

# Employers' Guide to **Voluntary Plan Procedures**



**For more information visit Voluntary Plan**  
([edd.ca.gov/Disability/Employer\\_Voluntary\\_Plans.htm](http://edd.ca.gov/Disability/Employer_Voluntary_Plans.htm))

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**ABBREVIATIONS, ACRONYMS, AND INITIALISMS**

ALJ	Administrative Law Judge
BPO	Benefit Programs Online
CCR	California Code of Regulations
CED	Claim Effective Date
CUIAB	California Unemployment Insurance Appeals Board
CUIC	California Unemployment Insurance Code
DCSS	Department of Child Support Services
DHCS	Department of Health Care Services
DI	Disability Insurance
EDD	Employment Development Department
FPD	Fiscal Programs Division
GB	Guarantee Bond
ICD	International Classification of Diseases
IME	Independent Medical Examination
LOC	Letter of Credit
MBA	Maximum Benefit Amount
PFL	Paid Family Leave
SBTPA	Small Business Third-Party Administrator
SDI	State Disability Insurance
SRW	Security Review Worksheet
STO	State Treasurer’s Office
TPA	Third-Party Administrator
UI	Unemployment Insurance
VP	Voluntary Plan
VPDI	Voluntary Plan Disability Insurance
VPFL	Voluntary Plan Family Leave
VPG	Voluntary Plan Group
WBA	Weekly Benefit Amount
WC	Workers’ Compensation
WCAB	Workers’ Compensation Appeals Board

The [Employers' Guide to Voluntary Plan Procedures \(DE 2040\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2040.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2040.pdf), is designed to assist employers and their representatives in the administration of approved Voluntary Plans (VPs). Comments, questions, or suggestions are welcome. Information regarding VP may be obtained at any of the following:

- [Online Voluntary Plan Information](http://edd.ca.gov/Disability/VP_Information.htm) (edd.ca.gov/Disability/VP\_Information.htm)
- By email: [VP Program](mailto:VPProgram@edd.ca.gov) (VPProgram@edd.ca.gov)

- By phone:

Voluntary Plan Group (VPG)  
1-916-653-6839 (Phone)  
1-916-319-1438 (Fax)

- By mail:

Employment Development Department  
Disability Insurance Branch  
Voluntary Plan Group, MIC 29VP  
PO Box 826880  
Sacramento, CA 94280-0001

### **Bi-Annual Updates**

Bi-Annual Updates provide the VP community with the latest information on legislative issues, State Disability Insurance (SDI), VP statistics, and VPG contact information. The Bi-Annual Updates are sent to the VP community electronically via e-Blast.

Additionally, the VPG e-Blast provides a yearly General Release Letter in the fall for all VP employers/TPAs. The letter provides information and instructions regarding critical changes for the following year. Current and last year's copy of the General Release Letter may be obtained by visiting [Disability Insurance - Voluntary Plans Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

## STATE DISABILITY INSURANCE OVERVIEW

California SDI is a partial wage replacement insurance plan for California workers. The SDI program is state-mandated and funded through employee payroll deductions. SDI provides two, short-term benefits to eligible workers:

- Disability Insurance (DI)
- Paid Family Leave (PFL)

DI provides a maximum of 52 times the weekly benefit amount (WBA) to eligible workers who have a loss of wages when they are unable to work due to a non-work-related disability.

Disability is defined as an illness or injury, either physical or mental, which prevents a person from performing their regular and customary work. Disability also includes elective surgery, pregnancy, childbirth, or other related medical conditions. Note: Completion of a vocational rehabilitation plan establishes a new regular or customary work in that occupation.

PFL provides up to 8 times the WBA in a 12-month period for individuals who take time off work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner. PFL provides benefits to employees who take time off work to bond with a new child through birth, adoption, or foster care placement. Bonding benefits must be used within the first year of the child's birth or placement. PFL also provides benefits to employees who take time off work to participate in a qualifying event due to a spouse, registered domestic partner, parent, or child's military deployment to a foreign country.

## **VOLUNTARY PLAN PROGRAM OVERVIEW**

### **Purpose of the Voluntary Plan Program**

A VP is a private short-term disability insurance that an employer may offer to its California employees as a legal alternative to the mandatory SDI coverage. The purpose of the SDI and VP programs is to compensate an individual, in part, for a wage loss due to illness or an injury that is not work-related. Employers who choose to pursue the alternative plan must submit an application, text provisions document, and are required to provide a security deposit.

The VP applicant's benefits must be equal to and have at least one benefit better than the benefits afforded to SDI covered employees. Both criteria (wage loss and illness/injury) must be met in order to establish entitlement to benefits.

Employer and employee groups may establish a VP with mutual consent of the employer and a majority of the employees. An employee may choose SDI coverage even when a VP is available where they work at the time of employment unless they reject the plan prior to or at the time of employment. Each employee at the time of employment shall be given a written notice specifying their right to consent to or to reject such plan and a written statement directed to the employer. The opt-out option is available at the time of the new application or when there is a legislative change to the VP Text Provisions document.

**Reference: California Unemployment Insurance Code (CUIC), sections 2601, 2626, 3254, and 3257.**

An employer can administer a self-insured VP or obtain coverage from an admitted insurer. If a VP employer provides DI coverage in lieu of the state plan, then it must also provide PFL coverage. Provisions for PFL are contained in the CUIC. Requirements for PFL are consistent with DI except where specific guidelines exist for PFL. For specific PFL guidelines, visit [Paid Family Leave](http://edd.ca.gov/disability/Paid_Family_Leave.htm) (edd.ca.gov/disability/Paid\_Family\_Leave.htm).

### **Legal Requirements**

The laws outlined in the CUIC sections 3254-3272 govern the VP program and require, but are not limited to, the following:

- An individual covered by a VP will have the same rights as if they were covered under SDI.
- The VP will provide at least one right or benefit that is greater than the rights provided by SDI as outlined in the CUIC sections 2601-3306, which governs the DI program.
- Each employee must receive at least the same WBA, maximum benefit amount (MBA), and duration of benefits as if covered by SDI.
- The VP will amend its text provisions to match any increase in rights or benefits that SDI implements because of legislation, or approved regulations.
- The cost to the employee will not be greater than the cost for the SDI recipient.



## Administrative Authority

The provisions and exclusions of SDI are contained in the CUIIC and California Code of Regulations (CCR), Title 22. Except where clearly provided otherwise, the rights of individuals who receive SDI benefits are equally applicable to those who receive VP benefits. AVP may offer benefits that exceed those of SDI, however they cannot be more restrictive. AVP cannot impose restrictions on eligibility that are not imposed by SDI. The CUIIC contains the laws that govern the SDI program and grants the Director of the Employment Development Department (EDD) the right to issue regulations interpreting the law. These regulations are contained in the CCR, Title 22.

**Reference: CUIIC, sections 3251-3272 and CCR Title 22 Sections 2627-3306.**

## Third-Party Administrator

The Third-Party Administrator (TPA) is a private company that consults and assists an employer in administering their EDD-approved VP. The roles and responsibilities of the TPA depend on the contract negotiated with the employer. The EDD will only conduct business with the designated TPA on file. VP employers must formally designate a TPA using the TPA Authorization Forms. The form(s) can be found online at [Voluntary Plan Forms and Publication](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm)

**Note:** An employer is not required to have a TPA to establish a VP.

The CUIIC does not contain requirements for becoming a TPA and the state does not require TPAs to be licensed. An individual or corporation, such as an insurance company, can become a TPA by contracting with a VP employer.

**Note:** AVP employer must immediately notify EDD's VPG of any change or termination of the TPA.

## SMALL BUSINESS THIRD-PARTY ADMINISTRATOR

A Small Business Third-Party Administrator (SBTPA) is a business that has been approved by the EDD to administer a VP for payment of DI and PFL benefits on behalf of its clients. Pursuant to Assembly Bill (AB) 2778, a prospective SBTPA applicant must submit a [Small-Business Third-Party Administrator Voluntary Plan Application \(DE 2778\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2778.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2778.pdf) to the EDD for approval.

The SBTPA applicant must meet all of the following criteria at the time of submitting the application:

- Administer VPs on behalf of its clients pursuant to a written agreement in a manner approved by the EDD Director.
- Have at least 1,000 California domiciled clients, 80 percent of whom have fewer than 20 employees.
- Process payroll for its California domiciled clients.
- Offer Workers' Compensation (WC) insurance to its California domiciled clients through an affiliated California domiciled insurance company.

**Reference: CUIIC, section 3254.1.**

## Small Business Third-Party Administrator Application Procedures

An employer applicant who has met the requirements in section 3254.1 of the CUIIC may submit the DE 2778 to the EDD along with the following:

- The SBTPA text provisions.
- All enrollment literature that will be used to solicit employer and employee consent.
- All supporting documentation listed on the DE 2778. Some of the supporting documents include:
  - All informational documents distributed to client employers and their employees.
  - A copy of the SBTPA Self-Insured Voluntary Plan text provisions, previously approved by the Director of the EDD, used to secure the employees' consent to the plan. These must include the employees' signature, date of consent, and the printed or typed name.
- All service agreements/contracts and related fee schedules of client employers will become subject to upon enlistment of the SBTPA services.

The SBTPA application and all required documentations should be emailed to the EDD at: [VP New Plans](mailto:DIBVPNewPlans@edd.ca.gov) (DIBVPNewPlans@edd.ca.gov).

## Notice of Small Business Third-Party Administrator Voluntary Plan Application Approval

The EDD will notify the SBTPA applicant of their application status within 30 days from the date the application was received. Upon approval, the SBTPA applicant will be authorized to establish a VP and solicit enrollment into the plan by existing and future clients.

## Procedures to Participate in an Applied Underwriter Voluntary Plan

Employer clients of the SBTPA who want to participate in an Applied Underwriter's SBTPA VP must submit an [Application to Participate in a Small-Business Third-Party Administrator \(SBTPA\) Administered Voluntary Plan for Unemployment Compensation Disability \(UCD\) Benefits \(DE 2520AU\) \(PDF\)](http://edd.ca.gov/pdf_public_ctr/de2520au.pdf) (edd.ca.gov/pdf\_public\_ctr/de2520au.pdf). The SBTPA must provide all enrollment literature with a copy of the EDD-approved text provisions to clients. Prospective employers and the SBTPA must follow the procedures outlined below:

- Prior to submitting the DE 2520AU to the SBTPA, the employer must conduct employee elections to obtain consent of a majority (51 percent) of its eligible employees.
- The SBTPA must examine the completed DE 2520AU for accuracy and resolve any deficiencies with the employer.
- Once the application is acceptable, the SBTPA and employer must sign the application to accept the responsibilities indicated in the application.
- The SBTPA is required to make copies of the signed DE 2520AU and distribute the copies accordingly:
  - Send the original signed DE 2520AU and election documents to the EDD.
  - Provide copies to the SBTPA client employers.
  - Retain copies of the DE 2520AU and election documents for a minimum of five years.

For more information on SBTPA VP, contact the VPG by email: [VP New Plans](mailto:DIBVPNewPlans@edd.ca.gov) (DIBVPNewPlans@edd.ca.gov) or at 1-916-653-6839.

## LIFE CYCLE OF A VOLUNTARY PLAN

1. Approval of Application
2. VP Text Provisions
3. Process Security Deposit
4. Required Forms and Reports
5. Claims
6. Claim Audit
7. Financial Audit
8. Withdrawal/Termination/Closure

## APPROVAL

### Application

To provide coverage under a VP, an employer must submit an [Application for Approval of Voluntary Plan Self-Insured Disability Benefits \(DE 2520BV\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2520bv.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2520bv.pdf), and a proposed text provisions to the EDD for approval. The DE 2520BV must be submitted prior to the requested effective date.

The DE 2520BV application may be obtained by visiting [Voluntary Plans Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

Any employer who operates a VP without EDD approval will be responsible for all SDI contributions withheld from the wages of employees. The EDD will not reimburse the employer for any benefits paid while operating under an unapproved VP.

