



# EXPANSION OF NJ FAMILY LEAVE INSURANCE & TEMPORARY DISABILITY INSURANCE: HOW PARENTS CAN MAXIMIZE THEIR BENEFITS

Starting July 1, 2020, New Jersey employees will be eligible for increased benefits – up to 12 weeks of Family Leave Insurance benefits while on unpaid leave from work to bond with a new child, and an increased benefit amount of 85% of the employee's average weekly wage, up to a maximum benefit of \$881 per week for both Temporary Disability Insurance and Family Leave Insurance. For parents expecting a baby this spring or early summer, these changes can be confusing. Read on to learn how to maximize your benefits.



## NEW JERSEY HAS TWO BENEFIT PROGRAMS FOR NEW AND EXPECTING PARENTS

- **Temporary Disability Insurance (TDI):** The State or a private plan insurance carrier pays employees a monetary benefit in the form of partial wage replacement when they cannot work due to pregnancy and/or recovery from delivery.
- **Family Leave Insurance (FLI):** The State or a private plan insurance carrier pays employees a monetary benefit in the form of partial wage replacement when they stop working to bond with a new child. The non-birth parent can also utilize this program.

## UNDERSTANDING EXPANSION OF NJ TDI AND FLI

### Changes to Benefit Duration



- **Through June 30, 2020:** employees may receive up to 6 weeks of FLI benefits before their child's first birthday (or within a year of placement for an adopted or foster child)
- **As of July 1, 2020:** employees may receive up to 12 weeks of FLI benefits before their child's first birthday (or within a year of placement), if the benefits are claimed for one continuous period of unpaid leave. For FLI benefits claimed during a non-continuous period of unpaid leave, parents may receive up to 56 individual days (8 weeks) of FLI benefits, before the child's first birthday (or within a year of placement)

### Changes to Benefit Amount



- First day of leave is January 1, 2020 to June 30, 2020: the employee will receive TDI or FLI benefits in an amount equal to 66% of the employee's average weekly wage, up to a maximum benefit of \$667 per week
- First day of leave is July 1, 2020 or after: the maximum weekly TDI or FLI benefit amount increases to 85% of the employee's average weekly wage, up to a maximum benefit of \$881 per week

First day of leave	Benefit rate	Duration
Before July 1, 2020	66% of the employee's average weekly wage / max benefit of \$667 per week	<b>Family Leave Insurance:</b> up to 6 weeks <b>Temporary Disability Insurance:</b> medical provider determines length
July 1, 2020 + beyond	85% of the employee's average weekly wage / max benefit of \$881 per week	<b>Family Leave Insurance:</b> up to 12 weeks <b>Temporary Disability Insurance:</b> medical provider determines length



## TIPS FOR NEW AND EXPECTING PARENTS

- Pregnant mothers: it's possible to "delay" the start of your FLI bonding leave in order to maximize your benefits. If your first day of FLI bonding leave is July 1 or later, your FLI benefits will be at the new rate and duration. If your period of disability begins before July 1, your TDI benefits for that period of disability will be at the old rate, even if the period of disability for pregnancy and/or delivery continues past July 1. See below for important details.
- Fathers/partners: if your child is born or placed before July 1, you can also "delay" the start of your FLI bonding leave in order to maximize your FLI benefits. Your first day of FLI bonding leave must be July 1 or later to receive 12 weeks at 85% of your average weekly wage, with a max of \$881 per week (on your application this is "the date your family leave began").



## KEY TERMS

**First day of disability leave:** the first day that your medical provider certifies you are unable to work due to pregnancy, and the first day that you can claim TDI benefits to partially replace the wages you've lost because you've stopped working. On your TDI application this is requested as "first date you were unable to work."

**First day of bonding leave:** the first day that you stopped working to bond with a new child and the first day you can claim FLI benefits to partially replace the wages you've lost because you've stopped working. On your FLI application this is requested as "the date your family leave began."



