Do not initiate legal action for the recovery of such benefits from the third party in a reasonable period of time.
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Whenever a claim is denied in whole or in part, you have the right to appeal the decision. You must file your appeal within the below stated timeframe. If you do not make an appeal request within the below stated timeframe, you will have waived your right to appeal.

Appeal

Internal appeal: You (or your duly authorized representative) must make a written request to appeal the decision within 40 days from the date you receive the denial. Contact your Human Resources department to file an appeal.

External appeal: In accordance with RCW 50A.50.010 and WAC 192-800-035, you may also file an appeal with the Employment Security Department within 30 days after the date of notification or mailing, whichever is earlier. Contact the Employment Security Department at paidleave.wa.gov or (833) 717-2273 to file an appeal.

Filing a claim

Contact Shauna Cenotto, HR Administrator, at 509-881-2226 or by emailing shauna.cenotto@dcpud.org as soon as you learn of your need to take time off due to a serious medical condition to apply for benefits. Please provide 30 days' notice to the District if your leave is foreseeable.

Appendix A – RCW 50A.05.010

(23)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- (i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or
 - (ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - (A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or
 - (II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;
 - (B) Any period of incapacity due to pregnancy, or for prenatal care;
 - (C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - (I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;
 - (II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and
 - (III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;
 - (D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or
 - (E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for:
 - (I) Restorative surgery after an accident or other injury; or
 - (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.
- (b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.
- (c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.
- (d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example,

extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.