### Approval Requirements

The following conditions must be met for approval:

- Employer must have at least one employee.
- At least one right or benefit afforded to the covered employees must be greater than the benefits provided by SDI.
- A security deposit must be posted with the EDD. The employer must guarantee that the VP will meet all obligations.
- A majority of eligible employees have consented to the plan in writing.
- Employees who are eligible for coverage must be given the right to reject the VP and be covered by SDI.
- All covered employees must be given a written document that states their rights and benefits under the VP.
- The employer has consented to the plan and has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any.

- The plan provides for the inclusion of future employees.
- If the plan provides for insurance, the forms of the policy are to be issued by an admitted disability insurer.
- The plan is in effect for a period of not less than one year and, thereafter, continuously unless withdrawn by the employer or terminated by the SBTPA or the EDD.
- The VP coverage must be made available to all California employees or to employees in a separate establishment maintained by the employer in California, except:
  - Part-time employees who work less than half of the employer's standard workweek.
  - Short-term employees who are hired for a period not expected to exceed two weeks.
  - Employees separated from other operating units due to geographical location.

On behalf of the employees in this category who are not covered by the VP, the VP employer must withhold and submit the SDI tax (contribution) to the EDD to provide disability insurance coverage under the SDI program.

### **Voluntary Plan Administrative Contact Forms**

The Administrative Contact Form (ACF) is used to keep the EDD updated and informed of the employer/TPA personnel responsible for all aspects of administering the VP. These forms need to be completed and submitted to the EDD annually by June 15th.

**Note:** When submitting a DE 2520BV, it must always be accompanied by the *Voluntary Plan Employer Administrative Changes* (DE 2520BV-C). If the applicant is contracted with a Third Party Administrator, then all of the attachments; *Voluntary Plan Third Party Administrator Authorization Form* (DE 2520BV-A), *Voluntary Plan Third Party Administrator Administrative Changes Form* (DE2520BV-B), and DE 2520BV-C must accompany the DE 2520BV.

- [DE 2520BV-A](#)  
The employer must complete this form if the employer has delegated the administration of its VP to a TPA.
- [DE 2520BV-B](#)  
This form is for the pre-authorized TPA to enter the names and responsibilities of its employees who are administering the VP.
- [DE 2520BV-C](#)  
This form is for any changes to your company VP contact information; you must provide complete information about the changes within seven days.

For more details about the forms, access the PDF versions from the EDD website at [Voluntary Plans Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

**Reference: CCR, Title 22, section 3267.**

## Successorship

When all or part of a business covered by a VP is acquired or sold, the rules of successorship, contained in section 3254.5 of the CUIC, apply. It is the responsibility of the predecessor and successor to notify the EDD of acquisition within 30 days of the transaction and whether or not the VP will continue. The successor shall be deemed to consent with the provisions of the VP unless a written request for withdrawal, effective as of the date of acquisition, or within 30 days after notification is transmitted to the Director of the EDD, or from the Director of the EDD that the plan is to continue, whichever is later.

**Note:** VP withdrawals must be requested in writing 30 days prior to the requested withdrawal date.

If the successor employer is not withdrawing, then to maintain approval of the plan the successor employer must submit:

- An [Application for Approval of Voluntary Plan for Successor \(DE 2041\)\(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2041.pdf) ([edd.ca.gov/pdf\\_pub\\_ctr/de2041.pdf](http://edd.ca.gov/pdf_pub_ctr/de2041.pdf)).
- The text provisions.
- A security deposit.

**Note:** The EDD must process the successor's security deposit before the predecessor can receive their security deposit back.

**Note:** Under the successor plan, the new plan is entitled to any plan assets and the new owners assume responsibility for payment of claims in progress as well as all new claims.

These issues are decided between the predecessor and successor. The terms of the plan coverage remain as they were under the predecessor. However, the text provisions may be subsequently amended by following the amendment process.

The successor employer may choose to withdraw the VP as of the date of the acquisition. In this case, the new owner has the responsibility of notifying the EDD of the decision to withdraw within 30 days after the acquisition date, or within 30 days after notification from the Director of the EDD that the plan is to continue, whichever is later.

- When a plan is withdrawn as the result of a successorship, the predecessor retains any plan funds, pays claims in progress, and pays any claims submitted with an effective date prior to plan withdrawal date.
- Funds remaining after all obligations are met must be disposed of in conformity with authorized EDD VP regulations.

**Reference: CUIC, sections 3254.5 and 3260.**

## **TRUST FUND**

Employee contributions withheld for VP coverage and any income derived from this fund are trust funds. Employers must accurately account for the trust funds. Contributions from covered employees must be set up in a separate bank account, which is credited with plan contributions. The bank account must only be charged with benefits and allowable administrative costs incurred from plan operations. In addition, it must show all income to the plan (including loans from the employer to fund the VP), the payment of benefits, and allowable costs, separate and apart from all other operations of the employer.

Interest and dividend income earned by the VP trust fund must be credited to the fund and reported on the [Annual Report of Self-Insured Voluntary Plan \(VP\) Transactions \(DE 2568V\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2568v.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2568v.pdf).

**Reference: CCR, Title 22, section 3260-1(a).**

VP trust funds must be maintained in a separate, specifically identifiable account in a financial institution, or they may be transmitted, including any interest or income, directly to the admitted disability insurer.

**Reference: CCR, Title 22, section 3261-1.**

The VP trust fund bank account should show received income and expenses associated with VP activities (benefits and allowable administrative costs). When the employee's contribution cannot cover the plan expenses, the employer will fund the VP plan by either making a gift or loan to the plan. If the employer decides to make a loan to the plan, the employer can withdraw from the voluntary plan bank account as loan repayments when the plan's fund has a positive balance.

The following are received income to be reported on the DE 2568V:

- Employee contributions withheld (Line 2A)
- Employer contributions (Line 2B)
- Interest Income from VP funds (Line 2C)
- Other Income (Line 2D)
- Loan to Voluntary Plan (Line 2E)

The CCR, requires that the DE 2568V must accurately reflect the plan funds balance and transactions to the trust fund bank account. The employer can transfer the funded amount into VP trust bank first, then use the VP bank account to pay for all VP expenses. Doing so, VP transactions can be reflected accurately and reconciled with the amount reported on the return. Otherwise, the employer should maintain a separate book to record the funded deficit.

**Reference: CCR, Title 22, section 3267-2.**

## **Employee Contributions**

An employer is authorized to deduct from a VP employee's wages an amount that does not exceed the current SDI plan contribution rate.

**Reference: CUIC, sections 984, 985, and 3260.**

The employee contributions may only be used for the following purposes:

- Payment of benefits as provided by the plan.
- Reasonable expenses arising in the administration of the plan.
- Penalties levied by the EDD under CUIC, section 1126.

## **Employee Contribution Adjustments**

The VP employer is prohibited from increasing the amount of deductions, except:

- On an anniversary of the plan effective date under CUIC, section 3254.
- On the effective date of an increase in the taxable rate under CUIC, section 984.
- On the effective date of an increase in the limitation on taxable wages under CUIC, section 985.

**Reference: CUIC, sections 984, 985, and 3254(h).**

## **Employer Contributions**

As part of the employer's effort to provide at least one benefit better than SDI the employer may provide all operating expenses of the VP.

**Reference: CUIC, section 3260.**

## **Approved Voluntary Plan Disability Insurance Administrative Expenses**

The EDD will approve the following expenses:

- Medical examination fees that are paid to determine whether an employee's disability continues.
- Security deposit premiums.
- Quarterly administrative assessments paid to the EDD.
- Fees paid to a TPA.
- Stationery, postage, office supplies, and equipment expenses required to administer the VP.
- Salary expenses for staff-time devoted to VP activities.
- Proportional share of office space, equipment, and operating expenses for VP operation.
- Other expenses as approved by the EDD.

**Note:** Allowable expenses are stated in the CCR, Title 22, section 3267-2(b)

## Use of Excess Employee Contributions to Provide Other Benefits

Employee contributions withheld for VP coverage are trust funds. Trust funds may only be used for providing benefits to the employees covered by the VP. Employee contributions or income resulting therefrom may not be diverted for the employer's own use or profit.

The CUIC allows the employer to use excess trust funds to provide additional benefits, if approved by the EDD.

Any accumulated excess of employee contributions above the net cost of premiums, after premium dividends or experience rate credits, and assessments made by the Department in connection with the plan, must be used to the benefit of the employee group covered by the plan. The distribution of excess funds must be commensurate with the contributions of the employee group or be distributed in an otherwise fair and equitable manner.

Methods of distributing excess VP funds may include, but are not limited to the following:

- Reducing or waiving payroll deductions for a sufficient period to dispose of the excess.
- Refunding the excess to the employees covered by the voluntary plan in a fair and equitable manner as approved by the EDD.
- Increasing disability benefits under the plan, either temporarily or permanently.

**Reference: CCR, Title 22, section 3260-1.**

## SECURITY DEPOSIT

### Security Deposit Requirements

The VP employer must submit a security deposit as part of the VP approval process. The deposit is used to cover the potential liability of the VP and will be used to reimburse the EDD if the employer fails to pay claims or fails to pay any assessments established in connection with the VP.

The formula used to determine the minimum required deposit amount is as follows:

- Employers estimated taxable wages from previous year X 0.5 X current SDI contribution rate = VP security deposit.

The amount of security in excess of the minimum \$1,000 required by the CUIC is determined by the number of employees covered, the size of the payroll, the class of risks, the financial standing of the employer, and any other relevant factors as determined by the EDD.

**Reference: CUIC, section 3258.**

The security deposit must be made in one or a combination of the following types:

- Cash, in the form of a check, may be sent to the EDD to secure the employer's VP obligations.
- Irrevocable Letter of Credit (LOC) from a United States financial institution.



- Guarantee bond (GB) issued by an admitted surety insurer.

## Cash Deposit

When the security deposit is made by cash, an [Agreement Regarding Deposit of Cash \(DE 2545V\) \(PDF\)](#) (edd.ca.gov/pdf\_pub\_ctr/de2545v.pdf), must be completed and submitted with the cash deposit.

This form must include:

- VP employer name.
- Cash deposit amount.
- Signature, printed name, and title of the authorized representative.
- Corporate seal and be notarized.

The cash deposit should be in the form of a check made payable to “EDD-Voluntary Plan Security Deposit.” Make sure to indicate clearly on the check the following:

- The identification of its purpose.
- The principal or corporate VP employer name and the VP number.

When the cash deposit is received by the EDD, it is sent to the Fiscal Programs Division (FPD) for deposit into an interest earning account, known as the Special Deposit Fund.

## Letter of Credit

For security deposits using a LOC, the employer is responsible for providing a form the same as, or similar to, the sample Model LOC provided by the EDD to an issuing bank or savings institution. The Model LOC is the preferred format. Any variations to the Model LOC may lead to a rejection of the LOC.

The LOC must be issued by and payable at any branch of the issuing bank or savings institution in the continental U.S., Alaska, or Hawaii. The bank submits the LOC directly to the EDD by mail, and upon EDD approval, the LOC is transmitted to the State Treasurer’s Office (STO) for deposit and they will issue a receipt to the employer.

Be sure to mail the original LOC directly to the EDD for processing at:

**Employment Development Department  
Disability Insurance Branch  
Voluntary Plan Group, MIC VP29  
Attn: Security Audit Analyst  
800 Capitol Mall, Room 3137  
Sacramento, CA 95814**

## Guarantee Bond

When the security deposit is made by GB, a *Guarantee Bond* (DE 2544V), must be executed by the employer and an admitted surety company, and submitted directly to the EDD.

Upon approval, the EDD will forward the GB to the STO for custody. The DE 2544V should be completed as

follows:

- Enter the employer name, address, and VP number in the upper left box of the form.
- Enter the effective date of the bond that corresponds with the required effective date.
  - For a new plan, this will be the plan effective date.
  - A bond submitted to replace a canceled bond must be dated to coincide with the cancellation date.
  - A replacement bond, at the employer's discretion, may carry any effective date, presuming the current bond has been in effect for at least one year.
- Enter the amount of the bond that is required.
- An officer of the corporation must sign the bond for principal. The officer's name and title should be clearly indicated. Print the officer's name under the signature.
- If the principal is a corporation, the corporate seal must be affixed. If there is no corporate seal, then the officer's signature must be notarized.
- A representative must sign for the surety company. If this representative is a designated attorney-in-fact, a power of attorney must be attached. If an officer of the surety signs, that person's title should appear under their name.
- The surety must affix its corporate seal.
- Mail the original GB to the EDD for processing at:

**Employment Development Department  
Disability Insurance Branch  
Voluntary Plan Group, MIC VP29  
Attn: Security Audit Analyst  
800 Capitol Mall, Room 3137  
Sacramento, CA 95814**

## **Joint Principal Bonds**

A GB may be issued for securing a group of related plans. The proper format is to have the bond issued in a single principal name with the total amount required by all listed plans. A schedule with the plan names, VP numbers, and allocations must be included with a joint principal bond. If updating the original bond a Rider listing each of the joint principals and the specific allocation amount of liability for each should be submitted to the EDD.

**Note:** The cost of joint principal bonds should be allocated proportionately to all plans covered by the bond

and should not be charged to one specific plan when reporting on the DE 2568V.

## **REQUIRED REPORTS, FORMS, AND SECURITY UPDATES**

### **Voluntary Plan Text Provisions**

The EDD requires all employers/TPAs to submit new VP text provisions annually by February 15th.

**Note:** A new VP text provision form will be available and required by employers/TPAs as of January 1, 2022. The previous version will not be accepted after this date.

### **Amendments Mandated by Law**

The EDD will notify VP employers when legislation is enacted that affects VPs. Legislative changes usually take effect on January 1. However, an employer may choose to incorporate a legislative change into the text provisions prior to the effective date of the legislation. The EDD notifies employers of the required changes and establishes deadlines by which the employer must submit revised text provisions for the amendment.

If legislation provides a change in the contribution rate or wage ceiling, an amendment to the text provisions is necessary. Employees must be notified prior to the effective date of the rate change. A copy of the employee notice should be kept on file by the employer for at least five years.

**Note:** The EDD requires updated text provisions annually by February 15th regardless of legislative or contribution rate changes

**Reference:** CUIC, section 3271.

### **Amendments Initiated by the Employer**

If an employer chooses to amend previously approved text provisions, they must first notify the employees and provide the EDD a copy of the amended text provisions. The notice to employees should specify the text provisions of the amendment and advise them of their right to withdraw from the plan as of the amendment effective date. An employee may withdraw from the plan by providing written notice within 10 days of the amendment effective date.

**Note:** The notice or statement of coverage to employees will not be accepted by the EDD in lieu of the amended text provisions.

### **Processing Amendments**

The EDD will process the amended text provisions if it continues to meet VP standards that are outlined in the CUIC and the CCR, and one of the following is satisfied:

- Written verification by the employer that an amendment notice has been distributed to the covered employees at least 10 days prior to the effective date. Employees must be given the right to withdraw from the plan on the amendment effective date by providing written notice to the employer within 10 days after the effective date.

- Written verification by the employer that a majority of the VP employees have consented to the amendment as demonstrated by providing the EDD with the employee documents, ballots, and/or signed agreements to accept the amendment. The amendment cannot take effect prior to the date the majority of the covered employees provide their written consent.
- Written verification by the employer that all employees adversely affected by the amendment consented to the amendment. The amendment cannot take effect prior to the date all adversely affected employees provide their written consent within 10 days of the amendment effective date.

Any VP amendments must be submitted to the EDD for approval along with the necessary certification as explained above. The VPG is available to review any proposed amendments or materials prior to distribution to employees to ensure compliance with the requirements.

If an amendment is applicable only to new or future employees, notification of such change should be transmitted to the EDD on or before the amendment effective date. The consent of the covered employees is not required since the reduction in rights or benefits does not affect current employees.

**Reference: CUIIC, section 3271; CCR, Title, section 3271-1(b).**

### ***Annual Report of Self-Insured Voluntary Plan Transactions (DE 2568V)***

The VP employer or an authorized TPA is required to submit a DE 2568V to the EDD by February 15th of the following year. Failure to comply with this requirement may result in the termination of the VP. If an employer has multiple related plans, they must complete a separate DE 2568V to report each plans individual transactions.

In completing the DE 2568V, the employer cannot use funds from one plan to cover the deficit in another plan. VP deficits covered by the employer may be in the form of a non-refundable contribution (gift) or a loan to the plan fund, which must be reported as income to the plan receiving the funds.

The DE 2568V is only available in an electronic Adobe PDF:

- Access the PDF version from the EDD website at [Voluntary Plans Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

The completed DE 2568V should only be submitted to the EDD by selecting the SEND to EDD button on the form. After selecting the button, the form is emailed to [Voluntary Plan](mailto:vp68v@edd.ca.gov) (vp68v@edd.ca.gov)

### **Amended DE 2568V Reports**

Any changes to the DE 2568V must be reported to the EDD by submitting an amended report. Any changed entry must be clearly noted as an amendment. Place a check mark in the “Amended” box located at the top of the form.

**Reference: CCR, Title 22, section 3267-2(a).**

### ***Voluntary Plan (VP) Security Review Worksheet (SRW) (DE 2544SRW)***

The employer is responsible for providing the EDD with an annual review of the amount of security deposit in relation to the current workforce, state contribution rate, and projected wages, and make necessary adjustments to increase or decrease the amount of deposit. The employer should submit the calculations and rationale explaining the reasoning for the proposed adjustment if decreased or increased. The EDD reviews

the adequacy of the security deposited with the STO/FPD and notifies the employer if adjustments must be made. The review is due on or before April 15th annually.

To obtain the [Voluntary Plan \(VP\) Security Review Worksheet \(SRW\) \(DE 2544SRW\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2544srw.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2544srw.pdf) form visit [Voluntary Plans Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

**Note:** Failure to maintain adequate security deposit may be grounds for the EDD to terminate the VP.

**Reference:** CUIC, section 3262.

### **Changes to Security Deposits Based on the DE 2544SRW Review**

Employers must adjust their security deposits when the difference between the existing security and the required amount is five percent or greater.

Security deposits should be reviewed when the following changes occur:

- SDI contribution rate increase or decrease.
- Estimated total wages increase or decrease.

### **Replacement of Security Deposit**

The employer is required to replace the original security deposit if:

- The surety or financial institution closes.
- The surety cancels a GB.
- The financial institution does not renew the LOC.

**Note:** Failure to maintain adequate security deposit may be grounds for the EDD to terminate the VP.

**Reference:** CUIC, section 3258.

### **Submitting Increase to Cash**

A receipt will be sent in February of each year showing the current security amount to use on the Security Review Worksheet. The rates for the quarterly earnings on cash deposits are based on the State Controller's Office (SCO) Surplus Money Investment Fund Apportionment Yield Rates and can be located on the [SCO website](http://sco.ca.gov/ard_yield_rates.html) (sco.ca.gov/ard\_yield\_rates.html). If an increase is required, submit a check to the EDD and follow the rules for Cash Deposit.

### **Submitting Amendments to Letter of Credit**

When a LOC requires changes, the financial institution may submit an amendment to the LOC to adjust the document. Before submission of an amendment, the ER/TPA should ensure the:

- Employer's name is correct and matches the legal name submitted to the Secretary of State and the EDD's Tax Branch.

- The amendment number is in sequence with the last accepted amendment number by the STO.
- If there are joint principals on the LOC an allocation list is clearly stated on the document with the plan names, VP numbers, and the allocated amount for each plan.
- The LOC amendment must be submitted to the EDD for processing at:

**EDD-Disability Insurance Branch  
Voluntary Plan Group, MIC VP29  
Attn: Security Audit Analyst,  
800 Capitol Mall, Room 3137  
Sacramento, CA 95814**

### **Submitting Riders to Guarantee Bonds**

A new GB is not required to adjust the amount of a GB or to change a name. Changes can be accomplished by completing a rider to the GB in the following manner:

- The rider must correctly reference the GB by bond number, effective date, and amount. This information may describe either the first-issued bond or the current status of the bond that resulted from one or more prior riders.
- If the rider affects the amount of the bond, clearly state the new penal sum.
- The beginning date of the requested change determines the effective date of the rider.

**Example:** If the employer's name changed on February 1, 2020, the effective date of the rider is February 1, 2020.

- The rider must be signed by an officer of the principal or sent to the EDD directly by the principal to verify knowledge of the change effected by the rider.
- The rider must be signed on behalf of the surety company. A corporate officer or an attorney-in-fact may sign the rider. If an attorney-in-fact signs it, a power of attorney document must be attached.
- The GB rider must be submitted to the EDD for processing at:

**EDD - Disability Insurance Branch  
Voluntary Plan Group, MICVP29  
Attn: Security Audit Analyst  
800 Capitol Mall – Room 3137  
Sacramento, CA 95814**

## Quarterly Contribution Return (DE 3D) Tax Reporting

Employers who have EDD approval to operate a VP are exempt from remitting SDI contributions for those employees who have elected VP coverage. However, the employer must remit SDI contributions for those employees who choose SDI coverage. VP employers are required to contact the EDD Tax Branch to receive and complete a *Quarterly Contribution Return (DE 3D)* to report VP-covered wages, SDI-covered wages, and for the computation of the VP assessment.

Most EDD taxes can be filed electronically through the Employer Services Online by visiting [e-Services for Business](http://edd.ca.gov/Payroll_Taxes/e-Services_for_Business) (edd.ca.gov/Payroll\_Taxes/e-Services\_for\_Business.htm).

## Commonly Used Tax Forms

Form Name	Purpose
<i>Quarterly Contribution Return (DE 3D)</i>	<ul style="list-style-type: none"> <li>Report of VP and SDI quarterly wages and withholdings.</li> </ul>
<a href="http://edd.ca.gov/pdf_pub_ctr/de938.pdf">Quarterly Adjustment Form for Voluntary Plan Disability Insurance Employers (DE 938) (PDE)</a> (edd.ca.gov/pdf_pub_ctr/de938.pdf)	<ul style="list-style-type: none"> <li>Adjustment of wages and/or Personal Income Tax (PIT) withholding by individual.</li> <li>Reporting additional wages and/or PIT.</li> <li>Filing a claim for refund.</li> <li>Adjusting incorrectly reported wages, withholdings, or contributions.</li> </ul>

Please direct any questions regarding tax-related forms or services to the EDD Taxpayer Assistance Center at 1-888-745-3886 or online by visiting [Ask EDD](http://askedd.edd.ca.gov) (askedd.edd.ca.gov). You may also contact the EDD's Tax Branch by mail:

**Employment Development Department  
Taxpayer Assistance Center  
PO Box 826880  
Sacramento, CA 94280-0001**

## BENEFIT PROGRAMS ONLINE/SDI ONLINE REGISTRATION

### SDI Online

SDI Online is an electronic claim filing system through EDD's Benefit Programs Online (BPO) portal. SDI Online allows claimants to file DI and PFL claims and access DI claim information. It also allows physicians/practitioners, SDI employers, and VP employer administrators or their representative TPA to access and submit forms through an online account. The system provides automated options that are simple to use and available 24 hours a day, 7 days a week.

For VP employer/TPA to obtain access to SDI online a user must do the following:

- Register for an account with [Benefit Programs Online](http://edd.ca.gov/Benefit_Programs_Online.htm) (edd.ca.gov/Benefit\_Programs\_Online.htm).
- Contact the EDD to assist in the SDI online registration process by obtaining a copy of the EDD VP SDI

Online Registration form from the VPAU. The employer/TPA should fill out the form and send back via email to [VP Program](mailto:VPProgram@edd.ca.gov) (VPProgram@edd.ca.gov).

