

# **EMPLOYMENT DEVELOPMENT DEPARTMENT FAMILY TEMPORARY DISABILITY COMPENSATION**

## **Sections Affected:**

**Title 22, California Code of Regulations, Section 3303.1(c)-1**

## **Justification for Changes Without Regulatory Effect**

Pursuant to Title 1 of the California Code of Regulations, Section 100(b)(1), the Employment Development Department (EDD) hereby submits this written statement explaining why the proposed amendments to section 3303.1(c)-1 of Title 22, California Code of Regulations (CCR) are without regulatory effect.

CCR, title 1, section 100 (section 100), creates an exception to the formal rulemaking requirements under the Administrative Procedure Act (APA) for proposed regulatory changes that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision. Section 100 provides a non-exhaustive list of regulatory changes that are without regulatory effect, including a regulatory change that makes an existing regulation consistent with a statute if the regulatory provision is both inconsistent with the statute and the adopting agency has no discretion but to adopt the proposed regulatory change. (Cal. Code Regs., tit. 1, § 100, subd. (a)(6).)

The State Disability Insurance (SDI) program was established in 1946 to provide a partial wage replacement benefit to eligible workers in California who were unable to work due to a non-work-related illness or injury. AB 1661 (Chapter 901, Statutes of 2002) added the Family Temporary Disability Insurance (FTDI) benefit to the California Unemployment Insurance Code (CUIC). The FTDI benefit, otherwise known as Paid Family Leave (PFL), expanded the scope of the SDI program to provide a partial wage replacement benefit to eligible workers who take time off work to care for a seriously ill family member, or to bond with a new child.

Previous law authorized employers to require employees to use earned but unused vacation leave prior to receiving PFL benefits. Assembly Bill 2123 (Chapter 949, Statutes of 2024) eliminated the employer's ability to require their employees to use up to two weeks of their earned but unused vacation time before receiving their PFL benefits. This law became effective on January 1, 2025.

As a result of this statutory change, EDD proposes to add language to CCR, title 22, section 3303.1(c)-1 to conform with CUIC section 3303.1(c)(3) by adding the section's effective end date, December 31, 2024, and date repealed January 1, 2025. The purpose of including the effective and repeal date is to accommodate any pending, backdated, appealed, or late PFL claims. Further, the proposed amendments will add specific years to the examples to fall within the effective dates.

These proposed changes to CCR, title 22, section 3303.1(c)-1 are necessary to align

EDD's regulatory PFL provisions with the revised CUIC statutory provisions. These changes are conforming in nature and qualify as a CCR, Title 1, Section 100 change because they do "not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision."