

HUMAN RESOURCES MEMORANDUM 06-028		DATE ISSUED: 03/29/2007
SUBJECT: CHANGES TO THE STATE DISABILITY INSURANCE (SDI) PROGRAM		REFERENCE: None
TO: Personnel Liaisons and Attendance Clerks		SUPERCEDES: HR Memo 06-011; HR Memo 05-009, HR Memo 05-007

PLEASE ENSURE THAT THIS INFORMATION IS SHARED WITH YOUR EMPLOYEES

Purpose

The purpose of this HR Memo is to provide updated information regarding the State Disability Insurance (SDI) Program. This memorandum supersedes the above listed HR Memos and provides the 2005-2008 SEIU contract changes related to the SDI program.

Employees in Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21 are subject to the following SDI program changes.

SDI Program Description and Guidelines

The SDI program is a wage continuation program for employees who have been certified for a non-work related illness or injury. The program has two components, Disability Insurance (DI) and Paid Family Leave (PFL).

- DI – is a wage continuation program for employees who incur a non-work-related injury or illness, for up to 52 weeks.
- PFL – is extended compensation provided to employees who are SDI covered. PFL is limited to a six-week paid benefit within a 12-month period. PFL is for employees who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new minor child or adopted child.

An employee cannot receive both DI and PFL simultaneously.

Health Insurance Coverage

Effective July 1, 2006, the State employer will continue up to 26 weeks of health, dental, and vision coverage while the employee is receiving SDI benefits. Initially, the employer will pay both the employer's and the employee's portion of the insurance premiums. When the employee has returned to work, the employer will recover the employee's portion through the accounts receivable process as an overpayment. Overpayments may be satisfied through payroll deduction, agency collection, or with the use of the employee's leave credits (excluding sick leave) by mutual agreement between the employee and employer. An employee who separates without repaying the employee's portion of the health insurance premiums is subject to repayment pursuant to Government Code 19838.

Supplementing SDI Benefits with Leave Credits

Effective July 1, 2006, an employee may use up to a maximum of 40 hours of leave credits per month to supplement his/her SDI benefits. This is separate from using leave credits to cover the waiting period. The leave credits combined with SDI benefits cannot exceed the employee's monthly gross.

Eligibility to Receive SDI Benefits

To receive SDI payments, an employee must:

- Earn at least \$300 in wages that are subject to SDI deductions (during the 12-month base period of the SDI claim).
- Provide a claim for SDI benefits; this claim includes a medical certificate which must be completed in order to receive benefits.
- Serve a seven-calendar day waiting period (non-payable by SDI benefits), which includes holidays that fall within the waiting period.

SDI claims are filed by the employee and sent directly to EDD. SDI benefit payments are mailed directly to the employee, generally within two weeks. Voluntary deductions are not taken from SDI payments. For further information on claims and payments, EDD recommends employees visit the [SDI website](http://www.edd.ca.gov) (www.edd.ca.gov).

How to Apply for SDI

An employee must take the steps below when applying for SDI:

1. Immediately notify your supervisor and attendance clerk (AC) of injury, illness, or reason for absence.
2. Request the SDI Employee Options Checklist from your supervisor or AC, complete it and return it to your supervisor or AC.
3. Submit an Absence Plan to your supervisor for approval.
4. Contact EDD via phone call or internet to obtain applications for SDI or PFL
 - EDD – SDI Unit DI for State employees (866) 352-7675 or www.edd.ca.gov
 - EDD – PFL Unit for State Employees (877) 238-4374 or www.edd.ca.gov (scroll down the page until you see Paid Family Leave and click to open)
5. Submit DE2501 to doctor or treating physician. The DE2501 can be found at [EDD webpage](#).
6. If eligible, submit the FMLA – Medical Certification of Health Care Provider to your physician for completion and return to Sup or AC within 15 calendar days.
7. Provide the following documents to AC or Human Resources office in order to receive timely leave credit supplementation payment(s):
 - SDI Check Stubs
 - SDI Notice of Determination (provides eligibility information)
 - SDI Notice of Computation (provides potential award information)
8. Contact your sup to inform him/her of your disability status in a timely manner and in accordance with any written or verbal instructions they may have provided or discussed with you.
9. Provide a Medical Release to your immediate sup when returning to work on or before the anticipated effective date of return.
10. Provide medical substantiation to your immediate sup if you are not able to return to work on your anticipated return date. Substantiation for your extended absence must be provided to your immediate supervisor on or before your original anticipated date of return.

Note: Employees are required to contact their immediate supervisor and/or AC at the time he/she applies for SDI benefits.

SDI Notification to Employer

Upon receipt of a claim for DI or PFL benefits, EDD sends a notice to the employer that a claim has been filed. The employer is expected to complete and return either Form DE2503 for SDI or Form DE2503F for PFL, to EDD within two business days. If this form is received in the outlying office, please forward it to Human Resources as soon as possible.

Employer Notification to Employee

If the HR office receives notification from EDD that an employee has filed a claim for SDI benefits, and the employee has not requested a leave of absence, the employer will notice the employee by certified mail, requesting that he or she apply for a leave of absence using the DGS OHR 28. The form can be located at <http://www.documents.dgs.ca.gov/dgs/fmc/dgs/ohr028.pdf>.

While the employee is off work pending the receipt of the request for a leave of absence, the employee may be placed on temporary leave status pending a decision.

Employee Responsibilities

The employees' responsibilities are identified below. This information must be provided to his or her immediate supervisor and/or AC within seven (7) calendar days of being disabled from work:

- 1) Submit a Leave of Absence request (DGS OHR 28).
- 2) Provide the date the disability/illness commenced and estimated or approximate duration.
- 3) Provide a telephone number where the employee can be reached.
- 4) Inform the immediate supervisor and/or AC of the decision to file or not file for SDI benefits.
- 5) An election to use leave credits to cover the SDI waiting period (the first week of disability/illness).
- 6) The number of hours in a month to be charged to leave credits (in addition to the waiting period leave hours).

The election to supplement leave credits with SDI benefits.

Leave of Absence Criteria

An employee is required to obtain an approved leave of absence. A leave is granted when the employee has a necessary absence from duty because of personal illness, injury, pregnancy, or a need to bond or care for a newborn or adopted child. The employee may also request a leave due to family illness or injury.

Extension and/or Termination

If the qualifying injury or illness continues beyond the expiration date of the SDI benefits, the leave of absence may be extended.

An employee's leave of absence is terminated:

- On the expiration date of the leave; or
- By the employee, when he or she becomes medically certified to return to full employment.

Medical Certification

A physician's or licensed practitioner's medical certification is required in order to substantiate the leave of absence request. The medical certification shall include the anticipated length of the employee's absence, any restrictions upon returning to work that prevent the employee from performing the full range of his or her normal duties, and any anticipated future absences.

Right of Return

Upon termination of the leave of absence, a permanent or probationary employee has a right to his or her former position, as defined by Government Code Section 18522.

Waiting Period

DI and PFL require the employee to serve a waiting period of seven calendar days. Exception: a new waiting period is not required when an employee is on a pregnancy-related disability under DI and then files a PFL claim for bonding.

Use of Leave Credits for Waiting Period

During a waiting period, the employee may use available leave credits; be placed on an unpaid leave; or use a combination of leave credits and unpaid leave. If the employee elects to use leave credits, the employee's leave of absence status will begin on the day the use of leave credits end.

Monthly Supplementation

The employee must notify the employer of his or her election to supplement SDI benefits with the use of leave credits, the number of hours of leave credits to be charged each month (up to 40-hours maximum, this time does not include the hours used during the waiting period) and the type of leave to be used, e.g., sick leave, vacation, annual leave, or compensating time off (CTO), within seven (7) calendar days from date of injury. The use of leave credits beyond the waiting period may impact the employee's SDI benefit.

Working While Receiving SDI Benefits

When medically certified, an employee may work reduced hours while receiving SDI benefits. While working and receiving SDI benefits, the employee may be permitted to use leave credits for absences from work that are unrelated to their disability/illness.

When a full-time employee physically works and/or uses leave credits for more than 11 days (or part-time equivalent) in the pay period, the pay period is qualifying. A qualifying pay period provides the employee with leave credit accruals and State service credits.

Time worked combined with the SDI benefit amount cannot exceed the employee's total regular gross salary. If the time worked, plus the SDI pay, exceeds the total gross salary, the SDI benefit may be reduced.

Regular State Pay and Deductions

Payment of leave credits and/or time worked is considered regular pay, and subject to mandatory and voluntary deductions. Any pay received from an available program, such as catastrophic leave or the transfer of family leave, is also considered regular pay. Voluntary deductions will be deducted from regular pay unless cancelled by the employee. There must be sufficient net pay to take the deduction(s). The employee is responsible for canceling and reestablishing voluntary deductions and making direct payments to the carriers(s). The employee's union dues/fair share fees will be withheld while the employee is on pay status. Union dues/fair share fees will not be withheld while on a leave of absence (not receiving pay). The employee may elect to pay union dues/fair share fees directly to his or her union.

Note: Payment for leave credits may affect the employee's SDI benefit amount. It is the employee's responsibility to contact the EDD State Disability Insurance Program for information on how payment of leave credits may impact SDI benefits.

