

# Disability Administration 2020

## Short-Term Disability plan (VDI) and Paid Family Leave (PFL)



## Table of Contents

<b>Letter to Faculty and Staff</b>	1
<b>Voluntary Disability Insurance and Paid Family Leave Plan</b>	2
<b>I. Definitions</b>	3
<b>II. Coverage</b>	5
A. Eligibility under the Voluntary Plan	5
B. Effective Date of Coverage	5
C. Termination of VP Coverage	5
<b>III. Contributions</b>	7
<b>IV. Benefit Determination</b>	7
A. Disability Waiting Period	7
B. Disability Determination	7
C. VPFL Waiting Period	8
D. VPFL Determination	9
<b>V. VPFL Continued and Re-Established Claims</b>	12
A. VPFL Continued Claims	12
B. VPFL Re-established Claims	12
<b>VI Simultaneous Coverage</b>	13
A. Simultaneous Coverage for Disability Claims	13
B. Simultaneous Coverage for VPFL Claims	14
<b>VII. Exclusions</b>	14
A. Exclusions for Disability Benefits	14
B. Exclusions for VPFL Benefits	15
<b>VIII. Weekly and Maximum Benefit Amounts</b>	16
A. Weekly Disability Benefit Amount	16
B. Maximum Disability Benefit Amount	17
C. Weekly VPFL Benefit Amount	17
D. Maximum VPFL Benefit Amount	17
<b>IX. Redirection of Benefits</b>	17
<b>X Overpayments</b>	18

<b>XI. Appeals</b>	18
A. Appeal of Denial of VPDI or VPFL Benefits	18
B. Payment of Benefits Pending Appeal	18
C. Disputed Coverage Appeals	18
<b>XII. VP Claim Intake Process</b>	19
<b>XIII. Other Requirements</b>	19
A. Security	19
B. Reports	19
C. Assessments	19
D. Withdrawal of Plan	19
<b>XIV. Compliance</b>	20

## **Acronyms**

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

## 1 TCCS DISABILITY ADMINISTRATION

January 1, 2020

To: Faculty and Staff of The Claremont Colleges  
From: Disability Administration – The Claremont Colleges Services  
Re: Voluntary Disability Insurance (VDI) and Paid Family Leave (PFL) Benefits

California law permits an employer to implement a self-insured short-term disability program as long as the rights and benefits provided by the program equal or exceed the benefits provided by the state plan. Also, the self-insured short-term program must provide at least one right or benefit that is greater than what is provided by the state plan.

The Claremont Colleges' short-term disability plan, known as the Voluntary Disability Insurance (VDI) plan is equal to the state plan in all areas and is greater than the state plan in the following:

- 1) VDI benefit payments coincide with the regular payroll schedules, which means payments are received sooner.

The Claremont Colleges implemented the VDI Plan on January 1, 1972. Effective July 1, 2004, the VDI Plan incorporated Paid Family Leave (PFL) into The Claremont Colleges' Plan (the "plan").

The VDI benefits are designed to provide partial compensation for wages lost if you are unable to work because of a non-work-related illness or injury. VDI benefits can be supplemented with an employee's accrued leave hours according to each institution's supplementing policy.

The PFL benefit provides partial compensation for wages lost if you require time off work to care for a qualifying family member who becomes ill or if you want to bond with a qualifying child. PFL benefits can be supplemented with an employee's accrued leave hours according to each institution's supplementing policy.

The minimum weekly VDI benefit amount is \$50, and the maximum weekly VDI benefit amount is \$1,300.

### **Applying for benefits:**

To receive the claim packet for VDI and PFL, please contact Human Resources or the Disability Administration office at The Claremont Colleges Services, 101 S. Mills Ave., Claremont, California 91711 or by phone at (909) 607-7946. All forms must be completed and submitted to determine eligibility benefits.

