



# VOLUNTARY PLAN TEXT PROVISIONS

This plan text applies to Voluntary Plan Disability Insurance and Voluntary Plan Family Leave benefit periods beginning on or after .

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## Acronyms

California Family Rights Act	CFRA
California Unemployment Insurance Code	CUIC
Disability Insurance	DI
Employment Development Department	EDD
Family and Medical Leave Act	FMLA
Paid Family Leave	PFL
State Disability Insurance	SDI
Voluntary Plan	VP
Voluntary Plan Disability Insurance (benefits)	VPDI
Voluntary Plan Family Leave (benefits)	VPFL

## I. Voluntary Plan Snapshot

Benefit Description (also known as wage ceiling)	Voluntary Plan Employer Benefits	State Disability Insurance (SDI)
Employee Contribution		% of the first \$ _____ of taxable wages.
Waiting Period – Disability Insurance (DI)		7 days
Weekly Benefit Amount – DI		60% to 70% based upon wages as defined in the California Unemployment Insurance Code (CUIC), sections 926-940 (See “Wages,” section XIX. Instructions for Completing the Voluntary Plan Text Provisions on page 32).
Maximum Weekly Benefit Amount – DI		
Maximum Benefit Amount – DI	Cannot be less than 52 times the weekly benefit amount or adding the total wages subject to SDI tax paid in the base period, whichever is less.	
Waiting Period – Paid Family Leave (PFL)	None	None
Weekly Benefit Amount – PFL	If multiple, must specify all.	60% to 70% based upon wages as defined in the CUIC, sections 926-940 (See “Wages,” section XIX. Instructions for Completing the Voluntary Plan Text Provisions on page 32).

<b>Benefit Description</b> (also known as wage ceiling)	<b>Voluntary Plan Employer Benefits</b>	<b>State Disability Insurance (SDI)</b>
Maximum Weekly Benefit Amount – PFL		
Maximum Benefit Amount – PFL	Cannot be less than eight times the weekly benefit amount or adding the total wages subject to SDI tax paid in your base period, whichever is less.	

## II. Legislative Disclosure

This section displays the legislative updates that must be enacted as required by the CUIC. Clearly indicate sections of this document where the updates appear.

## III. Benefit Enhancement (s)

This section displays element(s) that constitute a greater benefit or right provided to Voluntary Plan (VP) covered employees. Clearly indicate the section(s) of the document where the benefit (s) is indicated (see section XVII (3) on page 26-27, for list of acceptable benefit (s) enhancements).

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## IV. Employee Contributions

This section must specify the rate of contributions, if any, required of covered employees. Contributions cannot exceed the State Disability Insurance (SDI) contribution rate or wage ceiling.

- For            the employee contribution rate is
- For            the wage ceiling is

## V. Employer Contributions

This section contains the amount, or method of the contribution rate the employer will contribute to cover the costs associated with the plan. The employer may, but is not required to, assume all or part of the cost of the plan.

Describe employer contributions, gift, or loan if any, or enter none.

Examples:

- Employer will fund the plan completely.
  
- If the employee trust fund is insufficient, the employer will cover the costs of the plan to remain solvent via:
  - (a)
  
  - (b)
  
  - (c)

## VI. Timely Claim Filing

A claim form must be filed to determine eligibility for benefits under this VP. The CUIC considers a claim timely if it is filed within 41 days from the first compensable (payable) day. Therefore, by including the seven day waiting period, the Voluntary Plan Disability Insurance (VPDI) program allows 49 days from the date of disability for a timely claim, using the postmark date as the reference point.

The Voluntary Plan Family Leave (VPFL) program does not require a seven day waiting period. To submit a timely claim, it must be submitted within 41 days from the first day of family leave.

An extension will be granted for showing good cause for late filing. If a claim is postmarked beyond the allowable time, the claim date is adjusted and benefits are denied for the duration of lateness. Benefits are then payable from the adjusted claim date.

If the VP allows a longer period for filing a timely claim, the plan text must contain information on the criteria for timeliness. This VP allows \_\_\_\_\_, no less than 49 days, to submit a timely claim.

## **VII. Weekly and Maximum Benefit Amounts**

### **A. Voluntary Plan Disability Insurance Weekly Benefit Amount**

The VPDI weekly benefit amount will be equal to or greater than the rate as determined by the SDI program.

An employee who files a claim will receive a Notice of Computation (DE 429D) from the Employment Development Department (EDD) that shows the maximum amount they should be paid. If the employee was in the military service, received workers' compensation benefits, or did not work because of a trade dispute during their base period, they may be able to substitute wages paid in prior quarters to make the claim valid or increase the benefit amount. If the DE 429D shows no benefits due to extended unemployment during the base period, the employee may also be able to substitute wages paid in prior quarters.

### **B. Voluntary Plan Disability Insurance Maximum Benefit Amount**

The maximum amount payable during any disability benefit period will be times the weekly benefit amount. The maximum amount payable cannot be less than 52 times the weekly benefit amount or adding the total wages subject to State Disability Insurance (SDI) tax paid in the base period, whichever is less.

### **C. Voluntary Plan Family Leave Weekly Benefit Amount**

The VPFL weekly benefit amount will be equal to or greater than the rate as determined by the SDI program.