# FREQUENTLY ASKED QUESTIONS

## 01

### **I'm a mother who collected TDI during my pregnancy. Now what?**

After you start receiving TDI benefit payments, we will mail you an instructional form titled, "Request to Claimant for Continued Claim Information" (Form P30). You and your healthcare provider may use this instructional form to notify the Division of your delivery date if it was not provided on your initial TDI application. Next, we will mail you an instructional form called FL2-New Mother Bonding Notice, so that you can smoothly transition from TDI benefits during pregnancy immediately into FLI benefits. However, if you're having a baby this spring, you may find that utilizing your benefits for bonding leave immediately after your pregnancy/delivery leave will mean that your bonding claim is processed under the lower benefit percentage and you get the less generous bonding time. If you choose to "delay" the start of your FLI claim for bonding in hopes of maximizing your benefits, disregard the form FL-2, and instead complete a **Family Leave Insurance application** (form FL-1) with your first day of leave on or after July 1, 2020. Keep in mind, you have up until your child's first birthday to claim your Family Leave Insurance bonding benefits.

## 02

### **If my baby is born before July 1 and I utilize TDI during my pregnancy/recovery leave, then "wait" until July 1 to start my bonding leave, what will my weekly benefit rate be during bonding?**

As of July 1, the weekly benefit rate will increase to 85% of your average weekly wage, with a max benefit of \$881 per week. Your FLI benefits would be **calculated** by looking at approximately the last 18 months of wages reported to the State, prior to the start of your bonding leave.

## 03

### **I'm pregnant and my due date is this spring, but BEFORE July 1, 2020. How do I get the higher benefit amounts for both TDI and FLI?**

The good news is if you deliver your baby before July 1, you can still get the higher weekly FLI benefit rate and duration for your bonding leave. However, you will likely miss out on the higher weekly TDI benefit rate during your pregnancy and delivery leave. New mothers who decide to wait to begin bonding leave until July 1 or later may have to prepare for any possible time period between when their period of disability ends and July 1st or later (when they might want to start bonding leave), by discussing their situation with their employer and possibly utilizing accrued paid time off, savings, taking unpaid time off, or returning to work. Read on for more details.

TDI replaces lost wages while you are unable to work during your pregnancy and recovery from delivery. This timeframe is designated by your healthcare provider and your due date. This timeframe cannot be shifted around or moved since it's based on your

pregnancy, delivery and recovery according to your healthcare provider. Most healthcare providers typically have you stop working up to 4 weeks before your due date, and 6-8 weeks after your delivery date (depending on the type of delivery). Therefore, if your due date is before July 1, and your period of disability begins during your pregnancy, then your TDI claim will be calculated at the lower benefit rate. Even if you wait until July 1 to submit a TDI application, your TDI benefits will still be at the lower benefit rate because the first day you were medically unable to work was before July 1. Some mothers decide to keep working right up until their due date and do not take leave from work until the baby is born. If you decide to do this and your baby is born July 1, 2020 or later, then your TDI benefit weekly amount for the mother's recovery period will be at the new, more generous rate – but the number of weeks is still determined by your doctor, and is typically 6-8 weeks for child birth recovery.

You can receive FLI benefits for bonding up to one year after you deliver. If you wish to receive 12 weeks of FLI benefits, you can delay until July 1 or later to start your leave to bond and to claim your first day of FLI benefits.

## 04

### **To get the higher and longer benefit amount, when should my FLI claim begin?**

Your first day of bonding leave – your “first day of leave” on your application - drives the FLI benefit amount and duration. That means, if you start bonding on June 30, your claim will be based on the lower benefit levels, and you may claim up to 6 weeks of benefits, and collect up to \$667 per week. If you start bonding on or after July 1, your claim is based on the new benefit levels and you have access to a longer benefit duration and higher benefit amount. These claims can receive up to 12 consecutive weeks of benefits, or up to 56 individual days if taking leave on a day-by-day basis.

All FLI claims beginning July 1 will receive 85% of their average weekly wage up to \$881 per week, whether the corresponding leave is taken continuously or intermittently.

## 05

### **If I take bonding leave one week at a time throughout the year, do I still get 12 weeks of FLI benefits?**

No. In order to receive 12 weeks of FLI benefits your corresponding leave must be taken in one continuous 12-week period. If you take your leave on any other schedule, whether it be a week, a month, or a day at a time, it is viewed as a non-continuous or intermittent leave. Non-continuous FLI claims can receive up to 8 weeks (56 individual days) of benefits.

## 06

### **If I take leave from work to bond with a new child for three weeks in a row after July 1 and receive FLI benefits for each of those three weeks, when I return to work, how many more weeks of FLI benefits do I have left before my child's first birthday / or within a year of my adopted or foster child's placement?**

You would have five remaining weeks of FLI benefits to claim before the child's first birthday or within a year of your child's placement. This situation is viewed as non-continuous or intermittent leave because you did not take your leave all at once.