**VOLUNTARY DISABILITY INSURANCE PLAN & PAID  
FAMILY LEAVE  
(Short-term Disability Insurance)**

This is to acknowledge that I, \_\_\_\_\_,  
received a copy of the Voluntary Disability Insurance (VDI) & Paid  
Family Leave (PFL) plan for Pomona College, The Claremont Colleges  
Services, Scripps College, Claremont McKenna College, Harvey Mudd  
College, Pitzer College, and Keck Graduate Institute.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*College/Institution*

\_\_\_\_\_  
*Department*

\_\_\_\_\_  
*Signature*

**Please return to:  
Human Resources**



# Voluntary Plan for Employees of The Claremont Colleges

## I. Definitions

- A. "Calendar quarter" means three consecutive months in a calendar year, commencing with the first day of January, April, July, or October.
- B. "Care provider" means the family member who is providing the required care or bonding.
- C. "Care recipient" means either the family member as defined in these definitions, who is receiving care for a serious health condition or the child with whom the claimant is bonding.
- D. "Care recipient period" means all periods of family care leave that an employee takes within a 12-month period to care for or to bond with the same care recipient.
- E. "Child" means a biological, adopted, or foster son or daughter, a stepson, a stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis.
- F. "Disability" means an illness or injury, whether physical or mental, including any illness or injury resulting from pregnancy, childbirth, or related medical condition that renders an employee unable to perform his or her regular and customary work. Disability refers to claims for unemployment disability.

An individual is unable to perform his or her customary work if he or she is ordered not to work by written order from a state or local health officer, as defined in CUIA Section 2626 because he or she is infected with, or suspected of being infected with, a communicable disease.

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

"Disability benefit period," for purposes of VPFL, means the period of unemployment beginning with the first day an employee establishes a valid claim for VPFL to care for a seriously ill family member, or to bond with a minor child during the first year after the birth or placement of the child in connection with foster care or adoption.

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

Periods of disability for pregnancy and periods of family care leave for bonding associated with the birth of that child will be considered one disability benefit period.

- H. “Domestic partner” has the same meaning as defined in Section 297 of the California Family Code.
- I. “Employer” means The Claremont Colleges.
- J. “Maternity” means the period during pregnancy and shortly after childbirth.
- K. “Family care leave” means either of the following:
1. Leave to bond with a minor child within the first year of the child’s birth or placement in connection with foster care or adoption.
  2. Leave to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition.
- L. “Family member” means child, parent, grandparent, grandchild, sibling, spouse, or domestic partner as defined in CUI Section 3302.
- M. “Paid Family Leave” or “PFL” means the program that provides up to six weeks of partial wage replacement benefits to workers who take time off work to care for a seriously ill family member as defined in these definitions, or to bond with a new child.
- Effective July 1, 2020. All PFL benefits will be entitled to eight weeks in a twelve-month period.
- N. “Parent” means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or another person who stood in loco parentis to the employee when the employee was a child.
- O. “Plan” means the voluntary plan described in this document.
- P. “Physician” includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law. “Psychologist” means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in psychology.
- Q. “Practitioner” means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or a nurse practitioner, and in the case of a nurse practitioner, after performance of a physical examination by a nurse practitioner and collaboration with a physician or surgeon, or as to normal pregnancy or childbirth, a midwife, nurse midwife, nurse practitioner, or physician assistant who has performed a physical examination under the supervision of a physician or surgeon.

## 5 TCCS DISABILITY ADMINISTRATION

- R. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision by a health care provider, as defined in Section 12945.2 of the California Government Code.
- S. "Sibling" means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.
- T. "Spouse" means a partner to a lawful marriage.
- U. "State Plan" means the benefits payable from the State Disability Fund pursuant to Part 2 of Division 1 of the CUIC.
- V. "Termination of the employer-employee relationship" means that employment ceases with no mutual expectation or intention to continue the employment relationship. Reasons for termination of the employer-employee relationship include, but are not limited to, separation, dismissal, resignation, and retirement.
- W. "12-month period" means the 365 consecutive days that begin with the first day an employee first establishes a valid claim for VPFL.
- X. "Voluntary Plan" means a voluntary plan established pursuant to Division 1, Part 2 of the CUIC.
- Y. "Voluntary Plan Family Leave" or "VPFL" means PFL benefits paid by the Voluntary Plan.