Workers' Compensation

When an employee files a claim for a work-related injury, he or she may be eligible to receive SDI benefits while waiting for the claim to be approved. SDI benefits may also be provided if the worker's compensation benefit is less than the SDI benefit.

Annual Leave Enrollment Period and Effective Date

Enrollment into and out of the Annual Leave Program for employees in SEIU-represented Bargaining Units 1, 3, 4, 11, 14, 15, 17, 20, and 21 will occur annually, during the month of April. All enrollments must be received by the employee's personnel office from April 1 to April 30. The effective date of the enrollment shall be the first day of the June pay period.

NDI/Enhanced NDI (ENDI)

Effective April 1, 2006, SEIU-represented employees are no longer covered by NDI/ENDI.

FMLA and CFRA

Eligible employees (and family members) with serious health conditions who are approved to receive SDI benefits typically are eligible for 12 weeks of Family Medical Leave Act/California Family Rights Act (FMLA/CFRA) benefits. The employee's FMLA/CFRA determination is completed at the beginning of the employee's leave, and the FMLA/CFRA designation is counted at the same time the employee is receiving SDI benefits (DI or PFL).

Health Benefits During FMLA/CFRA

When an employee has been designated eligible for FMLA/CFRA, the employer is required to continue up to 12 weeks of health insurance benefits (health, dental, and vision). The employer's 12-week requirement to provide health insurance benefits is also counted toward the employee's 26-week SEIU contract provision that provides health insurance coverage when the employee is receiving SDI benefits.

NOTE: Under both entitlements, the employer is responsible for the employer's portion of the health insurance premiums and the employee is responsible for repaying his or her portion of the insurance premiums upon return to employment.

Health Insurance Through Direct Pay

Employees who do not qualify for health insurance coverage while on an unpaid leave are eligible to maintain coverage by making payments directly to the insurance carrier (s). The employee is responsible for paying the full premium, both the employer and employee portion. Direct pay is provided when the employee's 12 weeks of FMLA and/or 26 weeks of State employer paid insurance benefits are exhausted and the employee does not have leave credits to cover the employee's portion of the health insurance premiums.

Documents for Direct Pay

The following direct pay forms must be completed by the employee and submitted to their Personnel Specialist in order to continue benefits:

- [Health Insurance - HBD21](https://www.calpers.ca.gov/docs/forms-publications/health-benefits-enrollment-form.pdf)
<https://www.calpers.ca.gov/docs/forms-publications/health-benefits-enrollment-form.pdf>
- [Dental Insurance - STD 696](http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std696.pdf)
<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std696.pdf>
- [Vision Insurance - STD 703](http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std703.pdf)
<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std703.pdf>

These forms can also be obtained from the Attendance Clerk and/or Personnel Liaison.

If the employee has a spouse or domestic partner who is a State employee, he or she may also elect to receive insurance benefits from the spouse's or domestic partner's insurance plan. If an employee elects not to maintain his or her Dental and/or Vision Program benefits while on a leave, the programs will suspend until the employee returns to active work status.

For information regarding the process to update an employee's health insurance status, see CalPERS Circular Letter 600-210-05.

FlexElect

The FlexElect reimbursement account and/or cash option (Flex or CoBen) enrollment will stop while the employee is on a leave of absence. If the employee returns to pay status in the same plan year, the enrollment will resume.

NOTE: If an employee is enrolled in the medical reimbursement account and wishes to continue, he/she may elect to make contributions through COBRA.

Cobra

An employee who is no longer eligible for direct pay may maintain his or her insurance benefits through COBRA.

If the Employee Separates from State Service

An employee who separates without repaying the employee's portion of the health insurance premiums is subject to repayment pursuant to Government Code 19838. When the employee has received health insurance coverage pursuant to both provisions (FMLA/CFRA and SEIU contract provisions) the employee is only responsible for repayment of the employee portion of the health insurance premiums.

When the employee receives regular pay for working or using leave credits while receiving SDI benefits, and the employee's health insurance premiums are paid through payroll deduction; the employer's FMLA/CFRA requirement to provide health insurance, and the 26 weeks of health insurance coverage provided by the contract provision, are also met.

SDI Checklists

The following checklists were developed to assist employees, attendance clerks and supervisors through the processes of SDI. The checklists communicate responsibilities and critical information on the SDI Program.

- Employee Responsibilities Checklist provides guidance to employees.
- SDI Employee Options Checklist provides Supervisors and Specialists with options chosen.
- SDI Checklist for Attendance Clerks and Supervisors provides Attendance Clerks and Supervisors with the SDI process.
- SDI Questions and Answers provides answers to various questions.

Questions

For questions regarding this memorandum, please contact your Personnel Specialist.

/s/

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