The VPFL weekly benefit amount for bonding claims transitioning from a pregnancy-related VPDI claim will not be less than the weekly benefit amount of the SDI program. This rule applies regardless of the amount or duration paid on the VPDI pregnancy claim or the amount of wages in the base period used to calculate the VPFL weekly benefit amount.



## D. Voluntary Plan Family Leave Maximum Benefit Amount

The maximum amount payable during any family leave benefit period will be \_\_\_\_\_ times the weekly benefit amount. The maximum amount payable cannot be less than eight times the weekly benefit amount or adding the total wages subject to SDI tax paid in your base period, whichever is less.

The maximum amount payable on VPFL bonding claims transitioning from a pregnancy-related VPDI claim will be \_\_\_\_\_ times the SDI weekly benefit amount. This rule applies regardless of the amount or duration paid on the VPDI pregnancy claim or the amount of wages used to calculate the VPFL weekly benefit amount. The maximum amount payable cannot be less than eight times the SDI weekly benefit amount or adding the total wages subject to SDI tax paid in your base period, whichever is less.

An employee who files a claim will receive a *Notice of Computation* (DE 429DF) from the Employment Development Department (EDD) that shows the maximum amount they should be paid. If the employee was in the military service, received workers' compensation benefits, or did not work because of a trade dispute during their base period, they may be able to substitute wages paid in prior quarters to make the claim valid or increase the benefit amount. If the DE 429DF shows no benefits due to extended unemployment during the base period, the employee may also be able to substitute wages paid in prior quarters.

## VIII. Benefit Eligibility

### A. Voluntary Plan Disability Insurance Waiting Period

For each disability benefit period, the employee will serve a \_\_\_\_\_ day non-payable waiting period which cannot be more than seven consecutive days. The required non-payable waiting period does not have to be served consecutively and can be served intermittently while working part-time. VPDI benefits will begin on or by the \_\_\_\_\_ day of disability.

The waiting period requirement will not apply if the employee has met this requirement on the initial claim and the employee files a subsequent claim for the same or related cause or condition within 60 days after the original disability benefit period. Additional clarification regarding the plans waiting period can be clarified under "Voluntary Plan Disability Insurance Waiting Period" in the [definitions section](#) in the VP plan text.

### B. Voluntary Plan Disability Insurance Eligibility

1. A covered employee may be eligible for VPDI benefits if the employee:

- a) Is unable to perform regular or customary work because of a physical or mental illness or injury, including but not limited to elective surgery, pregnancy, childbirth, or related medical condition.
  - b) Is unable to work because of a written order from a state or local health officer as defined because the employee is infected with, or suspected of being infected with, a communicable disease.
  - c) Is referred or recommended by a physician to participate as a resident in an approved alcoholic recovery program or drug-free residential program. However, if an employee has been referred or recommended by a medical authority to participate as a resident in an alcohol or drug abuse treatment facility, or in an approved outpatient program for alcohol or drug treatment, the maximum number of days for which benefits are payable will be 90 days per the CUIC, sections 2626.1(a) and 2626.2 (a).
2. The disability and subsequent periods of disability must be supported by a certificate from a physician or practitioner. If the employee is hospitalized under the authority of a county hospital in California or a medical facility of the United States, then an authorized medical officer of a United States government hospital, medical facility, or a registrar of a county hospital within the state of California must support the disability and subsequent periods of disability. A midwife, nurse midwife, or nurse practitioner may file a certificate in support of a normal pregnancy or childbirth.

The medical certificate must contain all of the following:

- a) A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, where no diagnosis has yet been obtained, a detailed statement of symptoms.

A certificate does not need to show an actual disability if it states that an employee has been referred by a physician to participate as a resident in either an approved alcoholic recovery program or approved drug-free residential program.

- b) A statement of the medical facts within the physician's or practitioner's knowledge that is based on a physical examination and documented medical history of the employee by the physician or practitioner.
- c) The physician's or practitioner's conclusion as to the employee's disability.
- d) A statement of the physician's or practitioner's opinion as to the expected duration of the disability.

- e) The physician's or practitioner's name, address, license number, and signature.

A certificate will not be necessary if the employee submits evidence of receipt of temporary disability benefits under a workers' compensation law.

- 3. If the employee adheres to the teachings of a bona fide church, sect, denomination, or organization, and depends entirely upon prayer or spiritual means for healing, then the disability may be supported by a certificate from an authorized and accredited practitioner of such church, sect, denomination, or organization.

The VP has the right to:

- a) Require supplemental forms from the physician, practitioner, or those authorized to certify disability as often as deemed necessary.
- b) Require that the employee be examined by a physician or practitioner chosen by the VP. This may be done when and as often as reasonably required during the period payments may be due under the VP.

### **C. Voluntary Plan Family Leave Waiting Period**

There is no waiting period for VPFL claims.

### **D. Voluntary Plan Family Leave Eligibility**

A covered employee may be eligible for VPFL benefits if the employee needs to take time off work to care for a seriously ill family member (child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner), to bond with a new minor child (either by birth adoption, or foster care placement), or to participate in a qualifying event resulting from a family member's (spouse, registered domestic partner, parent, or child) military deployment to a foreign country.