## II. Coverage

### A. Eligibility Under the Voluntary Plan (VP)

All California employees are eligible for coverage under this plan except short-term employees (employees hired for a period not expected to exceed two weeks or those who are hired through a temporary employment agency). Active employees on the effective date of this plan shall be immediately eligible for coverage under the plan provided they have paid wages into either State Disability Insurance (SDI) or VDI. New employees shall become eligible on their date of hire.

### B. Effective Date of Coverage

Each employee is covered by the plan on the effective date of the plan unless he or she rejects coverage in writing. An individual employed after the effective date of the plan is covered as of his or her date of employment unless he or she rejects coverage in writing.

### C. Termination of VP Coverage

1. VP coverage may be terminated for any one of the following conditions:
  - a. Termination of the VP by the director of the EDD.



- b. Withdrawal of the VP by the employer or a majority of its employees employed in this state covered by the plan.
- c. Cancellation of the VP by an admitted disability insurer or successor employing unit.
- d. Withdrawal from the VP by a covered employee.
- e. Termination of the employer-employee relationship.
- f. Unpaid leave of absence or layoff if it extends to 15 full days before the period of disability or family leave commences.

**Exception: The VP under which an employee establishes a care recipient period remains liable for all subsequent claims for the same care recipient through the end of the 12-month period.**

- 2. VP coverage shall not be terminated under any of the following (but not limited to) conditions:

- a. When a VP elects to extend its benefits for a specified period longer than required by law.

- b. When a covered employee becomes disabled on the date in which coverage under the VP would otherwise be terminated.

The VP under which an employee establishes a care recipient period remains liable for all subsequent claims for the same care recipient through the end of the 12-month period.

The VP is not liable for a VPFL claim when the claim effective date is before the termination of the employer-employee relationship.

- c. When a covered employee receives “wages,” as defined by CUIIC sections 926-940, from the VP employer during a leave of absence or layoff. Coverage shall not be terminated until 15 full days after the last day for which wages were paid before the period of disability commences.

The VP is liable for a VPFL claim if the employee was covered with that plan beginning with the last day worked and for 15 full days after an unpaid leave of absence or layoff. The VP remains liable for all VPFL claims for the same care recipient through the end of the 12-month period, regardless of whether the family care leave is consecutive or intermittent.

- d. When a covered employee who is on a leave of absence or layoff without pay becomes disabled within 15 full days following the last day of work and suffers a second or more unrelated disability before he or she recovers from the original condition. Coverage shall not be terminated during the uninterrupted period of disability.

- e. When a covered employee is terminated, laid off, or given a leave of absence without pay while receiving “other benefits” such as workers’ compensation, (see CUIIC section 2629 for a full list), and

then suffers a second or more unrelated disability while receiving such “other benefits.” Coverage shall not be terminated during the uninterrupted period of disability, regardless of whether VPDI benefits are immediately payable under the VP.

- f. When a covered employee becomes disabled after leaving work due to a trade dispute. Coverage shall not be terminated as long as the trade dispute is in active progress.
- g. When a covered employee becomes disabled due to pregnancy and begins a period of family care leave to bond with that child. Coverage shall not be terminated at any time during the disability benefit period as defined in CUI section 3302.1(c).

### **III. Contributions**

#### **A. Voluntary Disability Insurance and Paid Family Leave**

- 1. The VDI contribution rate for TCCS will remain at 0.9%.
- 2. The maximum taxable wage ceiling will increase from \$118,371 to \$122,909.
- 3. The employee maximum contribution tax will increase from \$1,183.71 to \$1,229.09 for the first \$122,909 of wages earned per year.
- 4. The maximum weekly benefit amount for the plan will increase from \$1,252 to \$1,300.

### **IV. Benefit Determination**

#### **A. Disability Waiting Period**

For each disability benefit period, the claimant will serve a seven day, non-payable waiting period. Disability insurance benefits will begin on or by the sixth consecutive day of disability. For each disability period for the same or related condition separated by a period of not more than 60 days, where the claimant has already served a seven day waiting period, a second seven day waiting period will be waived. CUI Section 2627.