Once registered, use SDI Online to submit the *Report of Voluntary Plan Claim* (DE 2523) or *Report of Voluntary Plan Family Leave (VPFL) Claim* (DE 2523F). If a VP employer/TPA submits the DE 2523 online to request a claimant's award information, the system will process the request within 48 hours, and post the award information in the SDI Online Inbox of the VP employer or TPA.

The DE 2523F can be submitted online; however, the SDI Online system is not able to provide PFL award information. Once the DE 2523F has been received, PFL award information will be mailed to the employer/TPA.

## **Registering in Benefit Programs Online**

Prior to registering with SDI Online, VP employers and/or authorized TPAs must visit the EDD's online benefit service [Benefit Programs Online](http://edd.ca.gov/Benefit_Programs_Online.htm) (edd.ca.gov/Benefit\_Programs\_Online.htm).

Note: All users must first be registered in BPO in order to setup an SDI online account.

- On the BPO homepage, select **Register** and agree to "Terms and Conditions."
- Create a profile with email, password, security questions, personal image, and security check.
- Review and submit registration.

**Note:** BPO requires a unique email since the email address is the new username.

## **Registering with SDI Online**

- Log in to [Benefit Programs Online](http://edd.ca.gov/Benefit_Programs_Online.htm) (edd.ca.gov/Benefit\_Programs\_Online.htm).
- Select **SDI Online** to open the SDI Online Registration Option (s) page.
- Scroll to the bottom of the page, under Voluntary Plan, select **Visit the Voluntary Plan page for contact information**.
- The user will be directed to a VP email link to contact the EDD about getting the VP SDIO Registration form to fill out and return to the EDD at [VP Program](mailto:VPProgram@edd.ca.gov) (VPProgram@edd.ca.gov).

**Note:** For access to an employer account, each employer or TPA representative must have one unique email address. Each unique email address will serve as the username, giving the representative access to the employer account. That unique email address cannot be used to access multiple employer accounts.



Once the EDD receives the completed form, it enters the form data into the SDI Online system. A confirmation email will be sent to each user.

**Note:** Make sure the user registers as a SDI VP Provider.

- The EDD will send a *Notice of Online Account Registration* (DE 8509), via the email provided.
- Upon receipt of the confirmation email, log in to [Benefit Programs Online](http://edd.ca.gov/Benefit_Programs_Online.htm) (edd.ca.gov/Benefit\_Programs\_Online.htm). Select **SDI Online** and select **Agree** and follow the instructions.

SDI Online can now be accessed to submit the DE 2523 and DE 2523F. For future access, log into BPO and select SDI online.

## CLAIMS

### Determining Liability: Voluntary Plan or State Disability Insurance

The initial determination that must be made is whether the VP or SDI is liable to insure the employee. The VP employer records indicate which coverage the employee selected at the time of enrollment.

VP coverage may begin on the date that the employee elects to be covered by the VP. If the employee is required to work for the company for a specific period before coverage becomes effective, SDI will cover the employee.

There may be a difference between the date the employee indicates a disability began and the date the medical provider indicates the disability commenced. This can be due to a delay in getting an appointment with the medical provider or the claim being completed by a different medical provider than the first medical provider seen by the employee. Further investigation with the employee and/or the medical provider may be needed.

After fact finding, if liability is denied, the employer or TPA must provide to the EDD, the reply copy of the *Full Coverage Referral to Voluntary Plan* (DE 5022) or *Full Coverage Referral to Voluntary Paid Family Leave (PFL) Plan* (DE 5022F), with the explanation for denied liability, opt-out letters, and supporting documents.

A signed rejection notice or other documentation must be on file for any employee who chooses to be covered by SDI.

Determination of liability must be based on the date that the:

- Disability or family leave began.
- For DI claims only: Disabling condition reached a point where the employee was unable to perform their regular or customary work.

This date may be different from the stated claim date or the first day that the employee is entitled to receive benefits. For DI claims, while accidents establish a clear beginning of the disability, chronic conditions may require investigation. Personnel records, attendance information, and discussion with the supervisor may be necessary to determine when the condition became disabling.

A medical condition may exist for some time and not prevent an employee from doing their regular or customary work. That same condition may worsen to a degree that constitutes “disability” under the law and

entitles the employee to disability benefits.

Liability for coverage must be determined before a decision can be made regarding eligibility for benefits.

**Reference: CUIC, section 2626.**

### **Voluntary Plan Liability after Job Termination**

Generally, VP coverage ends at 12 midnight on the day of employment termination.

**Example:** An employee is fired and then injured in an automobile accident before 12 midnight that day on their way home. This employee is covered under the VP.

The VP is also liable in the following situations:

- When a disabling condition or the need for family leave precedes the termination or begins before the end of coverage.
- When an employee continues working in order to finish a job or train a replacement, even though a disabling condition or family leave has commenced.

When an employee resigns from a position because of a disability or family leave rather than request a medical leave, even if the actual reason for the resignation is not disclosed to the employer.

**Reference: CCR, Title 22, section 3254-3 (a) (5).**

### **Liability of Coverage Referral to State Disability Insurance**

If a VP believes that SDI is liable for a claim originally filed with the VP, a copy of that claim should be forwarded to:

**Mail:**

**EDD VPG  
PO Box 120831  
San Diego, CA 92112-0831**

**Email:**

[DIVPG](mailto:DIVPG@edd.ca.gov) (DIVPG@edd.ca.gov)

The referral should include the following information:

- Employee's occupation.
- Whether or not VP benefits were paid, and if so, the dollar amount and the period that it was paid.
- A clear explanation of why SDI should accept liability for the claim.
- Any other pertinent information that would assist in determining liability of coverage.

- Medical certification, which consists of:
  - A diagnosis or, where a diagnosis has not yet been obtained, a detailed statement of symptoms.
  - International Classification of Diseases (ICD) diagnostic code (ICD-10).
  - Certifying physician/practitioner's original signature and license number.

**Note:** A stamped signature is not acceptable. Before sending a copy of the claim to SDI, the VP employer must secure an original signature either on the initial claim form, on a new claim form, or on a separate statement from the physician/practitioner.

**Reference:** CCR, Title 22, section 2712-2.

### **Full Coverage Referral to Voluntary Plan**

When the EDD receives a claim that is determined to be the responsibility of a VP, a DE 5022, will be sent to the VP. Unless prohibited by confidentiality laws, a copy of the SDI claim form, SDI benefit rate information, and other pertinent information will be attached. If SDI paid benefits on the claim, the payment period and total amount paid will also be provided on the referral form. The VP is allowed 25 days from the date of mailing to respond to the referral. The investigation to determine coverage liability should be conducted promptly to ensure a response is provided to the EDD within the 25-day period. A copy of the referral letter must be sent to the employee.

A response accepting or denying liability must be returned to the EDD office. Failure to respond by the deadline will constitute a denial and will result in SDI paying the claim and possibly filing a disputed coverage appeal with the California Unemployment Insurance Appeals Board (CUIAB).

If the VP accepts liability, it should respond to the EDD using the DE 5022/DE5022F. Payments to the employee should begin immediately, if otherwise eligible. The VP must promptly reimburse SDI if benefits were paid on the claim.

If the VP denies liability, a clear explanation of the reason must be provided. Communication with the SDI representative who sent the referral notice may provide clarity and prevent an appeal. A copy of the denial letter must be sent to the employee and contain the statement of appeal rights. The employee has 30 days and SDI has 30 days, from the date of denial to appeal the decision.

**Reference:** CCR, Title 22, sections 2712-2 and 5021.

### **Action after the Employment Development Department Referral Response**

If SDI accepts coverage, the EDD will respond in writing and begin payment on the claim, if otherwise eligible. If SDI does not accept coverage or does not respond within the specified time, the employer must make a determination of eligibility and, if appropriate, begin immediate payment of the claim at no less than the SDI benefit amount. Review the claim to determine if a disputed coverage appeal will be filed. The VP has 30 days from the date of the SDI denial or 30 days from the deadline for EDD's response to file an appeal before the CUIAB.

## Simultaneous Coverage

An individual with more than one employer may be simultaneously covered by more than one plan. This may be a combination of SDI and VP coverage. For SDI to be a party to “simultaneous coverage,” the claimant must have a valid SDI award and be otherwise eligible for DI or PFL benefits.

If it is agreed that more than one plan is liable for payment, each liable plan must pay an equal share of the SDI benefit amount. Each VP that is liable for payment must also pay the difference between the full SDI WBA and their full VP WBA, as described in the text provisions.

**Note:** SDI counts as only one plan regardless of the number of SDI employers for which the claimant works.

### Examples:

1. The claimant has three employers at the time their disability or family leave began, two SDI and one VP. SDI would pay half of the SDI benefit amount; the VP would pay the other half of the SDI benefit amount, plus the difference (if any) between the SDI and the VP benefit amounts. The difference could be because the VP paid benefits at a higher WBA.
2. The claimant works for two VP employers and one SDI employer. SDI would pay one-third of the SDI benefit amount; each VP would pay one-third of the SDI benefit amount, plus the difference (if any) between the SDI and the VP benefit amounts.
3. The claimant works for one VP and one SDI employer. The claimant has only worked for the VP employer for four months and for the SDI employer for one month. The claimant has no prior California earnings subject to SDI tax, and therefore has an invalid award with SDI and will not receive benefits. However, if the text provisions of the VP allow immediate coverage based upon current earnings and not the typical base period earnings, the VP would be liable for the entire payment of benefits.
4. If the claimant works for a VP employer and an exempt employer, such as the federal government, the VP is liable for one-half of the SDI benefit amount

A disability or the need for family leave may prevent the claimant from performing their regular or customary work for one or all of their employers. Conversely, their disability or family leave may not necessarily affect all jobs. Only the coverage of the employment affected by their leave is liable for payment of benefits. If the claimant is able to return to one job, but not all, it changes the payment liability. Only the coverage for the employment from which the claimant’s disability continues remains liable for payment. Liability increases in proportion to the number of remaining plan(s). If only one plan remains liable, it must pay 100 percent of the benefit rate.

When SDI receives a claim and suspects that simultaneous coverage may exist with a VP, a *Simultaneous Coverage Referral to Voluntary Plan* (DE 5022SC) is forwarded to the VP. The VP may also gain knowledge of potential simultaneous coverage from information supplied by the claimant. The VP claim form should ask the claimant the following:

- If the employee was working for another employer at the time their disability or family leave began.
- If the employee is unable to work due to their disability or family leave with another employer.

- If that employer has a VP.

**Reference: CUIC, section 3253, CCR, Title 22, section 3253-1.**

## **Disputed Coverage Process**

When there is a dispute, whether benefits are payable from the state plan or from another VP(s), benefits must be paid from the plan against which the claim was first filed.

Two levels of arbitration exist to settle any disagreement:

5. A hearing before the Administrative Law Judge (ALJ).
6. Review by the CUIAB.

The dispute of coverage is unrelated to whether the employee is eligible for benefits. “Disputed coverage” determines only whether SDI or the VP is liable to insure the individual. It does not presume that benefits must be paid. The plan that accepts liability, either directly or by default, then determines whether the employee meets eligibility criteria for benefits.

**Note:** VPs must send their disputed coverage Voluntary Plan Family Leave (VPFL) claims by:

**Mail:**

**Employment Development Department  
Disability Insurance Branch Paid Family Leave  
PO Box 45011  
Fresno, CA 93718-501**

**Fax:**

**1-916-319-1090**

**Reference: CUIC, section 2712.**

## **Filing a Disputed Coverage Appeal**

The EDD or the VP may appeal a denial of coverage within 30 days of the date the notice of denial was mailed. In disputed coverage cases where a denial of coverage is not furnished, an appeal shall 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.

To file a disputed coverage appeal, complete an *Appeal for Determination of Coverage* (DE 1000DC). To request a copy of the DE 1000DC, contact the VPG by email: [VP Program](mailto:VPProgram@edd.ca.gov) (VPProgram@edd.ca.gov) or at 1-916-653-6839. For information on the appropriate Office of Appeals for your area, call SDI Customer Service at 1-916-657-5113.