**Note:** Bonding benefits must be used within one year of the birth or placement of the child in connection with foster care or adoption.

- 1. Caring for a seriously ill family member:

A covered employee may be eligible for VPFL benefits if the employee files a claim with supporting documentation that provides satisfactory

evidence that the care recipient requests the employees care and the care recipient's physician or practitioner deems the employees care necessary.

The covered employee must provide medical certification showing that the family member (care recipient) has a serious health condition and requires care. This needs to be completed by the care recipient's physician or practitioner. Benefits must be used within 12 months of the first day of family leave. The information provided must be within the physician's or practitioner's knowledge and must be based on a physical examination and documented medical history of the family member.

The certificate must contain all the following information:

a) Care provider certification:

- The employee's legal name, Social Security number, date of birth, gender, mailing address, last date worked, and reason why the employee is no longer working at the employee's most current job, and occupation.
- The date upon which the employee requests benefits to begin.
- The employee's relationship to the care recipient.
- The care recipient's legal name.
- A statement attesting to whether any other family member is ready, willing, able, and available to provide care for the same period of time in a day.

b) Care recipient certification:

- The care recipient's legal name, Social Security number, if issued (absence of the Social Security number will not disqualify the employee), date of birth, gender, and residence address.
- The care recipient's signature authorizing the treating physician or practitioner to release the care recipient's protected health information to the employer, the EDD, and the employee.

c) Medical certification:

- The name and date of birth of the care recipient.

- A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or where no diagnosis has been obtained detailed statement of symptoms.
- The date, if known, on which the condition of the care recipient commenced.
- The probable duration of the care recipient's condition.
- An estimate of the amount of time that the care provider is needed to care for the care recipient.
- A statement that the care recipient's serious health condition warrants the participation of the employee to provide care for the care recipient. "Warrants the participation of the employee" includes, but is not limited to, providing psychological comfort and arranging third party care for the care recipient, as well as directly providing or participating in medical care.
- A statement regarding whether disclosure of the physician's or practitioner's certificate would be medically or psychologically detrimental to the care recipient.
- The physician's or practitioner's name, address, license number, and signature.

If a family member in good faith adheres to the teachings of a bona fide church, sect, denomination, or organization, and depends entirely upon prayer or spiritual means for healing, the family member's serious health condition may be supported by a certificate from a duly authorized and accredited practitioner of such church, sect, denomination, or organization. Such certificate must contain a certification of the care recipient's serious health condition that warrants the care of the employee and the estimated duration of the serious health condition.

## 2. Bonding with a new minor child:

VPFL eligibility for bonding is limited to the first year after the birth, adoption, or foster care placement of the child.

A covered employee may be eligible for VPFL benefits if the employee files a claim with supporting documentation that provides satisfactory evidence of the child's birth, adoption, or foster care placement and verifies the relationship of the employee to the child (not required for VPFL bonding claims transitioning from a pregnancy-related VPDI claim). The supporting documentation must contain:

- a) The new child's relationship to the employee, legal name, date of birth, gender, and residence address, and, if available, Social Security number. Absence of the Social Security number will not disqualify the employee.
- b) The date of foster care or adoption placement of the new minor child with the employee.
- c) The employee's signature.
- d) For maternal, paternal, or registered domestic partners, any of the following documents are acceptable to verify the child's birth:
  - A photocopy of the child's certified birth certificate.
  - A photocopy of the completed hospital or birthing center documents attesting to the birth of the child.
  - A letter from the birthing center's or hospital's Director of Medical Records or his or her designate containing the child's full name, gender, and date of birth, the full name of the mother, full name of the father, if known, or registered domestic partner, and a dated signature of the treating physician, practitioner, midwife, or Director of Medical Records.
  - For paternal, non-spouse bonding claims, where the individual is not named on a document listed above, and a photocopy of California Department of Child Support Services form *Declaration of Paternity* (CS-909).
- e) Verification of the adoption of a child, which includes a photocopy of any of the following documents:
  - Department of Social Services form *Notice of Placement* (AD 907).
  - Department of Social Services form *Independent Adoption Placement Agreement* (AD-924).
  - A conformed copy of a court order of placement for adoption issued within the United States.
- f) The child's adoption certificate from a foreign country's authorized local authority with a notarized English translation.

- g) A statement on letterhead from a county, state, or equivalent government or private entity that provides adoption placement, stating all the following:
- The child's full name, gender, date of birth, and Social Security number, if issued. (Absence of the Social Security number will not disqualify the employee.)
  - The residence address where the child is placed.
  - The full name(s) of the adoptive parent(s), including such person's:
    - o Social Security number(s). Absence of the Social Security number(s) of the adoptive parent(s) will not disqualify the employee.
    - o Residence address.
    - o Date of birth.
  - The signature block for the social worker, director or designate making the placement will include all the following:
    - o A dated signature.
    - o A typewritten name.
    - o A direct telephone number.
  - An official certification, seal, or stamp of approval may be accepted in lieu of the requirements under (e) (4) of this subdivision.
3. Verification of foster care placement, which includes any of the following documents:
- a) A photocopy of the Department of Social Services form Approval of Family Caregiver Home (SOC-815).
- b) A statement on letterhead from the Department of Social Services or equivalent government entity stating all the following:
- The child's full name, gender, date of birth, and Social Security number, if issued. (Absence of the Social Security number will not disqualify the employee.)
  - The residence address where the child is placed.