If a disability period lasts more than 14 days, any waiting period previously applied will be waived.

#### **B. Disability Determination**

- 1. A covered employee may be eligible for disability benefits if he or she:
  - a. Is unable to perform his or her regular or customary work because of physical or mental illness or injury, including but not limited to pregnancy, childbirth, or related medical condition.
  - b. Is unable to work because of a written order from a state or local health officer as defined by CUI Section 2626 because he or she is infected with, or suspected of being infected with, a communicable disease.

- c. Is referred or recommended by a physician to participate as a resident in an approved alcoholic recovery program.
  - d. Is referred or recommended by a physician to participate as a resident in an approved drug-free residential program.
2. The disability must be supported by a certificate of a physician or practitioner, or if hospitalized under the authority of a county hospital in California or a medical facility of the United States, an authorized medical officer of a United States government hospital or medical facility, or a registrar of a county hospital within the state of California. A midwife, nurse midwife, or nurse practitioner may file a certificate in support of a normal pregnancy or childbirth.

The medical certificate must contain all of the following:

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

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

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

A certificate will not be necessary if, in accordance with CUIC section 2708.1, the claimant submits evidence of receipt of temporary disability benefits under a workers' compensation law.

If the claimant adheres to the teachings of a bona fide church, sect, denomination, or organization, and depends entirely upon prayer or spiritual means for healing, the disability may be supported by a certificate from a duly authorized and accredited practitioner of such church, sect, denomination, or organization (CUIC Section 2709).

### **C. VPFL Waiting Period**

Pursuant to AB 908, effective January 1, 2018, the waiting period for all VPFL claims will be eliminated. Effective July 1, 2020. All PFL benefits will be entitled to eight weeks in a twelve-month period.

### **D. VPFL Determination**

- 1. A covered employee may be eligible for VPFL benefits if he or she is unable to perform his or her regular or customary work due to

## 9 TCCS DISABILITY ADMINISTRATION

providing care to a seriously ill family member or to bond with a new minor child within one year of the birth or placement of the child in connection with foster care or adoption.

### a. Providing Care to a Seriously Ill Family Member

The medical eligibility of the serious health condition of the family member that warrants the care of the employee must be established by a certificate from a physician or practitioner. The information provided must be within the physician's knowledge and must be based on a physical examination and documented medical history of the family member.

The certificate must contain all of the following information:

#### 1) Care Provider Certification

- a) The claimant's legal name, social security number, date of birth, gender, mailing address, last day worked, a reason why he or she is no longer working at his or her last job, and occupation.
- b) The date upon which he or she requests benefits to begin.
- c) The claimant's relationship to the care recipient.
- d) The care recipient's legal name.
- e) A statement attesting to whether any other family member is ready, willing, able, and available to provide care for the same period of time in a day.

#### 2) Care Recipient Certification

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

#### 3) Medical Certification

- a) The name and date of birth of the care recipient.
- b) A diagnosis and diagnostic code prescribed in the International Classification of Diseases, or where no diagnosis has been obtained, a detailed statement of symptoms.
- c) The date, if known, on which the condition of the care recipient commenced.
- d) The probable duration of the care recipient's condition.
- e) An estimate of the amount of time that the care provider is needed to care for the care recipient.

- f) A statement that the care recipient's serious health condition warrants the participation of the claimant to provide care for the care recipient. "Warrants the participation of the employee" includes, but is not limited to, providing psychological comfort and arranging "third party" care for the care recipient, as well as directly providing or participating in medical care.
- g) A statement regarding whether disclosure of the physician's or practitioner's certificate would be medically or psychologically detrimental to the care recipient.
- h) The physicians or practitioners name, address, license number, and signature.

If a family member in good faith adheres to the teachings of a bona fide church, sect, denomination, or organization, and depends entirely upon prayer or spiritual means for healing, the family member's serious health condition may be supported by a certificate from a duly authorized and accredited practitioner of such church, sect, denomination, or organization. Such certificate must contain a certification of the care recipient's serious health condition that warrants the care of the employee and the estimated duration of the serious health condition. (CUIC Section 2709).