If eligible, the employee shall be paid benefits by the plan that initially received the claim, pending disposition of the disputed coverage appeal.

**Reference: CUIC, section 2712; CCR, Title 22, section 5007(b).**

## Child Support Interception Deductions

The VP is required to make deductions from benefits that are payable to individuals identified by the California Department of Child Support Services (DCSS) as having unmet spousal and/or child support obligations. The DCSS notifies SDI of individuals who have delinquent support obligations and/or subsequent changes in the obligation. This information is matched against VP claims for which SDI has received a [Report of Voluntary Plan Disability Claim \(DE 2523\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2523.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2523.pdf). Using the VP referral address, SDI notifies the VP of the action that must be taken beginning with the next benefit check issued to the employee.

The notification may provide information regarding:

- An initial support obligation.
- A change in the county responsible for enforcing a support obligation.
- A change in the withholding percentage.
- A termination of the support obligation.

The notification will provide the name, address, and phone number of the county responsible for enforcing the support obligation. The amount withheld is a specified percentage up to 25 percent, and is calculated on the net entitlement including any benefits redirected, rounded down to the next whole dollar. The VP employer may retain up to \$2 for actual administration costs from the amount withheld. The amount withheld is mailed directly to the district attorney's office in the county responsible for the support obligation.

Before or with the first reduced benefit payment, the employee must be notified of the reason for the reduction, the right to appeal the benefit reduction, and the name, address, and phone number of the county DCSS office where the withheld amount will be sent. The employee should direct questions concerning the support obligation to the county DCSS office.

The employee may file a timely appeal within 30 days from the date of the employer notice by contacting SDI. Pending the appeal decision, the support intercept process continues. If the appeal decision rules in favor of the employee, the county is responsible for refunding money to the employee, if appropriate.

**Note:** A VP employer/TPA should send to the VP claimant their company designed appeal form along with their company designed notice of reduction in VP benefits due to Child Support Intercept (CSI).

Deductions made per an order assigning salary or wages to satisfy judgments for child support must cease when notification of support obligation is received from SDI. If withholdings have begun as the result of notification from the EDD, new orders assigning salary or wages received must be returned to the judgment creditor.

In each case, an explanation should be provided to the judgment creditor as follows:

“As a result of changes in the law, Disability Insurance benefits are no longer subject to withholding in satisfaction of orders assigning salary or wages. Section 704.120 of the California Code of Civil Procedure now permits benefits to be intercepted only when requested by a county support enforcement agency in accordance with California Unemployment Insurance Code section 2630 and Welfare and Institutions Code section 11350.5.”

The employer must total the intercepted amount and report it on the close out copy of the DE 2523F in box 18. Any amount withheld to satisfy support obligations is treated as if it were paid directly to the individual as VP benefits.

**Reference: CUIC, section 2630.**

## CLAIMS AND CERTIFICATION

### Claim Effective Date

A claim begins on the date the claimant's disability or family leave began. The date the disability or family leave began determines the base period unless SDI adjusts the Claim Effective Date (CED). SDI calculates the WBA using the claimant's base period.

### Claimant Certification

The CUIC requires that a claim for DI or PFL benefits be submitted on a specified form, however, the VP employer has the flexibility in how a claim for benefits can be established. Some employers choose to fashion a form after the DI or PFL claim forms. The *Claim for Disability Insurance (DI) Benefits* (DE 2501) or *Claim for Paid Family Leave (PFL) Benefits* (DE 2501F), may be obtained by calling the VPG at 1-916-653-6839 or by email: at [DIVPAC](mailto:DIVPAC@edd.ca.gov) (DIVPAC@edd.ca.gov).

**Note:** An actual claim form may not be required, but the reporting information required by the EDD and medical certification must be obtained.

**Reference: CUIC, section 2706.**

### Medical Certification on New Claims

Except as described below, California law states that DI and PFL care benefits will be paid with medical certification from a treating medical or osteopathic physician, surgeon, optometrist, dentist, osteopath, chiropractor, podiatrist, psychologist, practitioner, physician assistant, or nurse practitioner.

An initial Voluntary Plan Disability Insurance (VPDI) claim for benefits must be supported by medical certification, which includes:

- A diagnosis or, where no diagnosis has yet been obtained, a detailed statement of symptoms.
- An ICD-10 code.
- A statement of medical facts including secondary diagnoses, when applicable.

When VPFL benefits are provided for wage loss due to care of a child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, or registered domestic partner with a serious health condition, the following information is required:

- A diagnosis or, where no diagnosis has yet been obtained, a detailed statement of symptoms.
- An ICD-10 code.
- Date, if known, when the condition commenced.

- Statement that the care recipient’s serious health condition warrants the need for care.
- An estimate of the amount of time the physician/practitioner believes an employee needs to care for the care recipient.
- Probable duration of the condition.
- A physician/practitioner must certify the need for full or part-time care of the employee. This may include, but is not limited to, providing psychological comfort and arranging third-party care.

When completing the initial claim form, the physician/practitioner must provide a return-to-work date or the date the care recipient will no longer require care, even if it is only an estimate. The claimant must inform the VP if they are able to return to work at an earlier date in order to prevent an overpayment of benefits

**Note:** Bonding and Military Assist claims do not require medical certification.

**Reference:** CUIIC, section 2708 and 2708 (a).

### **Other Options for Certification**

A claimant or care recipient who is hospitalized by authority of a California county hospital or under the care of any US government medical facility may submit with the disability claim a medical certificate signed by an authorized medical officer of that facility, if the disability is shown on the claimant’s or care recipient’s hospital chart.

A religious practitioner who is duly authorized and accredited by a bona fide church, sect, denomination, or organization may certify to a disability or the need for care and provide an estimated duration. SDI maintains a list of accredited religious practitioners. If medical verification is needed, the employer/TPA may contact the EDD.

### **Approved Treatment Facilities**

If a DI claimant has been referred by a certified medical authority and participates as a resident either in an approved alcoholic recovery home or drug-free residential facility, certification of referral to the residential facility is necessary. California Department of Health Care Services (DHCS) must approve the alcoholic recovery home or drug-free residential facility. In these cases, the duration of benefit payments is limited.

Thirty days of initial benefits are allowed for treatment in an approved alcoholic recovery home, and may be extended up to 60 additional days, for a total of 90 payable days.

Forty-five days of initial benefits are allowed in a drug-free residential facility, and may be extended up to 45 additional days, for a total of 90 payable days.

SDI maintains a list of approved facilities. All approved facilities must be licensed and certified. Verification of approved alcoholic recovery homes or drug-free residential facilities may be requested in writing by providing the facility name and address to the EDD. When verification is needed, send a written request by:



**Mail:**

**Employment Development Department  
Disability Insurance Branch, MIC 29  
Attn: Approved Facility Verification  
PO Box 826880  
Sacramento, CA 94280-0001**

**Fax:**

**1-916-653-7521**

SDI may return information that a facility is not currently approved. In this case, the employer/TPA may request SDI to notify the facility that the DHCS states that the facility is not licensed and certified. SDI will inform the facility how to request approval from the DHCS.

Claims submitted from unapproved facilities are not payable. However, if other medical information indicates that the claimant is following a prescribed course of treatment, the claimant may be eligible for benefits. A prescribed course of treatment may include therapy under the direct medical supervision of a physician, whether in or out of a hospital setting. Visits with a physician for purposes of evaluation alone do not constitute medical treatment.

**Reference: CUI, sections 2626.1 and 2626.2.**

## **Verification of License**

At times, it may be necessary for the VP to verify the medical provider's credentials. When verification is needed, send a written request by:

**Mail:**

**Employment Development Department  
Disability Insurance Branch  
Attn: Physician/Practitioner Verification  
PO Box 826880, MIC 29  
Sacramento, CA 94280-0001**

**Fax:**

**1-916-653-7521**

The verification request for the individual in question must contain all of the following:

- Complete name
- Address
- License number
- Phone number

If the information is on file, a response will be sent within two weeks. If the individual has not been previously verified and placed on the approved list, an investigation will be necessary. The length of this

process varies, depending on the nature of the investigation. The VP may suggest that the claimant or care recipient obtain medical certification from an accredited physician/practitioner in order to expedite benefit payments.

SDI is authorized to suspend processing claims from foreign physicians/practitioners who are under investigation for filing false claims when SDI does not have legal remedies to conduct a criminal investigation or prosecution in the foreign country. A foreign physician/practitioner who has been convicted of filing false SDI claims may not file a certificate in support of a new or existing claim for benefits for a period of five years from the date of conviction.

**Reference: CUIC, section 2708(d).**

### **Extended Medical Information**

The recovery/return-to-work date presented in the initial medical certification may be extended. The ER/TPA must include a notice with the final benefit check, identifying it as the last payment unless another medical certification for the disability or the need for care is received. The claimant, by law, has 30 days to submit an extension. The requirements for a medical extension are the same as for a new claim in terms of who may certify the required information. If the continued medical information is postmarked beyond 30 days from the request date or notice of final payment, a disqualification may be issued for those days affected by the lateness. The disqualification may be waived for good cause.

**Reference: CUIC, section 2708.**

### **Voluntary Plan Family Leave Continued Claims**

A VPFL continued claim is for the same care or bonding recipient within the same 12-month period, subsequent to a first or re-established claim where there is no interruption of benefits.

### **Voluntary Plan Family Leave Re-established Claims**

A VPFL re-established claim is a claim filed subsequent to a first claim within the same 12-month period. A re-established claim occurs when there is an interruption of the period for which benefits are claimed for the same care or bonding recipient, or benefits are claimed for a new care or bonding recipient.

### **Independent Medical Examination**

The employer/TPA has the right to require additional medical information to verify medical eligibility for continued benefits, including requiring an independent medical examination (IME). The VP is responsible for the cost of the exam and any related tests, which can be deducted from the trust fund. IME requests are governed by the following general principles:

- The request for an examination must be reasonable.
- The IME physician must be directed to submit an independent and impartial opinion.
- The IME and any lab work or x-ray should only be extensive enough to determine the claimant's ability or inability to perform regular or customary work or the care recipient's need for care.
- The IME physician must provide an estimated date of return to work or date care is no longer needed, if applicable.

Any claimant or care recipient who fails to submit to a reasonable IME is subject to disqualification.

**Exception:** Residents of alcohol recovery homes or drug-free residential facilities and individuals who depend entirely upon prayer or spiritual means for healing are not required to submit to an IME.

**Reference: CUIC, sections 2627(c) and 3306.**

The claimant's or the care recipient's failure to do the following can result in disqualification from receiving benefits:

- Failure to contact the IME physician within the time prescribed. The claimant will be disqualified from receiving VPDI or VPFL benefits beginning on the eighth day after the date the IME request was mailed to the claimant.
- Failure to report for the examination or cancellation of the appointment. The claimant will be disqualified from receiving benefits beginning with the date of the IME, or the date of the cancellation, whichever is earlier.
- Failure to comply with the request for an IME but later agrees to submit to one. The disqualification ends on the day before the examination was performed.

Upon receipt of the IME report, the VP must determine a claimant's eligibility for VPDI or VPFL using the following criteria:

- If the IME physician confirms or extends the treating physician/practitioner's original estimated recovery date or date care is no longer needed, the VP may use the treating physician/practitioner's original recovery date.
- If the IME physician confirms the disability or the need for care on the date of the IME, but states the claimant may be able to return to work or the care recipient no longer requires care sooner than the claimant's or care recipient's physician/practitioner stated. Then the VP must pay benefits at least up to the IME physicians' estimated recovery date or date care is no longer needed. Additional medical evidence may be requested from the claimant's or care recipient's physician/practitioner to support payment of benefits beyond that date.
- If the IME physician states the claimant is able to perform their regular or customary work or the care recipient does not require care on the date of the IME, the VP must review all available medical information and determine the claimant's eligibility for VPDI or VPFL benefits. If the VP determines the claimant is able to perform their regular or customary work or the care recipient no longer requires care on the date of the IME, disqualification of benefits begins on that date.

**Reference: CUIC, sections 2627(c) and 3306; CCR, Title 22, section 2627(c)-1.**

## **Pregnancy**

Claims related to pregnancy, before and/or after delivery, are subject to the same laws and regulations as other SDI claims. All of the requirements previously stated for medical certification, disability from regular or customary employment, and wage loss are applicable.

**Reference: CUIC, section 2626.**

## **Voluntary Plan Disability Insurance Pregnancy Claims Transitioning to Voluntary Plan Family Leave Bonding Claims**

If an employee has a pregnancy-related VPDI claim and transitions to a VPFL bonding claim it shall be considered one disability benefit period.

**Reference: CUIC, section 3302.1(c).**

**Note:** VPFL claimants filing transitional claims from pregnancy to bonding are entitled up to eight weeks of VPFL benefits, regardless of the amount paid, duration of the VPDI pregnancy claim, or the amount of wages in the base period used to calculate the VPDI WBA.

## Conflicting Wages

Wages include the following types of payments, and may conflict with DI and PFL benefits when allocated to a period during a claim:

- Earnings for part-time or light-duty work
- Sick pay
- Holiday pay
- Back pay
- Bonus pay
- Commissions
- “In lieu of” notices
- Military compensation
- Money awarded by the Fair Employment Practices Commission in lieu of wages for a specific period
- Return payments
- Retroactive wages

**Reference: CUIC, section 2656.**

## Non-Conflicting Wages

- Sick pay and/or holiday pay is not considered “wages” for benefit purposes when payment is made because of a termination of employment.
- Holiday pay is not considered “wages” when paid after the commencement of a disability.
- The Supreme Court has ruled that dismissal and severance payments of any kind, by whatever name, are not wages for any purpose relating to disability benefits.
- Vacation and Paid Time Off (PTO) pay is never considered wages for benefit purposes.

**Note:** The law provides that employers have the option to require employees to use up to two weeks of earned but unused vacation pay prior to receiving VPFL. Unlike VPDI, those two weeks of vacation pay are in conflict with VPFL, and VPFL benefits will not be payable during the same period. After the initial two weeks, vacation pay will no longer be in conflict with VPFL.

**Reference: CUIC, sections 1265.5, 1265.6, 1265.7, and 1265.9.**

## Release of Information

The SDI claim form advises claimants that SDI records are available to other governmental entities. Similarly, the reported information required on VP claims becomes part of state records and are subject to release. Employers should inform their employees of this policy.

## ELIGIBILITY DETERMINATION PROCEDURES

### Eligibility for Voluntary Plan Disability Insurance

VPDI benefits may be paid after the employee has met the plan requirements, which may not be more restrictive than the following:

- Must be unable to do regular or customary work for at least eight consecutive days.
- Must be employed or actively looking for work at the time their disability begins.
- Must have lost wages because of their disability or, if unemployed, have been actively looking for work.
- Must have earned at least \$300 from which VP deductions were withheld during a previous period, unless the VP is employer funded.
- Must be under the care and treatment of a licensed physician/practitioner or accredited religious practitioner during the first eight days of their disability.

The beginning date of a claim can be adjusted to meet the plan requirements. The following must occur:

- Employee must be under the care and treatment of a physician/practitioner within eight days of the requested CED.
- The employee must complete and mail a VPDI claim form within 49 days from the date their disability began, or they may lose benefits. Unless the text provisions prescribes a different amount of days, but never less time than the state plan.
- The physician/practitioner (as defined by CUIC, section 2708) must complete the medical certification verifying the employee's disability.

**Note:** If the employee is under the care of a religious practitioner, request a *Claim for Disability Insurance Benefits Religious Practitioners Certificate* (DE 2502) from the EDD. Certification by a religious practitioner is acceptable only if the practitioner has been accredited by the EDD.

The VP may request an IME to determine the initial or continuing eligibility.

## Ineligibility of Voluntary Plan Disability Insurance

Employees should be encouraged to apply for benefits even if they are not sure of eligibility. If employees are found to be ineligible for all or part of a period claimed, the employer is required to notify the employee of the ineligible period and the reason. The claimant may not be eligible for VPDI benefits if:

- They do not have a loss of wages.
- They are claiming or receiving Unemployment Insurance (UI) or PFL benefits.
- The disability begins while committing a crime resulting in a felony conviction.
- They are in jail, prison, recovery home, or any other place because they were convicted of a crime.
- They are receiving WC benefits at a weekly rate equal to or greater than the SDI rate.
- They fail to have an IME when requested to do so.

## Eligibility for Voluntary Plan Family Leave

Employees covered by an employer's VP are also covered for VPFL. If an admitted insurer provides your company's DI coverage, then it must also provide PFL coverage.

An employee may submit a claim for VPFL benefits for the following reasons:

- To care for a seriously ill child, spouse, parent, parent-in-law, grandparent, grandchild, sibling, or registered domestic partner.
- To bond with the employee's new child or the new child of the employee's spouse or registered domestic partner.
- To bond with a child in connection with the adoption or foster care placement of the child with the employee or the employee's spouse or registered domestic partner.
- To take time off work to participate in a qualifying event as a result of a family member's (spouse, registered domestic partner, parent, or child) military deployment to a foreign country.

**Note:** A serious health condition means an illness, injury, impairment, or physical or mental condition that requires at-home or inpatient care in a hospital, hospice, or residential medical care facility or continuing treatment by a physician/practitioner.

The employee must complete and mail a VPFL claim form within 41 days from the date their family leave began, or they may lose benefits. Unless the text provisions prescribes a different amount of days, but never less time than the state plan.

## Ineligibility for Voluntary Plan Family Leave

The claimant may not be eligible for VPFL benefits if:

- They do not have a loss of wages.
- They are receiving DI, UI, or WC.
- They are not working or looking for work at the time their family leave begins.

- The certificate from the care recipient’s treating physician/practitioner does not support the need for care.
- They are in jail, prison, recovery home, or any other place because of conviction of a crime.

## Submitting Voluntary Plan Disability Claim or Voluntary Plan Family Leave Claim

### Voluntary Plan Disability Insurance

To file the [Report of Voluntary Plan Disability Claim \(DE 2523\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2523.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2523.pdf) online the employer/TPA is required to have a VP SDI online account. The employers/TPAs initial submission of the DE 2523 is considered the Opening (Initial DE 2523).

An Opening/Initial DE 2523 must be submitted to the EDD for all VPDI claims filed whether paid or denied. When the employer/TPA must file the VPDI closing information the employer/TPA can access SDI Online and simply modify the VP claim with the closing information. A Closing DE 2523 must be submitted to the EDD for all VPDI claims filed whether paid or denied. The entry will appear on the VP claim’s document page as another DE 2523 entry.

If the employer/TPA preference is to file the VPDI DE 2523 by mail, the employer/TPA can download the DE 2523 from [Voluntary Plan Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm). To file the hardcopy VPDI Opening (Initial DE 2523) the employer/TPA would complete only section A (Claimant Information section) and fax to 1-916-449-1922 or mail a copy to:

**Employment Development Department  
Voluntary Plan Unit  
PO Box 120831  
San Diego, CA 92112-0831**

If the employer/TPA requests the VPDI award amount, the system would make the award available through the employers/TPAs SDI Online account or the VP Unit would complete the “For Department Use Only” section and mail it back to the employer/TPA.

To file the closing, the employer/TPA would take the retained copy and complete section B and mail to the address above.

### Voluntary Plan Family Leave Claim

To file the opening [Report of VP Family Leave \(VPFL\) Claim \(DE 2523F\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2523f.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2523f.pdf) form online, the employer/TPA is required to have a VP SDI online account.

**Note:** The VPFL unit does not accept DE 2523F’s via email or fax.

An opening/initial DE 2523F must be submitted to the EDD for all VPFL claims filed whether paid or denied. To file the closing DE 2523F online, the employer/TPA would access the SDI Online account and file a new DE 2523F with the same CED, include the closing information, and then submit. Using the CED, the Fresno VPFL unit would locate the opening claim and update the claim with the closing information

**Note:** For VPFL claims taken intermittently, a closing DE 2523F with the original CED must be filed after the close of each intermittent period with cumulative totals.

If the employer/TPA preference is to file the DE 2523F by mail, the employer/TPA can download the DE 2523F from [Voluntary Plan Forms and Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm). To file the hardcopy VPFL Opening (Initial DE 2523F) the employer/TPA would follow the same steps as listed above for the hardcopy VPFL, complete only section A (Claimant Information section), mail a copy to the Document Information Management Center (DIMC):

**EDD-Paid Family Leave (PFL)  
PO Box 997017  
Sacramento, CA 95899-7017**

If the employer/TPA requests the VPFL award amount the EDD Fresno FO VPFL unit would complete the “For Department Use Only” section and mail it back to the employer/TPA.

To file the closing, the employer/TPA would follow the same steps listed above for the VPDI hardcopy, and mail the DE 2523F closing to the PFL DIMC address.

### **Filing the *Report of Voluntary Plan Disability Claim (DE 2523)* and the *Report of Voluntary Plan Family Leave (VPFL) Claim (DE 2523F)***

The DE 2523 or DE 2523F must be filed with the EDD for each claim received by the VP. The employer/TPA has 15 days of receipt of a VP claim to file with the EDD. This includes accepted disputed coverage referrals, unless the period of disability is less than eight days. In addition, when a claim is disallowed for any reason, a denial letter that includes appeal rights must be mailed to the claimant. A copy of the denial letter must be attached to the DE 2523 or DE 2523F.

The DE 2523 and DE 2523F forms are available at [Voluntary Plans Forms & Publications](http://edd.ca.gov/Disability/VP_Forms_and_Publications.htm) (edd.ca.gov/Disability/VP\_Forms\_and\_Publications.htm).

A final DE 2523F must be submitted within 35 days after final payment is made for each period of disability or PFL. Both the initial and final report must be submitted to the EDD via fax, U.S. postal mail, or online at [SDI Online](http://edd.ca.gov/Disability/SDI_Online.htm) (edd.ca.gov/Disability/SDI\_Online.htm).

### **How to Submit DE 2523 or DE 2523F Using SDI Online**

1. Select [Benefit Programs Online](http://edd.ca.gov/Benefit_Programs_Online.htm) (edd.ca.gov/Benefit\_Programs\_Online.htm).
2. Log in to your BPO account with your email and password. If you do not have a BPO account, select **Register**.
3. Select SDI Online.
4. On the “Voluntary Plan Forms and Publications” page, select “*Report of Voluntary Plan Claim-SDI (DE 2523)*” or “*Report of Voluntary Plan Claim-PFL (DE 2523F)*”.
5. Complete the required fields on the “Voluntary Plan Options” page and select **Next**.
6. On the “Submit Claim Information and Final Report” page, enter the rest of the information from the DE 2523 or DE 2523F and select **Submit**.
7. The confirmation page will display the Claim ID and receipt number. Please record both numbers because you will need them later to access SDI Online and view related award information.



## How to Submit DE 2523 or DE 2523F Final Report Using SDI Online

1. Follow the above steps 1 - 4.
2. On the “Voluntary Plan” page, in the “Claim Search” section, choose “Claim ID” from the “Search By” drop-down list.
3. Enter the Claim ID number.
4. Enter the claimant’s last name in the “Claimant Last Name” field and select **Search**.
5. Select the appropriate claim by selecting “Claim ID.”
6. In the “Forms Available to Submit” section, select **Submit Final Report**.
7. Enter the closeout information in the “Final Report Information” section and select **Submit**.
8. The confirmation page will display the Claim ID and receipt number. Please record both numbers for future reference.

## Report of Payment Adjustment on the DE 2523 or DE 2523F

If a close out DE 2523 or DE 2523F was previously submitted, and the period of leave is extended and/or supplemental benefits are paid, prepare a new DE 2523 or DE 2523F as follows:

### DE 2523:

- Complete items 1-14, claimant information.
- Complete items 15-22, total of all days and amounts paid, including those previously reported.
- Check the “Adjustment” box in item 19.
- Check any other applicable boxes.
- Send the DE 2523 to the EDD (see address below).