- The date of foster care placement, including the length of the placement if duration has been established.
- The full name(s) of the person(s) with whom the foster care placement is made, including such person's Social Security account number(s), if available.
- The residence address; date of birth; and the social worker's dated signature, typewritten name, and direct telephone number.

#### 4. Participating in a qualifying military exigency

A covered employee may be eligible for VPFL benefits if the employee files a claim with the required supporting military documentation and satisfactory documentation of the qualifying event.

- a) Supporting military documentation to support the military member is on covered active duty or impending call or order to covered active duty status. Provide a copy of one of the following:
  - Covered active duty orders.
  - Letter of impending call or order to covered duty.
  - Documentation of military leave signed by the approving authority for military member's rest and recuperation.
- b) Satisfactory documentation of the qualifying event supporting the request for leave required by the CUIC, section 3307. Documentation may include, but is not limited to:
  - A copy of a meeting announcement for informational briefings sponsored by the military.
  - A document confirming the military member's Rest and Recuperation leave.
  - A copy of a bill for services for handling of legal or financial affairs.
  - An appointment with a third party (e.g., counselor, school official, or staff at a care facility). Required supporting documentation must include:
    - o Employee's Social Security number.



- o Employee's name.
- o Name of the individual with whom the employee is meeting.
- o Name of the organization.
- o Contact information for the third party (phone number, fax number, email address, and mailing address).
- o Description of the nature of the meeting, including dates.

## **IX. Simultaneous Coverage**

### **A. Simultaneous Coverage for Voluntary Plan Disability Insurance Claims**

Simultaneous coverage exists when an employee is covered by and eligible for DI or PFL benefits from the EDD and/or one or more VPs at the time the employee establishes a disability or family leave benefit period. When benefits are paid under simultaneous coverage, the liable plans equally share the DI or PFL weekly and maximum benefit rate. Additionally, each VP pays the difference between the full DI or PFL rate and the amount of benefit entitlement under that VP. Each VP is counted as one plan. DI or PFL is counted as one plan even if the employee works for more than one DI-covered employer.

### **B. Simultaneous Coverage for Voluntary Plan Family Leave Claims**

Simultaneous coverage exists when an employee is covered by and eligible for PFL benefits from the EDD and/or one or more VPs at the time the employee establishes a family leave benefit period. The plan(s) under which the family leave benefit period is established remain liable for all claims associated with the same family leave benefit period through the end of the 12 month period, regardless of any change in employment. Liability for PFL or VPFL benefits remains with the plan(s) that covered the employee when the family leave benefit period was established.

## **X. Redirection of Benefits**

An eligible employee may choose to redirect a portion of his or her weekly benefit to cover all or part of the cost of employee-paid benefits. If so, the employee must designate in writing, on a form available from the employer, the weekly amount to be redirected. This redirection may be initiated at the time the employee applies for VP benefits or at any time while receiving benefits. The employee may terminate or change the terms of the redirection of benefits at any time while receiving VP benefits.

## **XI. Overpayments**

The employee will be required to repay any overpayment from the VP to the extent permitted by the CUIC. The employer will make reasonable arrangements with the employee or his or her legal representative(s) for the repayment to the VP, including but not limited to the reduction of future benefits under the VP, or the reduction of future pay from the employer.

## **XII. Appeals**

### **A. Appeal a Denial of Voluntary Plan Disability Insurance or Voluntary Plan Family Leave Benefits**

An employee who is denied benefits under the terms of this VP may appeal the denial within 30 days after service of the denial. An employee may also appeal if the employee does not receive notice denying benefits within 30 days after the claim was sent to the VP. In such cases, the employee must file the appeal after 30 days and within 60 days from the date the claim was sent to the VP. In both cases of denial and lack of notice of denial, the employee must send the appeal to the EDD for processing. The EDD generally does not attend the California Unemployment Insurance Appeals Board hearing that is scheduled pursuant to the appeal.

VPDI appeals may be sent to any [EDD office](#). VPFL appeals must be sent to:

Paid Family Leave  
PO Box 997017  
Sacramento, CA 95899-7017

### **B. Payment of Benefits Pending Appeal**

An employee may elect to continue to receive VPDI or VPFL benefits pending the outcome of a timely appeal to an administrative law judge

when the VP initially determined the employee was eligible and subsequently found the employee to be ineligible.

### **C. Disputed Coverage Appeals**

The EDD or the VP may appeal a denial of coverage for VPDI or VPFL within 30 days of the date the notice of denial was mailed. In disputed coverage cases, in which a denial of coverage is not furnished, an appeal will be filed after 25 days and within 55 days from the date the appellant sends a request for payment of benefits to the EDD or VP. If eligible, the employee will be paid benefits by the plan that initially received the claim, pending disposition of the disputed coverage appeal.

## **XIII. Exclusions**

### **A. Exclusions for Voluntary Plan Disability Insurance Benefits**

1. VPDI benefits are not payable under the following conditions:

- a) For any days the employee is eligible for unemployment insurance benefits from any state (including California).
- b) For any days the employee is eligible for disability insurance benefits from any state (including California).
- c) For any day(s) the employee receives wages from the employer. However, the employee may receive wages plus disability benefits to the extent the combination does not exceed the employee's regular weekly wage, excluding overtime pay, immediately prior to the commencement of the disability.