FLI claims for periods of non-continuous leave can be for up to 8 weeks (56 individual days) of benefits, while FLI claims for continuous periods of leave can be for up to 12 weeks of benefits.

07

### **Is the FLI weekly benefit rate and duration based on the start of my claim, or when I submit my application?**

Your first day of leave drives the FLI weekly benefit amount and duration, not the date you submit your application for FLI benefits. For example, if you are claiming benefits as of June 15 and submit your application on July 1, your claim will be based on the less generous benefit levels because your first day of bonding leave was before July 1.

08

### **My doctor says I will be unable to work from June through August. Can my claim be recalculated after July 1 to get the higher amount?**

No. The first day of your period of disability drives your TDI weekly benefit amount. If your first day of disability is before July 1, the entire duration of TDI benefits will be calculated at the lower benefit rate allowed by law (2/3 of your average weekly earnings up to a maximum of \$667 per week). See question #1 for FLI benefits during leave to bond with your new child starting before and after July 1.

09

### **I'm a new or expecting father/partner. Does the expansion of benefit duration and benefit amount apply to me?**

Yes, the new legislation applies to any New Jersey employee eligible for TDI and FLI. This includes employees bonding with a newborn, newly adopted or newly placed foster child. If your child is born, adopted or placed prior to July 1 and you would like to maximize your benefits, make sure your FLI application has the first date of leave as July 1, 2020 or later.

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### **Is my job protected if I receive TDI or FLI benefits?**

It depends. If you take leave for pregnancy, delivery, to bond with a new child, or care for a seriously ill loved one, your job may be protected under the state and/or federal laws that entitle you to take that leave, such as the New Jersey Family Leave Act (enforced by the NJ Division on Civil Rights or DCR) or Federal Family and Medical Leave Act (enforced by the United States Department of Labor or USDOL). These leave laws are separate and apart from the New Jersey Temporary Disability Benefits Law, which entitles employees to TDI and FLI. TDI and FLI are monetary benefits, not leave. You may be eligible for TDI or FLI benefits regardless of whether you are covered under job protection laws. The NJ Temporary Disability Benefits Law does, however, protect those who have received or who have sought to receive TDI or FLI benefits from retaliation by their employers. If you believe that your employer has terminated you or taken some other adverse employment action against you in retaliation for having sought or received TDI or FLI benefits, you may file a private legal action against your employer.

Generally, employers with at least 50 employees are covered under the Federal Family and Medical Leave Act (FMLA) and must provide 12 weeks of job-protected family and

medical leave to employees, including for pregnancy, child birth recovery, and caring for or bonding with a new child. Visit [www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla) for more information on the FMLA.

In addition, employers in New Jersey with at least 30 employees worldwide are covered under the NJ Family Leave Act (NJFLA). Under NJFLA, employers must provide 12 weeks of job-protected family leave to employees so they can care for or bond with a child. If you are pregnant or just had a baby, you can take up to 12 weeks for pregnancy and recovery from childbirth under the FMLA, and you can then take an additional 12 weeks of NJFLA leave to bond with or care for your baby after your doctor certifies you are fit to return to work or you have exhausted your FMLA leave (whichever is earlier). See this **Fact Sheet** for more info or call the Division on Civil Rights at 973-648-2700.

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## **If I want to start unpaid leave before July 1 using the job protection provided by NJFLA, wait for July 1 to start my FLI claim, and then take 12 weeks of FLI benefits for bonding, will my job be protected for that entire period of time?**

No. NJFLA provides up to 12 weeks of job protection to bond with or care for your baby (as well as to care for a seriously ill loved one). If you decide to take unpaid leave under NJFLA while waiting for July 1, the NJFLA “clock” will start running, and your NJFLA coverage will run out before your 12 weeks of FLI bonding benefits are complete. See this **Fact Sheet** for more info or call the NJ Division on Civil Rights at 973-648-2700. We recommend that you speak with your employer about your options, and consider your health insurance benefits as well. You do have the right to take private legal action if an employer retaliates against you for using or seeking to use your TDI or FLI benefits.

[myLeaveBenefits.nj.gov](http://myLeaveBenefits.nj.gov)



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