

OVERVIEW OF VOLUNTARY PLANS CALIFORNIA TEMPORARY DISABILITY INSURANCE AND PAID FAMILY LEAVE

The California Employment Development Department (“Department”) describes a voluntary plan as follows:

“A Voluntary Plan is a private plan approved by the Director of the State Employment Development Department. It may be substituted for the State Plan if the Voluntary Plan matches the State Plan's benefits, provides at least one greater benefit, and costs the employee no more than the State Plan. . . . Employers and employee groups may establish Voluntary Plans with mutual consent of the employer and a majority of the employees. An employee may choose State Plan coverage even though a Voluntary Plan is available where he/she works.”

Note that a voluntary plan must be for purposes of temporary disability insurance and paid family leave, not just one or the other.

Approval and Termination – Applications may be submitted by an employer, a majority of the employees employed in California by an employer, or by both. Voluntary plans are approved by the Director of the Department (“Director”) if certain conditions are met. Voluntary plans may be terminated if there is danger that benefits will not be paid, the bond or security is insufficient, or other good cause is shown.

Required Conditions – Voluntary plans are approved if all of the following conditions are met:

- A majority of employees who are eligible for coverage consent to the voluntary plan.
- Voluntary plan contributions (or premiums) do not exceed state plan contributions.
- Voluntary plan rights and benefits – including the weekly benefit, the total benefit, and the duration – equal or exceed state plan rights and benefits.
- Voluntary plans provide at least one right or benefit that exceeds state plan rights or benefits.
- Employees who are eligible for coverage are given the right to reject the voluntary plan and instead be covered by the state plan.
- Employers post a bond or security deposit with the Department. The sum of the bond or deposit must be at least the product obtained by multiplying the contribution rate by 0.5 of the estimated taxable wages.
- Voluntary plan coverage is offered to all California employees of the employer except:
 - (1) part-time employees who work less than half of the employer’s standard workweek;
 - (2) short-term employees who are hired for an expected duration of two weeks or less; and
 - (3) all employees in one or more geographic employment location.

Applications are not approved if it would result in a substantial selection of risks adverse to the state plan. The Director establishes standards for approval with respect to sex and age for each fiscal year and with respect to wage distribution for each calendar quarter. The Director also establishes a standard risk for each fiscal year and a risk experience rating for each insurer. See 22 Cal. Code Reg. 3254(i)-2.

Trust Funds – Voluntary plan contributions are trust funds which may be used only to provide benefits and to pay Department assessments. The funds may not be diverted for the employer’s own use or profit.

Required Reports – Voluntary plans must furnish certain reports and information and make available certain records to the Department. The required reports include: (1) notices and final reports of claims for benefits; (2) annual statements showing premiums, loses, and expenses pertaining to voluntary plan insurance; and (3) for self-insured plans, quarterly statements showing available funds and claimed benefits.

Administrative Assessments – Voluntary plans must pay to the Department 14 percent of the product obtained by multiplying the contribution rate by the taxable wages. Assessments are used to cover administrative costs relating to voluntary plans and certain other expenses.

Administration – The Department recently consolidated its in-house staff to better track which plan (voluntary plan or state plan) is liable for benefits and how to resolve coverage disputes. A voluntary plan advisory group meets on a quarterly basis and advises the Department on its operations relating to voluntary plans.

Statistics - As of September 21, 2007, there were 504 voluntary plans which covered 534,857 employees or about 3.8 percent of California’s covered employees. The Department reports that most voluntary plans are for large employers and temporary agencies.

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