"Wages" includes sick leave, or any non-specific leave provided by the employer if it is used for purposes of disability.

Vacation pay is not considered wages for determining eligibility for disability benefits.

- d) For any day(s) benefits are payable under a workers' compensation or employer liability law of this state or any other state for either of the following:
  - Temporary disability benefits.
  - Permanent disability benefits for the same injury or illness.

**Note:** VPDI benefits are payable for any difference between the VPDI weekly benefit amount and the temporary disability or permanent disability weekly benefit amount as long as the temporary disability or permanent is lower than the VPDI weekly benefit amount.

- e) If the employee is confined by court order or certification as a dipsomaniac, drug addict, or sexual psychopath.
- f) If the employee is incarcerated in any federal, state, or municipal penal institution, jail, medical facility, or public or private hospital or in any other place because of a criminal conviction under a federal, state, or municipal law or ordinance.
- g) If the employee's disability is caused by or arises out of the commission, arrest, investigation, or prosecution of any crime that results in a felony conviction.
- h) Excluded Locations:

## **B. Exclusions for Voluntary Plan Family Leave Benefits**

1. VPFL benefits are not payable under the following conditions:

- a) For any period the employee is eligible for unemployment insurance from any state (including California).
- b) For any days the employee receives wages. However, VPFL benefits may be paid in addition to wages to the extent the combination does not exceed the employee's regular weekly wage, excluding overtime, immediately prior to the commencement of the family leave.

"Wages" includes sick leave, or any non-specific form of wage provided by the employer if it is used for purposes of family leave.

Vacation pay is not considered wages for determining eligibility for disability benefits. The employer may require the employee to take up to two weeks of earned but unused vacation leave prior to the initial receipt of VPFL benefits.

- c) For any period benefits are payable under a workers' compensation or employer liability law in any state (including California) for temporary or permanent disability in an amount equal to or in excess of the VPFL weekly benefit amount.

**Note:** VPFL benefits are payable for any difference between the VPFL weekly benefit amount and the temporary disability or permanent disability weekly benefit amount as long as the temporary disability or permanent is lower than the VPFL weekly benefit amount.

- d) For any period benefits are payable under a disability insurance act of this state or any other state, or any company plan established in lieu of a state plan.
- e) For the same period another family member is ready, willing, able, and available to provide the required care.
- f) If the employee is incarcerated in any federal, state, or municipal penal institution, jail, medical facility, or public or private hospital or in any other place because of a criminal conviction under a federal, state, or municipal law or ordinance
- g) Excluded Locations:

## **XIV. Voluntary Plan Coverage Terms**

### **A. Coverage Exemptions**

All California employees are eligible for coverage under this plan. However, the plan may exclude the following types of employees (See Instructions for Completing the Voluntary Plan Text Provisions to complete this section).

1. Part-time employees (working less than half of the standard work week for this employer).
2. Short-term employees (employees hired for a period not expected to exceed two weeks).
3. Employees working at any distinct separate establishment maintained by the employer.

Indicate which, if any, group(s) of employees will be excluded. If none, indicate "No exclusions."

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## **B. Coverage Effective Date**

1. An individual employed on the effective date of this plan is immediately eligible for coverage. New employees will become eligible either:
  - a) Immediately upon employment.
  - b) Upon the first day of the calendar quarter immediately after the employee has completed a period of employment of three months or less.
  - c) At a determinable date no later than the date specified per California Code of Regulations (CCR), title 22, section 3257-1 (d).

Select the new employee eligibility date:

2. An employee may submit a written application for coverage either:
  - a) On or before their date of eligibility.
  - b) Within 31 days of their date of eligibility.

Select the time frame to submit a written application:

3. An employee who submits an application for coverage following their date of eligibility will be covered under this plan on either:
  - a) The date of their election.
  - b) The first day of the calendar quarter following the date of election.
  - c) The first day of the calendar quarter after completion of three months of employment.

Select the effective date of coverage:

4. An employee may withdraw from the plan at the beginning of any calendar quarter upon written request to the employer.

The consent records and rejection records will be maintained for inspection by the EDD for a period of (5) years (or shorter, as approved).

## **XV. Voluntary Plan Coverage Termination**

### **A. Termination Reasons**

VP coverage may be terminated for any of the following reasons:

1. Termination of the VP by the director of the EDD.
2. Withdrawal of the VP by the employer or a majority of the covered employees.
3. Cancellation of the VP by an admitted disability insurer or successor employing unit.
4. Withdrawal from the VP by a covered employee.
5. Termination of the employer-employee relationship. A day is defined as the 24-hour period beginning at midnight and ending the following midnight per California Code of Regulations (CCR), title 22, section 3254-3.
6. The employee's unpaid leave of absence or layoff begins 15 full days before the period of disability or family leave starts.

### **B. Termination Exceptions**

VP coverage cannot be terminated for the following reasons:

1. When a VP elects to extend benefits for a specified period longer than required by law.
2. When a covered employee becomes disabled on the date in which coverage under the VP would otherwise be terminated.
3. The VP remains liable for all subsequent VPFL claims for the same care or bonding recipient through the end of the 12-month period.