### DE 2523F:

- Complete items 1-17, claimant information.
- Complete items 18-28, entering the total of all days and amounts paid, including those previously reported.
- Check the “Adjustment” box in item 25.
- Check any other applicable boxes.
- Send the DE 2523F to the EDD (see address below).

## Report of Payment Adjustment on the DE 2523 in SDI Online

- Follow Steps 1-5 above.
- Select **Modify**.
- Check the Adjustment Box and the corrected data.
- Select **Submit**.

## Correction of a DE 2523 or DE 2523F

To correct any erroneous information submitted on the DE 2523 or DE 2523F, such as a Social Security number, year of birth, or mailing address; write a letter to the EDD and report the error and correction of each item to be changed from the initial report. Do not prepare a new DE 2523 or DE 2523F to show corrections. Send the letter to the following addresses respectively:

DE 2523:	DE 2523F:
<p><b>Employment Development Department Disability Insurance Branch PO Box 120831 San Diego, CA 92112-0831</b></p> <p><a href="mailto:DIVPG@edd.ca.gov">DIVPG</a> (DIVPG@edd.ca.gov)</p>	<p><b>Employment Development Department Disability Insurance Branch PO Box 45011 Fresno, CA 93718-5011</b></p> <p><a href="mailto:DIBPFLVP225@edd.ca.gov">DIB PFL VP</a> (DIBPFLVP225@edd.ca.gov)</p>

Send the letter by mail or email to the above corresponding address or email.

## Shift in Liability Due to Re-established Voluntary Plan Family Leave Claims

Liability for PFL claims may rest with more than one plan (VP or SDI) during the 12-month period that begins when a claimant establishes a valid VPFL claim. When more than one plan is liable for coverage within the 12-month period, correct calculation of a claimant's benefit amount requires factoring in benefits from all plans to ensure the claimant receives the proper payment.

When a claimant files a VPFL claim, the VP employer must send a DE 2523F to the EDD. If the EDD or a different VP employer has paid PFL benefits during the same 12-month period, the EDD will alert the VP of the existence of the prior claim.

If the prior claim was paid by the EDD, the EDD will forward a copy of the PFL claim payment history to the VP employer, along with the name and date of birth of the care recipient. No other information will be shared unless written authorization from the care recipient is first obtained by the EDD. The VP will be advised to contact the claimant for additional information.

Conversely, when the EDD receives a PFL claim, the EDD will have record of any prior VPFL claims during the 12-month period, provided the VP employer has sent the required opening and/or closing DE 2523F.

## BENEFIT DETERMINATION PROCEDURES

### Calculation of State Award

The SDI WBA and MBA are based on wages paid to the claimant during a 12-month base period. Only wages subject to the SDI tax can be considered, and those wages must total at least \$300 in the base period.

#### Exceptions:

- If a claimant earned less than \$300 in the base period, and the claim begins during a UI benefit year, the UI base period may be substituted.
- If the claimant served in the military, received WC benefits, or did not work because of a trade dispute during the base period, prior wages may be substituted to increase the benefit.
- A person who is determined ineligible for any benefit amount because of extended unemployment may also be able to substitute prior wages to establish a benefit amount.

For current rates, navigate to [Contribution Rates and Benefit Amounts](http://edd.ca.gov/disability/Contribution_rates_and_Benefit_Amounts.htm) (edd.ca.gov/disability/Contribution\_rates\_and\_Benefit\_Amounts.htm).

**Note:** For an estimate of the claimant's DI or PFL WBA, visit [Disability Insurance and Paid Family Leave Calculator](http://edd.ca.gov/Disability/PFL_Calculator.htm) (edd.ca.gov/Disability/PFL\_Calculator.htm).

The date the DI or PFL claim begins determines an individual's base period. PFL calculates the WBA using their base period.

#### Reference: CUIC, section 2708, 3202.1

An individual who wants their claim to begin later so that there is a different base period should call DI at 1-866-380-4287 or PFL at 1-877-238-4373.

**Note:** An individual may not change the beginning date of their claim or adjust a base period after establishing a valid claim.

### Request for State Plan Award

According to Code, each VP claimant must be paid a VPDI or VPFL benefit at least equal to what would have been paid if covered under SDI. A claimant's state award might exceed the VP benefit calculation since the state uses all subject wages in its calculation. Therefore, a VP must obtain the state award information for any claimant whose VPDI or VPFL benefit is calculated at less than the state maximum.

To request SDI award information, complete question 11 on the DE 2523 or question 14 on the DE 2523F. This procedure should only be used as a guide to determine adequate VP payments, not as a calculation of the VP benefit. If the SDI award is not received within 10 days, contact the EDD at [DIVPG](mailto:DIVPG@edd.ca.gov) (DIVPG@edd.ca.gov).

VP employers may request state award information for VPFL claims on the required DE 2523F. VP employers may request state award information no earlier than 10 days after submitting a DE 2523F. Send requests via email to [DIB PFLVP](mailto:DIBPFLVP@edd.ca.gov) (DIBPFLP225@edd.ca.gov).

**Note:** PFL state award information cannot be obtained electronically. The PFL program manually mails award information.

**Reference:** CUIIC, sections 2611(b), 2612, 2652, 2658, 2776, 2777 and CCR, Title 22, section 3268-1

Qualifying wages from all employers during the base period are considered in the calculation of the WBA. Base period wages do not need to include wages from the current employer in order to qualify for benefits (i.e., wages do not need to be strictly VP employer wages to be qualifying wages for VP disability benefits).

The MBA is 52 times the WBA or the total wages subject to SDI tax paid in the claimant's base period, whichever is less. The base period is determined by the effective date of the claim as follows:

<b>If claim begins:</b>	<b>The base period is the 12 months ending the</b>
January, February, March	September 30
April, May, June	December 31
July, August, September	March 31
October, November, December	June 30

**Reference:** CUIIC, sections 2610, 2655(c), and 2655(d).

For additional information about WBAs, visit the [EDD website](http://edd.ca.gov/disability) (edd.ca.gov/disability)

## Calculation of Benefits When Receiving Wages

Receipt of wages, earned or not earned, may not always preclude payment of benefits. Benefits are paid to compensate for a wage loss due to a disability or family leave. When a wage loss is identified, and all other eligibility requirements are met, the individual is eligible for benefits. However, the SDI benefit amount will be reduced if the amount of employer paid wages and the SDI benefit exceeds the claimant's regular wage immediately prior to the commencement of the disability or family leave, excluding overtime.

**Scenario:** The claimant's regular wage prior to their disability was \$450 per week. The maximum weekly benefit entitlement under the VP is \$250 per week.

**Example 1:** The claimant is unable to work and is not paid any wages by the employer. The claimant is eligible for \$250 per week in VP benefits, the maximum entitlement.

**Example 2:** The claimant is released by the treating physician/practitioner to return to work half time, earning \$225 in wages per week. The claimant has a \$225 per week wage loss and is eligible for \$225 per week in VP benefits, the amount equal to the wage loss.

**Example 3:** The claimant is released by the treating physician/practitioner to return to work 15 hours per week, earning \$169 in wages per week. The claimant has a \$281 per week wage loss and is eligible for \$250 per week in VP benefits, the maximum entitlement.

	Example 1	Example 2	Example 3
<b>Regular Wages</b>	\$450	\$450	\$450
<b>Partial Wages</b>	\$0	-\$225	-\$169
<b>Wage Loss</b>	\$450	\$225	\$281
<b>VP Benefit Amount</b>	\$250	\$225	\$250

The claimant is paid the calculated maximum VP benefit amount, or the amount of the wage loss, whichever is less. Benefits calculated for partial weeks must use one-seventh the wage and benefit amount as specified in the VP text provisions.

The wages may be paid by the VP employer paying DI/PFL or by a different employer. Claimants may return to light work, part-time work, or less than “regular or customary work” as a result of their disability or family leave. The claimant may also seek work with another employer doing less than regular or customary work and the claimant may still have a wage loss. In this case, the claimant must submit a record of wages to the VP paying benefits so that benefit entitlement may be calculated.

**Reference: CUIC, sections 140.5 and 2656.**

### Calculation of Partial Benefits

When benefits are paid for a partial week, the calculation must conform to the statement in the text provisions. SDI pays one-seventh of the WBA for each day of disability or family leave. This means that the claimant may be paid for days of the week not usually worked (for example, weekends, and holidays). The claim and benefits may begin on a day that the claimant would not have been scheduled to work (for example, Saturday or Sunday).

**Reference: CUIC, section 2656. Claimant’s Right to Recalculation of Benefits**

When the EDD receives a [Report of Voluntary Plan Disability Claim \(DE 2523\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2523.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2523.pdf), or the [Report of Voluntary Plan Family Leave \(VPFL\) Claim \(DE 2523F\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2523f.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2523f.pdf), the basic information is entered into SDI Online. A *Notice of Computation* (DE 429D or DE 429DF) and the *Explanation of Notice of Computation* (DE 429DI), are mailed to the claimant. The claimant should review and verify the wages used to calculate the SDI award.

If the claimant’s situation fits any of the circumstances listed for a substitution of wages on the DE 429DI, they have the right to request a recalculation of benefits from SDI. Since the VP benefit must meet or exceed the SDI award in all cases, this recalculation may affect the VP benefit.

There may also be wage errors or omissions on the DE 429D or 429DF. Wages may have been reported but credited to an incorrect SSN. It is the claimant’s employer/TPA responsibility to contact the EDD to submit wage verification and to request a recalculation.

**Reference: CUIC, sections 2707.3 and 2707.4; CCR, Title 22, section 3254-1(a).**

### Benefit Redirection

VP claimants may choose to have a portion of their VP benefits redirected to pay or reimburse all or a part of the cost of their employee-paid benefits. The redirection of VP benefits may be made at the time the individual applies for VP benefits or at any time the individual is receiving benefits. Claimants are not required to have benefits redirected.

The authorization form must allow the claimant to:

- Authorize in writing the weekly amount of the VP benefits to be redirected for the payment of the employee paid benefit.
- Terminate or change the terms of the voluntary redirection of benefits at any time. If the claimant is legally declared incompetent, the spouse of the claimant, in the absence of any other legally authorized representative, has the right to continue or cancel the authorization.

**Reference: CUIC, section 1345.**Payment of Benefits

### **Payment of Benefits**

If a claimant is determined eligible for benefits, they should be paid within 14 days of receipt of a properly completed claim.

**Reference: CUIC, sections 2701.5 and 3264; CCR, Title 22, section 3267-1.**

### **Denial of Benefits**

Although a claimant is unable to work due to their disability or family leave, they may not be eligible for all or a portion of their requested benefit period. The allowable reasons and the legal references for benefit disqualification include, but are not limited to the following:

- Late filing of the initial or continued claim.

**Reference: CUIC, sections 2706.1 and 2706.2; CCR, Title 22, section 2706-3.**

- Not being under the care and treatment of a physician/practitioner, although regulations allow payment of benefits for up to seven days prior to the first day of care and treatment.

**Reference: CUIC, section 2708; CCR, Title 22, section 2706-1.**

- Receiving full wages.

**Reference: CUIC, section 2656.**

- Receiving WC benefits in an amount greater than the DI or PFL benefit amount.

**Reference: CUIC, section 2629 and 3303.1 (a) (2).**

- Incarceration as the result of a criminal conviction or the disability as a result of the commission of, arrest, investigation, or prosecution of any crime that results in a felony conviction.

**Reference: CUIC, sections 2680 and 2681.**

A claimant may not be eligible for a portion of benefits if their wage loss is less than their SDI benefit amount. In these situations, the employee is entitled to benefits equal to the wage loss. Allowable reasons for partial benefit disqualification include:

- Light or limited work, at less than their regular weekly wage.
- Part-time return to work, at less than their regular weekly wage.

- Sick leave pay at less than their regular weekly wage.
- Receipt of temporary or permanent WC benefits at less than the DI or PFL benefit amount.