#### b. Bonding with a New Minor Child

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

A covered employee may be eligible for VPFL benefits if he or she files a claim and supporting documentation that provides satisfactory evidence of the birth, adoption, or foster care placement of the child and that verifies the relationship of the claimant to the child. The supporting documentation must contain the following:

- 1) The new child's relationship with the claimant, legal name, date of birth, gender, residence address, and, if available, social security number. The absence of the social security number shall not disqualify the claimant.
- 2) The date of foster care or adoption placement of the new minor child with the claimant.
- 3) The claimant's signature.
- 4) For maternal, paternal, or registered domestic partners, any of the following documents are acceptable to verify the child's birth:
  - a) A photocopy of the child's certified birth certificate.
  - b) A photocopy of the completed hospital or birthing center documents attesting to the birth of the child.
  - c) A letter from the birthing centers or hospital's Director

of Medical Records or his or her designate containing the child's full name, gender, and date of birth, the full name of the mother, full name of the father, if known, or registered domestic partner, and a dated signature of the treating physician, practitioner, midwife, or Director of Medical Records.

- d) For paternal non-spouse bonding claims, where the individual is not named in a document listed above, a photocopy of California Department of Child Support Services form Declaration of Paternity, CS-909.
- 5) Verification of the adoption of a child, which includes a photocopy of any of the following documents:
  - a) Department of Social Services form Notice of Placement, AD 907.
  - b) Department of Social Services form Independent Adoption Placement Agreement, AD-924.
  - c) A conformed copy of a court order of placement for adoption issued within the United States.
  - d) The child's adoption certificate from a foreign country's authorized local authority with a notarized English translation.
  - e) A statement on letterhead from a county, state, or equivalent government or private entity that provides adoption placement, stating all of the following:
    - (1) The child's full name, gender, date of birth, and social security number, if issued. (Absence of the social security number shall not disqualify the claimant).
    - (2) The residence address where the child is placed.
    - (3) The full name(s) of the adoptive parent(s), including such person's:
      - i. Social security number(s). The absence of social security number of the adoptive parent(s) shall not disqualify claimant.
      - ii. Residence address.
      - iii. Date of birth.
    - (4) The signature block for the social worker, director or designate making the placement shall include all of the following:
      - i. A dated signature.
      - ii. A typewritten name.
      - iii. A direct telephone number.

- (5) An official certification, seal or stamp of approval may be accepted by the department, in lieu of the requirements under (e)(4) of this subdivision.
- 6) Verification of foster care placement, which includes any of the following documents:
  - a) A photocopy of the Department of Social Services form Approval of Family Caregiver Home, SOC-815.
  - b) A statement on letterhead from the county Department of Social Services or equivalent government entity stating all of the following:
    - (1) The child's full name, gender, date of birth, and social security number, if issued. (Absence of the social security number shall not disqualify the claimant).
    - (2) The resident address where the child is placed.
    - (3) The date of foster care placement, including the length of the placement if the duration has been established.
    - (4) The full name(s) of the person(s) with whom the foster care placement is made, including such person's social security account number(s), if available.
    - (5) The residence address, date of birth, and the social worker's dated signature, typewritten name, and direct telephone number.

## **V. VPFL Continued and Re-established Claims**

### **A. VPFL Continued Claims**

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

### **B. VPFL 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 one of the following:

1. An interruption of the period for which benefits are claimed for the same care recipient.
2. Benefits are claimed for a new care recipient.

**NOTE: Pursuant to AB 908 and effective JANUARY 1, 2018, the waiting period for VPFL will be eliminated for all VPFL claims.**

## VI. Simultaneous Coverage

### A. Simultaneous Coverage for Disability Claims

Simultaneous coverage exists when a claimant is covered by and eligible for disability benefits from more than one disability insurance plan, including SDI and one or more VPs.

When benefits are paid under simultaneous coverage, the liable plan(s) equally share the SDI weekly and maximum benefit rate. Additionally, each VP pays the difference between the full SDI rate and the amount of benefit entitlement under that VP. Each VP is counted as one plan. SDI is counted as one plan even if the claimant works for more than one SDI-covered employer.