The VP is liable for a VPFL claim when the claim effective date is before the termination of the employer-employee relationship.

4. When a covered employee receives wages from the VP employer during a leave of absence or layoff. Coverage cannot be terminated before 15 full days after the last day wages were paid.

The VP is liable for a VPFL claim if the employee was covered beginning with the last day worked and up to 15 full days after an

unpaid leave of absence or layoff. The VP remains liable for all VPFL claims for the same care or bonding recipient through the end of the 12-month period, regardless of whether the family leave is consecutive or intermittent.

5. When a covered employee who is on a leave of absence or layoff without pay becomes disabled within 15 full days following the last day of work and has a second, unrelated disability before the employee recovers from the original condition. Coverage will not be terminated during the uninterrupted period of disability.
6. When a covered employee is terminated, laid off, or given a leave of absence without pay while receiving “other benefits” such as workers’ compensation, and then has a second, unrelated disability while receiving such “other benefits.” Coverage will not be terminated during the uninterrupted period of disability regardless of whether VPDI benefits are immediately payable under the VP.
7. When a covered employee becomes disabled after leaving work due to a trade dispute. Coverage will not be terminated as long as the trade dispute is in active progress.
8. When a covered employee becomes disabled due to pregnancy and begins a period of family leave to bond with that child. Coverage will not be terminated at any time during the disability benefit period.

## **XVI. Other Voluntary Plan Requirements**

### **A. Security**

To secure the operation of the VP, the employer agrees to provide to the EDD the security deposit required by the CUIC. At the time of application, the EDD will determine the amount of the deposit. Yearly updates, if needed, will be approved by the EDD based upon the same formula and factors at the time of the application. The security will be retained by the California State Treasurer’s Office or the EDD’s Fiscal Programs Division.

### **B. Reports**

The employer agrees to provide to the EDD the VP information, reports, and records as required for the proper administration of this VP.

### **C. Assessments**



The employer agrees to pay all valid VP related assessments or charges levied by the EDD in accordance with the CUIC.

#### **D. Voluntary Plan Withdrawal**

The VP must remain in effect for a period of at least one year from the effective date. The EDD requires a written notice no less than 30 days prior to the requested withdrawal date from the employer or majority of its employees for the withdrawal of the VP. Withdrawal will be effective on one of the following dates:

1. The anniversary of the effective date of the plan following the filing of the notice of withdrawal.
2. The operative date of any law increasing the benefit amounts or a change in the contribution rate provided by the CUIC.
3. The date of acquisition by the successor employing unit. The EDD needs to receive a written notice no later than 30 days from the date of acquisition. The successor will be deemed to consent with the provisions of the VP if the successor fails to notify the EDD of determination to withdraw.

### **XVII. Compliance**

#### **A. The employer guarantees that:**

1. The rights afforded to employees covered under a VP must be equal in all respects to SDI coverage and greater in at least one element, as specified in the CUIC, section 3254(a), Chapter 2 (commencing with section 2625) and Chapter 7 (commencing with section 3300).

Some, but not all, of the elements that constitute a greater benefit are:

- a) Employer covers all or a portion of the cost of the plan.
- b) A higher weekly benefit amount.
- c) A higher maximum weekly benefit amount.
- d) Provide a maximum benefit amount of more than 52 times the VPDI weekly benefit amount or adding the total wages subject to SDI tax paid in your base period, whichever is less.
- e) Require a waiting period of fewer than seven days (VPDI only).

- f) Provide a maximum benefit amount of more than eight times the VPFL weekly benefit amount or adding the total wages subject to SDI tax paid in your base period, whichever is less.
  - g) Allow a claim filing period beyond the 49th consecutive day for a period of VPDI.
  - h) Allow a claim filing period beyond the 41st consecutive day for a period of VPFL.
  - i) Greater duration of benefits than the ninety (90) days prescribed for an individual referred to an approved alcoholic recovery home or drug-free residential facility per the [CUIC 2626.1\(a\)](#) and [2626.2](#).
2. Employees will not be excluded or restricted from this plan due to age, sex, income, or pre-existing health condition.

## XVIII. Definitions

- A. **Bond or Bonding:** To develop a psychological and emotional attachment between a new child and the employee. This includes being in one another's physical presence.
- B. **Calendar Quarter:** A period of three consecutive months in a calendar year commencing with the first day of January, April, July, or October.
- C. **California Family Rights Act (CFRA):** A leave law that allows eligible employees to take unpaid, job-protected leave for the birth of a child or placement of a child for adoption or foster care; to care for certain family members who has a serious health condition; for the employee's own serious health condition; or, for certain qualifying events relating to a family members military deployment to a foreign country.  
**Note:** PFL provides benefit payments but not job protections. PFL is completely separate from the Family and Medical Leave Act (FMLA) and CFRA.
- D. **California Unemployment Insurance Code (CUIC):** The Code under which the VP program is established pursuant to the [CUIC, sections 3251-3272](#).
- E. **Care provider:** The family member who is providing the required care or bonding.
- F. **Care or bonding recipient:** The family member who is receiving care for a serious health condition, or the child with whom the employee is bonding.
- G. **Care recipient period:** All periods of VPFL that an employee takes within a 12-month period to care for or to bond with the same care recipient.
- H. **Child:** A biological, adopted, or foster son or daughter, a stepson, a stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.
- I. **Covered Active Duty:** With respect to a member of the regular Armed Forces of the United States, duty during the deployment of the member with the regular armed forces to a foreign country and, with respect to a member of the reserve components of the Armed Forces of the United States, duty during the deployment of the member of those reserve components to a foreign country under a federal call or order to active duty as defined by the [CUIC, section 3302.1](#).
- J. **Disability:** An illness or injury, whether physical or mental, including elective surgery, pregnancy, childbirth, or related medical condition, that renders an

employee unable to perform his or her regular and customary work. Disability refers to claims for disability compensation for an employee's own illness or injury.