When VP benefits are disallowed in whole or in part, a written notice of disqualification must be sent to the claimant. A copy of the notice must be attached to a copy of the DE 2523 or DE 2523F when it is submitted to the EDD. A claimant may assume that unreasonable delay in payment is a denial of benefits and may request a hearing before an ALJ.

The written notice must include:

- The dates when benefits were disqualified.
- An explanation of why benefits were disqualified for those dates.
- Information advising the claimant of the right to appeal the disqualification.

If the period and reason for disqualification ends, benefit payments must continue the same WBA and MBA allowed by the plan, provided all other eligibility criteria are met.

**Reference: CUIC, section 2656.**

### **Claimant's Right to Appeal Denial of Benefits**

When a claimant is denied any or all benefits, they must be informed of the right to appeal in the manner prescribed by the CUIC. To appeal a denial of benefits, the claimant must send a letter to any [EDD office](http://edd.ca.gov/office_locator) (edd.ca.gov/office\_locator) postmarked no more than 30 days from the date of the notice of denial of benefits. To file a VPFL benefits appeal, the claimant must send their letter to the PFL office at:

**Employment Development Department  
Disability Insurance Branch  
Paid Family Leave  
PO Box 997017  
Sacramento, CA 95899-7017**

The VPDI or VPFL appeal letter should include the following:

- Claimant's name.
- Claimant's signature.
- Employer's VP number (VPDI claims).
- Claimant's Social Security Number for (VPFL claims).
- The reason for appealing the decision.

The EDD office will complete the required forms and forward them to the appropriate Office of Appeals.

**Reference: CUIC, section 2707.2; CCR, Title 22, section 5007(c).**

## **Administrative Law Judge or California Unemployment Insurance Appeals Board Decisions**

When an ALJ or the CUIAB decides that a claimant is entitled to benefits, the VP must pay benefits within 15 days of the mailing of the notice of decision.

The VP's and/or claimant's right to appeal an ALJ decision to the CUIAB does not override the effect of the ALJ decision. Benefits must be paid timely pending the decision of the CUIAB.

**Reference: CUIC, section 3265(a).**

### **Payment of Benefits Pending Appeal Decision**

In some circumstances, payment of benefits is optional pending the outcome of an ALJ decision on the appeal. If eligible to continue receiving full benefits pending the outcome of the appeal employee must:

- File a timely appeal.
- Submit a signed promise, or agreement, to the VP to repay benefits to which the claimant is not entitled to, in some instances the claimant may not be required to repay all of the benefits received during the disability or PFL period, if an ALJ rules the claimant was not entitled.
- Certify to benefits pending the ALJ decision.

**Reference: CCR, Title 22, section 2706-5.**

## **WORKER'S COMPENSATION BENEFIT REDUCTION**

Although a VP pays compensation for injury or illness that is not work-related, in some cases benefits are payable along with payments for industrial injury or illness. The CUIC allows for payment of SDI or VP benefits reduced by "other benefits." "Other benefits" are defined as temporary disability (TD) and permanent disability (PD) under a WC or employer's liability law.

**Reference: CUIC, section 2629.**

If an individual is receiving WC benefits in an amount less than the calculated VP benefit, the employer/TPA must pay the difference between the WC benefit amount and the VP benefit amount. If the amount of TD or PD equals to or exceeds the VP benefit amount, the VP claim is disqualified (not eligible for payment) until the claimant returns to work and/or the "other benefits" cease.

**Note:** Employees who sustain an injury on the job should be instructed to file both a WC and a VP claim.



## **Conflicting Medical Information**

WC benefits may cease when the insurance carrier or self-insured employer has medical documentation indicating that the claimant has recovered or is able to return to their regular or customary work. However, the claimant's treating physician/practitioner may continue to certify that the disability continues. In cases of conflicting medical opinions, the VP may pay benefits at the rate described in the VP text provisions, or may deny benefits. If VP benefits are denied, a denial letter must be sent to the claimant advising of the right and method to appeal the decision.

## **Payment of Benefits under Lien**

When information indicates that the disability resulted from a work-related illness or injury, a valid VP claim must be paid if one of the following exists:

- Current proof from the WC insurance carrier or self-insured employer that TD benefits are not being paid.
- Current proof showing the claimant is not entitled to TD for the period in question (e.g., A Notice of Final Check letter stopping TD or denying those benefits).
- A current Application for Adjudication obtained from the State of California Division of Workers' Compensation, substantiating the above, containing either a date-received stamp or a Workers' Compensation Appeals Board (WCAB) case number.
- If the employee's WC weekly benefit is less than the VPDI or VPFL weekly benefit, the employee could receive the difference between the two rates.

The VP should file a lien against the WC insurance carrier/self-insurer when benefits are paid on an undecided, work-related disability claim. If the WC insurer later concedes liability or is ruled liable for a period that was paid by the VP, the plan is entitled to reimbursement up to the WC rate. The required form for filing a lien may be obtained by contacting the WCAB by:

**Mail:**

**Workers' Compensation Appeals Board  
455 Golden Gate Avenue, Second Floor  
San Francisco, CA 94102  
or by phone: 1-415-703-1870**

**Phone:**

**1-415-703-1870**

## **Limitation of Delay in Payment**

VP benefits may not be delayed except where the claimant is receiving or the employer or insurer has agreed to commence payment of benefits (e.g., TD or PD).

The VP is required to make an initial determination of the claimant's entitlement to WC benefits upon filing the VP claim. If the claim is deemed to be industrial, the employee must be informed that benefits will be paid pending receipt of WC benefits, if the employer or insurer fails to agree to pay or allow WC benefits within 14 days of notification of industrial injury.

**Reference: CUIC, section 2629.1.**

## COMPLIANCE REVIEWS

### Audit and Compliance Review

The CUIC authorizes the EDD to review the claims and financial records of all approved VPs to ensure that they are being properly administered by the employer in accordance with CUIC, CCR Title 22, and the employer's text provisions, and to also protect and preserve the solvency of the Disability Fund. Employers are required to make records available to the EDD for review.

The EDD conducts annual audits and has established criteria used to identify employers eligible for an audit. The purpose of the audit is to perform a compliance review by ensuring that program objectives are met as outlined in the engagement letter sent to the auditee upon selection. The audit usually takes place where the claim and/or financial records are located or the EDD may request the employer to provide copies of the records at a California location, if located out-of-state.

**Reference: CUIC 3251-3272, CCR Title 22, sections 2627-3306**

### Claims Audits

Voluntary Plan Audit and Compliance (VPAC) auditors examine the VP employer's claim records to ensure proper payment, documentation, and medical certification on claims filed by employees covered by the employer's VP.

The auditor will send an audit report to the employer within 90 days of conclusion of the audit. If findings are identified, the employer will be required to implement a corrective action recommendations and/or submit any amended reports, text provisions or other documents as requested. Failure to comply could be grounds for termination of the VP.

For any questions regarding the VP compliance audit, contact the VPG by email: [VPAC](mailto:VPAC@edd.ca.gov) (VPAC@edd.ca.gov).

**Reference: CUIC, section 3267.**

### Financial Audits

CCR, section 3267-2 of Title 22, requires that the DE 2568V report must accurately reflect the plan funds balance and transactions. We suggest the employer/TPA to transfer any funded amount into VP trust bank first, then use VP bank account to pay for all VP expenses. Doing so, VP transactions can be reflected accurately and reconciled with the amount reported on the DE 2568V. Otherwise, the employer should maintain a separate book to record the funded deficit.

EDD Tax Branch auditors will examine the VP's financial records to ensure proper accounting of the VP trust fund, VP financial transactions and compliance with VP statutes and regulations in accordance with CUIC and CCR Title 22.

## WITHDRAWAL, TERMINATION, AND CLOSURE

### Request for Withdrawal

Once a VP has been approved, the plan must remain in effect for at least one year. After one year, the employer may request withdrawal on the plan's anniversary date or date of the state contribution rate changed, or when the benefit schedule is enacted. The EDD must receive written notice no less than 30 days prior to the requested withdrawal date.

The employer can also request to withdraw for the reason of acquisition by another company. The request to withdraw due to acquisition must be received within 30 days after the acquisition date.

The VP employer remains responsible for payment of all claims filed prior to the date of withdrawal. The VP employer is also responsible for claims that were submitted after the VP withdrawal where the disability or family leave began prior to the effective date of the withdrawal.

An employer who withdraws from the VP program should notify employees about the withdrawal of the VP once they receive the Notice of Voluntary Plan Withdrawal Approval from the EDD. The employer should inform the employees that they are no longer a VP employer and advise them to contact the EDD to file DI and PFL claims.

Unpaid liabilities of the VP will be recovered from the VP employer through an assessment and the security deposit.

**Reference: CUIC, sections 3254(g) and 3254.1.**

### Termination by the Employment Development Department

The EDD may terminate a VP when terms or conditions of the plan have been violated. Some causes for plan termination are:

- Failure to pay benefits timely.
- Failure to maintain an adequate security deposit.
- Misuse of VP trust funds.
- Failure to submit reports as required by EDD regulations.
- Failure to comply with CUIC and CCR provisions.
- Participation level falls below 50 percent of employees.

If the EDD identifies a cause for terminating a VP, the EDD will send a Notice of Intent to Terminate the Voluntary Plan to the employer. If the VP fails to conform to the required instructions outlined in the notice within the required period specified, subsequently a Termination Notice will be sent. The notice will specify an effective date of termination generally coinciding with the initiating event. The termination notice will inform the employer of the right to appeal the EDD's decision to the CUIAB within 10 days of the date of the notice.

On the effective date of termination, all trust fund monies in the plan must be remitted to the EDD for deposit into the Disability Fund. Wages become subject to SDI withholdings on the effective date of the termination. The payment of benefits and the transfer of the VP trust fund to the EDD may not be delayed, even if an employer appeals the termination.

The employer should inform the employees of the effective date that they are no longer a VP employer and advise them to contact the EDD to file DI and PFL claims

**Reference: CUIIC, sections 1126, 1136, and 3262.**

### **Disposition of Excess Trust Fund Employee Contributions Following Withdrawal**

Prior to the expiration of 12 calendar quarters after withdrawal or termination of a plan, the employer must submit a proposal for disbursement of any remaining excess trust funds in its custody to the EDD. Employers may remit excess trust funds to the EDD for deposit into the Disability Fund or disburse the funds in a fair and equitable manner to the employees who contributed to the excess, once the proposal has been approved by the EDD.

**Reference: CCR, Title 22, section 3260-1**

### **Closure of Voluntary Plan and Release of Security Deposit**

The security deposit is held by the STO/FPD for the duration of the VP and is released when all liability against the plan has been resolved following withdrawal or termination of the VP. This may be up to a period of 12 calendar quarters (36 months) from the withdrawal or termination date. Earlier release may be requested for good cause and must be approved by the EDD.

After a VP is withdrawn, the employer must continue to file the [Annual Report of Self Insured Voluntary Plan \(VP\) Transactions \(DE 2568V\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de2568v.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2568v.pdf) and [VP Employer Administrative Changes \(DE 2520BV-C\)](http://edd.ca.gov/pdf_pub_ctr/de2520bvc.pdf) (edd.ca.gov/pdf\_pub\_ctr/de2520bvc.pdf) form until all liabilities against the plan have been resolved and the EDD returns the security deposit back to the employer. The employer must maintain premiums for any GB or LOC until the security is released.

**Reference: CUIIC, section 3267; CCR, Title 22, section 3267-2 (c).**

**Note:** A security deposit may be released if a substitute is submitted for deposit. The employer must maintain premiums for any GB or LOC until the security is released.

**Reference: CCR, Title 22, section 3258-1(b).**



## **STATE OF CALIFORNIA**

### **LABOR AND WORKFORCE DEVELOPMENT AGENCY**

### **EMPLOYMENT DEVELOPMENT DEPARTMENT**

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 800-745-3886 (voice). TTY users, please call the California Relay Service at 711.