Example:

The claimant has two employers; one employer has a VP, and the other does not, (i.e., the employee is covered by SDI.) The claimant is disabled from both jobs, and simultaneous coverage is not disputed by either plan.

Employer “A” has a VP that pays 70 percent of net salary, which equals \$700 per week.

Employer “B” is covered by the state plan, which pays \$500 per week.

### B. Simultaneous Coverage for VPFL Claims

Simultaneous coverage exists when a claimant is covered by and eligible for SDI and one or more VPs at the time he or she establishes a care recipient period. The plan(s) under which the care recipient period is established remain liable for all claims associated with the same care recipient through the end of the 12 month period, regardless of any

	<b>Weekly Benefit Amount (WBA)</b>	<b>Simultaneous Coverage Liability</b>	<b>Claimant Receives</b>
<b>Employer “A” (VP)</b>	70% of net salary = \$700/week	VP WBA minus state plan WBA \$700 - \$500 = \$200  <b>plus</b>  ½ of state plan WBA (\$500÷2) = \$250	\$450 from VP  <b>plus</b>
<b>Employer “B” (SDI)</b>	State plan WBA = \$500	½ of state plan WBA (500÷2) = \$250	\$250 from state plan
		<b>Claimant’s Total Weekly Benefit</b>	\$700 total



change in employment. Liability for PFL or VPFL benefits remains with the plan(s) that covered the claimant when the care recipient period was established.

Under simultaneous coverage, each VP is counted as one plan. SDI is counted as one plan, even if the employee works for more than one SDI-covered employer. The plan(s) equally divide the SDI weekly and maximum benefit rates. Additionally, each VP pays the difference, if any, between the full SDI rate and the amount of benefit entitlement under that VP. (See the example above in VI. A. “Simultaneous Coverage for Disability Claims”).

## VII. Exclusions

### A. Exclusions for Disability Benefits

1. No disability benefits are payable under the following conditions:
  - a. For any days for which the employee is eligible for unemployment insurance benefits from any state (including California) or the federal government.
  - b. For any days for which the employee is eligible for disability insurance benefits from any state (including California) or the federal government.
  - c. For any days for which the employee receives wages from the employer. However, the employee may receive wages plus disability benefits that do not exceed the employee’s regular weekly wage, excluding overtime pay, immediately prior to the commencement of the disability.
 

“Wages” includes paid time off (or any non-specific leave provided by the employer) if it is used for purposes of disability.

Vacation pay is not considered wages for determining eligibility for disability benefits.
  - d. For any days for which benefits are payable under a workers’ compensation or employer liability law of California or any other state or the federal government, for any of the following:
    - 1) Temporary disability benefits.
    - 2) Permanent disability benefits for the same injury or illness.
    - 3) A maintenance allowance, if the employee has elected to receive the maximum permanent disability benefits.
    - 4) VPDI benefits are payable for any difference between the benefits listed immediately above in 1), 2), or 3) and the VPDI weekly benefit amount.
  - e. If the employee is confined by court order or certification as a dipsomaniac (alcoholic), drug addict, or sexual psychopath.

- f. If the employee is incarcerated in any federal, state, or municipal penal institution, jail, medical facility, or public or private hospital or any other place because of a criminal conviction under a federal, state, or municipal law or ordinance.
- g. If the employee's disability is caused by or arises out of the commission of, arrest, investigation, or prosecution of, any crime that results in a felony conviction.

## **B. Exclusions for VPFL Benefits**

1. An employee who is entitled to leave under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) must establish his or her VPFL claim concurrent with leave taken under those laws.
2. No VPFL benefits are payable under the following conditions:
  - a. For any period for which the employee is eligible for unemployment insurance from any state (including California) or the federal government.
  - b. For any days for which the employee receives wages. However, wages plus VPFL benefits may be paid in an amount, which does not exceed the employee's regular weekly wage, exclusive of overtime, immediately prior to the commencement of the family care leave.

“Wages” includes paid time off (or any non-specific leave provided by the employer) if it is used for purposes of family care leave.