Disability includes an individual who is unable to perform his or her customary work because the individual is ordered not to work by written order from a state or local health officer, as defined in the CUIC, section 2626, because the individual is infected with, or suspected of being infected with, a communicable disease.

Disability includes acute alcoholism being medically treated or, to the extent specified in section 2626.1 of the CUIC, resident status in an alcoholic recovery home, and acute drug-induced illness being medically treated or, to the extent specified in Section 2626.2 of the CUIC, resident status in a drug-free residential facility.

- K. **Disability benefit period:** For VPDI purposes, a continuous period of unemployment and disability beginning with the first day an employee files a valid VPDI claim for disability benefits. Two consecutive periods of disability due to the same or related condition and separated by not more than 60 days is considered to be one disability benefit period.

**Disability benefit period:** For VPFL purposes, the period of unemployment beginning with the first day an employee establishes a valid VPFL claim to care for a seriously ill family member, to bond with a minor child, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States.

Periods of VPFL for the same care, bonding, or military recipient within a 12-month period will be considered one disability benefit period. Periods of VPDI for pregnancy and periods of VPFL for bonding associated with the birth of that child will be considered one disability benefit period.

- L. **Domestic partner:** An individual as defined in California Family Code, section 297.
- M. **Employment Development Department (EDD):** In California, the EDD is a department of government that provides a variety of services to businesses, workers, and job seekers. The EDD administers several multi-billion dollar benefit programs including Unemployment Insurance, DI, and PFL programs that provide financial stability to workers and their communities. The EDD also provides critical employment service programs to Californians, collects the state's labor market information and employment data, and serves as one of the nation's largest tax agencies through the collection of payroll taxes.

**N. Employer:**

**O. Family leave:** Includes any of the following:

1. Leave to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption.
2. Leave to care for a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition.
3. Leave to participate in a qualifying event related to the covered active duty or call to covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States.

**P. Family member:** For VPFL care claim purposes, includes a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner as defined in the CUIC, section 3302. For VPFL military assist claim purposes, includes a spouse, registered domestic partner, parent, or child as defined in the CUIC, section 3307.

**Q. Family and Medical Leave Act (FMLA):** A leave law that allows eligible employees to take unpaid, job-protected leave for the birth of a child or placement of a child for adoption or foster care; to care for certain family members who has a serious health condition; for the employee's own serious health condition; or, for certain qualifying events relating to a family members military deployment to a foreign country.

**Note:** PFL provides benefit payments but not job protections. PFL is completely separate from the FMLA and CFRA.

**R. Paid Family Leave (PFL):** Under the SDI program, PFL provides up to eight weeks of partial wage replacement benefits to workers who take time off work to care for a seriously ill family member, to bond with a new child, or to participate in a qualifying event because of a family member's military deployment to a foreign country.

**S. Paid Family leave benefit period:** For VPFL purposes, the period of unemployment beginning with the first day an employee establishes a valid VPFL claim to care for a seriously ill family member, to bond with a minor child, or to participate in a qualifying event because of a family member's military deployment to a foreign country.

Periods of VPFL for the same care recipient within a 12-month period will be considered one family leave benefit period.

For purposes of determining coverage, periods of VPDI for pregnancy and periods of VPFL for bonding associated with the birth of that child will be considered one disability benefit period.

- T. **Parent:** A biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the minor child.
- U. **Plan:** The VP described in this document.
- V. **Physician:** Includes licensed medical or osteopathic physician/practitioners, psychologists, optometrists, dentists, podiatrists, and chiropractic practitioners who are licensed by the state or foreign country in which they practice and are acting within the scope of their practice.
- W. **Psychologist:** A licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to the Business and Professions Code, section 2914, and who either has at least two years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology.
- X. **Practitioner:** A person duly licensed or certified in California and acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner. In the case of a nurse practitioner, performance of a physical examination by a nurse practitioner and collaboration with a physician or surgeon. As to normal pregnancy or childbirth, a practitioner includes a midwife, nurse midwife, nurse practitioner, or physician assistant who has performed a physical examination under the supervision of a physician or surgeon.
- Y. **Qualifying exigency or event:** Activities, attendance, or arrangements, as defined by the CUIIC, section 3302.2, as they relate to covered active duty or call to covered active duty of the employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States.
- Z. **Serious health condition:** An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision by a health care provider, as defined in California Government Code, section 12945.2.
- AA. **Sibling:** A person related to another person by blood, adoption, or affinity through a common legal or biological parent.
- BB. **Spouse:** A partner to a lawful marriage.

CC. **State Disability Insurance (SDI):** Under the EDD, SDI provides short-term DI and PFL wage replacement benefits to eligible workers who need time off work. Benefits are payable from the Disability Insurance Fund pursuant to the CUIC. Per the CUIC, section, 2655, SDI uses the following criteria for determining benefits:

1. For the employee whose highest quarterly wages is less than \$929, the weekly benefit amount would equal to \$50.
2. For employees whose highest quarterly wages is equal to or greater than \$929 but less than one-third of the amount of the State Average Quarterly Wages (SAQW), the WBA would equal 70 percent of the employee's highest quarter wages of the disability base period, divided by 13.
3. For employees whose highest quarterly wages are equal to or greater than one third of the SAQW, the WBA is equal to:
  - a) 23.3% of the State Average Weekly Wage (SAWW<sup>1</sup>), or
  - b) 60% of the employee's wages in the highest quarter of his/her base period divided by 13, whichever amount is greater.

For each day of the disability benefit period that is less than a week, one-seventh of the weekly benefit amount will be paid. For each period of disability or family leave where an employee works a partial day, benefits will be calculated and paid based on the wage loss for that day.

DD. **Termination of the employer-employee relationship:** Exists when employment ceases with no mutual expectation or intention to continue the employment relationship. Reasons for termination of the employer-employee relationship include, but are not limited to, separation, dismissal, resignation, and retirement.

EE. **12-month period:** The 365 consecutive days that begin with the first day an employee establishes a valid VPDI or VPFL claim or when the child enters the family by birth, adoption, or foster care placement.

FF. **Voluntary Plan (VP):** A VP established pursuant to Division 1, Part 2 of the CUIC.

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<sup>1</sup> The "state average quarterly wages" is defined as "the state average weekly wage" (SAWW) multiplied by 13. The SAWW is defined as "the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending on March 31 of the calendar year preceding the year in which the disability occurred."

**GG. Voluntary Plan Disability Insurance Waiting Period:** The VP must Specify the definition of the waiting period that will be used to determine The disability benefit period if not using the definition of the waiting period in accordance with the California Code of Regulations (CCR), Title 22, section 2627(b)-1.

The waiting period cannot be more than seven consecutive days but is not required to be served consecutively and can be served intermittently while working part-time. VPDI benefits will begin on or by the eighth day of disability.

The waiting period requirement will not apply when the employee has met the waiting period requirement on the initial claim and the employee files a subsequent claim for the same or related cause or condition within 60 days after the original disability benefit period.

Provide additional clarification regarding the Voluntary Plan Disability Insurance (VPDI) Waiting Period below:  
Examples:

**HH. Voluntary Plan Family Leave (VPFL):** Family leave benefits paid by the VP.

**II. Wages:** The VP must specify the definition of wages that will be used to determine the VPDI and VPFL benefit amounts, if not using the definition of wages in accordance with the CUIC, sections 926-940 in relation to the base period wages used to determine the DI and PFL benefit amounts. See [Instructions for Completing the Voluntary Plan Text Provisions](#) to complete this section.

Provide additional clarification regarding the definition of wages that will be used to determine the VPDI and VPFL benefit amounts, if not using the definition of wages in accordance with the CUIC, sections 926-940 below:

Examples:



**JJ. Weekly Benefit Amount:** The weekly benefit amount is based on the highest quarterly earnings in the base period. It is the amount the EDD determined will be paid for each week the employee is unable to work.

## **XIX. Instructions for Completing the Voluntary Plan Text Provisions**

1. Tab through the VP Text Provisions and complete the fillable fields.  
**Note:** Each fillable field is required for plan eligibility.
2. Enter the company name, VP number, and the date the disability benefit period begins on the first page in the fillable fields.
3. In the [Voluntary Plan Snapshot](#) section, update the VP employer benefits with the company plan details. Enter the SDI benefits and confirm the current year data by searching the contribution rate at [Contribution Rates and Benefit Amounts](#) ([https://www.edd.ca.gov/disability/Contribution\\_Rates\\_and\\_Benefit\\_Amounts.htm](https://www.edd.ca.gov/disability/Contribution_Rates_and_Benefit_Amounts.htm)) on the EDD website.
4. In the [Legislative Disclosure](#), [Benefit Enhancement \(s\)](#), and [Employee Contributions](#) sections, select the option provided in the drop down fields.
5. In the [Voluntary Plan Coverage Terms](#) section select the options provided in the drop down fields. Enter in the location of employees working at a distinct separate establishment in the fillable field provided, if this applies to your plan.
6. In the [Definitions, GG. Voluntary Plan Disability Insurance Waiting Period](#) section, enter the VPs definition of the waiting period for VPDI claims.
7. In the [Definitions, II. Wages](#) section, enter the VPs definition of wages that will be used to determine the VPDI and VPFL benefit amounts in the fillable field (only needed if not using the definition of wages in accordance with the [CUIC, sections 926-940](#) in relation to the base period wages used to determine DI and PFL benefit amounts).
8. Submit the VP Text Provisions by email at [dibvpnewplans@edd.ca.gov](mailto:dibvpnewplans@edd.ca.gov).