The employer may require the employee to take up to two weeks of earned but unused vacation leave prior to the initial receipt of benefits.
  - c. For any period for which benefits are payable under a workers' compensation or employer liability law in any state (including California) or the federal government, for temporary disability in an amount equal to or in excess of the VPFL weekly benefit amount for this plan.

**Note: VPFL benefits are payable for any difference between the VPFL weekly benefit amount and the temporary disability weekly benefit amount.**

- 1) An employee may supplement a vocational rehabilitation maintenance allowance with permanent disability advances to receive benefits equal to his or her temporary disability amount. In such cases, VPFL benefits are payable for any difference between the combined total workers' compensation benefit and the VPFL weekly benefit amount.
- 2) An employee who chooses not to draw available permanent disability advances to supplement vocational rehabilitation maintenance allowance up to the temporary disability rate is not eligible for VPFL benefits.

- 3) If permanent disability advances are not available, VPFL benefits may be paid for the difference between the maintenance allowance and the VPFL weekly benefit amount.

**Note: Permanent disability advances alone (i.e., not paid as a supplement to a maintenance allowance) are not in conflict with VPFL benefits.**

- d. For any period for which benefits are payable under a disability insurance act of this state or any other state, or any company plan established in lieu of a state plan.
- e. For the same period of time in a day for which another family member is ready, willing, able, and available to provide the required care.

## VIII. Weekly and Maximum Benefit Amounts

### A. Weekly Disability Benefit (WBA) Amount

The weekly benefit amount will be equal to or greater than the state plan rate as provided in CUIC Section 2655.

\*\*\*\*\***NOTE**\*\*\*\*\*

Beginning January 1, 2018, AB 908 requires that for periods of disability commencing on or after January 1, 2018, but before January 1, 2022, the VPDI WBA will be computed as follows:

1. For claimants with highest quarter wages less than \$929, the WBA would equal \$50.
2. For claimants with highest quarter wages equal or greater than \$929 but less than one-third of the amount of the State Average Quarterly Wages, the WBA would equal 70 percent of the claimant's high quarter wages of the disability base period divided by 13.
3. For claimants with highest quarter wages equal or greater than one-third of the SAQW, the WBA is equal to:
  - a. 23.3% of the SAWW, or
  - b. 60% of the claimant's wages in the highest quarter of his/her base period divided by 13, whichever amount is greater.

For each day of a period of disability that is less than a week, one-seventh of the weekly benefit amount will be paid.

---

<sup>1</sup>AB 908 defines "state average quarterly wages" as "the state average weekly wage" (SAWW) multiplied by 13. It also defines the SAWW as "the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending on March 31 of the calendar year preceding the year in which the disability occurred."

## **B. Maximum Disability Benefit Amount**

The maximum amount payable during any disability benefit period will be 52 weeks times the weekly benefit amount (WBA).

## **C. Weekly VPFL Benefit Amount**

The VPFL weekly benefit amount will be equal to or greater than the state plan rate as provided in CUIC Section 2655.

The VPFL weekly benefit amount for bonding claims will not be less than the weekly benefit amount of the VPDI pregnancy claim associated with that child. This rule applies, regardless of the amount or duration paid on the VPDI pregnancy claim or the amount of wages in the base period used to calculate the VPFL weekly benefit amount. For each day of a period of family care leave that is less than a full week, one-seventh of the weekly benefit amount will be paid.

AB 908 defines “state average quarterly wages” as “the state average weekly wage” (SAWW) multiplied by 13. It also defines the SAWW as “the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending on March 31 of the calendar year preceding the year in which the disability occurred.”

## **D. Maximum VPFL Benefit Amount**

The maximum amount payable during any disability benefit period will be eight weeks multiplied by the weekly benefit amount, or an amount equal to the total base period wages, whichever is less.

The maximum amount payable on claims transitioning from pregnancy to bonding will be eight weeks multiplied by the VPDI weekly benefit amount, regardless of the amount or duration paid on the VPDI pregnancy claim or the amount of wages in the base period used to calculate the VPFL weekly benefit amount.

## **IX. Redirection of Benefits**

An eligible claimant may choose to redirect a portion of his or her weekly benefit to cover all or part of the cost of employee-paid benefits. If so, the claimant must designate in writing, on a form available from the employer, the weekly amount to be redirected. This redirection may be initiated at the time the claimant applies for plan benefits or at any time while receiving plan benefits. The claimant may terminate or change the terms of the redirection of benefits at any time while receiving plan benefits. See EDD sample form DE 2571 (CUIC Section 1345).

## **X. Overpayments**

The claimant will be required to repay any overpayment from the plan to the extent permitted under the CUIC Sections 2735. The employer

will make reasonable arrangements with the claimant, or his or her legal representative(s) for the repayment to the plan, including but not limited to the reduction of future benefits under the plan or the reduction of future pay from the employer as allowed under the CUIC.

## **XI. Appeals**

### **A. Appeal of Denial of VPDI or VPFL Benefits**

An employee who is denied benefits under the terms of this plan may appeal the denial within 30 days after service of the denial. An employee may also appeal if he or she does not receive a notice denying benefits within 30 days after the claim was sent to the VP. In such cases, the employee must file the appeal after 30 days and within 60 days from the date the claim was sent to the VP. In both cases of denial and lack of notice of denial, the employee must send the appeal to the EDD for processing. The EDD generally does not attend this type of hearing. CUIC Section 2707.2; CCR, Title 22 Section 5007(c).

VPDI appeals may be sent to any EDD office. VPFL appeals must be sent to:

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

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

As provided in CCR section 2706-5, an employee may elect to continue to receive VPDI or VPFL benefits pending the outcome of a timely appeal to an administrative law judge when the VP had determined the employee initially eligible and subsequently found the employee to be ineligible.

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

The EDD or the VP may appeal a denial of coverage for VPDI or VPFL within 30 days of the date the notice of denial was mailed.

In disputed coverage cases in which a denial of coverage is not furnished, an appeal shall be filed after 25 days and within 55 days from the date the appellant sends a request for payment of benefits to the Department or VP.

If eligible, the employee shall be paid benefits by the plan that initially received the claim, pending disposition of the District of Columbia Court of Appeals (DC) appeal (CCR, Title 22 Section 5007(b)).

## **XII. VP Claim Intake Process**

To claim benefits under this plan, obtain a claim from your Human Resources department or the Disability Administration office at The Claremont Colleges Services, 101 S. Mills Ave., Claremont, California 91711. A claim must be filed no later than the 41st compensable day of disability or period of family care leave, but an extension will be granted for a showing of good cause for late filing.

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

## **XIII. Other Requirements**

### **A. Security**

To secure the operation of this plan, the employer agrees to furnish to the EDD the security deposit required by the CUIC. The EDD will determine the amount of the deposit, and the security will be retained by the state treasurer.

### **B. Reports**

The employer agrees to furnish to the EDD with the information, reports, and records as required for proper administration of this plan.

### **C. Assessments**

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

### **D. Withdrawal of Plan**

This plan will continue in effect for a period of at least one year from the effective date and continuously thereafter unless 30 days advance written notice is given to the EDD by the employer or a majority of its employees for the withdrawal of the plan. Withdrawal will be effective only on the following dates:

1. The anniversary of the effective date of the plan following the filing of the notice of withdrawal, or
2. The operative date of any law increasing the benefit amounts provided by CUIC Sections 2653, 2655, and 3301, or
3. The operative date of any change in the worker contribution rate as determined by CUIC Section 984.

## **XIV. Compliance**

The employer guarantees that:

1. Each employee covered by this plan will, in all respects, be afforded rights at least equal to those of the state plan and will receive a weekly rate, maximum amount, and duration of benefits at least equal to those that he or she would have received from the state plan.
2. No employee will be excluded or restricted from this plan due to age, gender, income, or pre-existing health condition.



THE  
CLAREMONT  
COLLEGES

---

## SERVICES

DISABILITY ADMINISTRATION  
101 South Mills Ave.  
Claremont, CA 91711  
(909) 607-7946  
[services.claremont.edu/benefits](http://services.claremont.edu/benefits)