

Blitz for 6: Rhode Island TCI Benefits to Increase to a Maximum of Six Weeks Beginning January 1, 2023

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With the new year just a handful of weeks away, employers should take note of one notable change to the Rhode Island Temporary Caregiver Insurance Program ("TCI") taking effect in 2023. Beginning January 1, 2023, the maximum amount of time eligible employees may collect paid caregiver benefits and receive fully job-protected leave under the TCI Program will increase to six (6) weeks. As the law is currently written, this is the last and final increase to the amount of weeks employees may receive TCI benefits.

What is TCI?

By way of background, TCI was established in 2014 as a component to the Rhode Island Temporary Disability Insurance Program ("TDI"). Both TCI and TDI are administered by the Rhode Island Department of Labor and Training ("RIDLT") and they each offer employees benefits in the form of weekly wage-replacement payments while employees are out of work for particular reasons. While TDI benefits compensate employees who are unable to work due to a non-work related illness or injury, TCI benefits compensate employees who are out of work because they need to provide care or bond with loved ones, as described in more detail below. Both the TDI and TCI Programs are funded entirely by employees through a payroll deduction that employers are responsible for making and remitting to the RIDLT each quarter. Generally speaking, all private employers must make and remit to the RIDLT the TDI/TCI payroll deduction for each of their employees who work in Rhode Island.

TCI Benefits

The TCI Program offers eligible employees paid caregiver benefits for any week in which the employee is unable to perform their regular and customary work because the employee is:

- (1) Bonding with a newborn child or a child newly placed for adoption or foster care with the employee or the employee's spouse/domestic partner; or
- (2) Caring for a child, parent, parent-in-law, grandparent, spouse, or domestic partner, who has a serious health condition.

What constitutes a "serious health condition" under the TCI Program is fairly broad—it includes any illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, residential health care facility, or continued treatment or continuing supervision by a licensed health care provider.

The monetary amount of TCI weekly benefits employees receive equals 4.62% of the employee's highest amount of wages during the first four (4) of the last five (5) completed quarters before the starting date of the employee's TCI claim (the "base period"). For claims made July 1, 2022 or later, \$1,007.00 is the maximum weekly benefit and \$114.00 is the least. As stated above, starting January 1, 2023, employees may receive up to six (6) weeks of TCI benefits per benefit year, which is any fifty-two (52) consecutive calendar week period. This 6-week maximum is a 1-week increase to the current maximum of five (5) weeks. Although it may seem counterintuitive seeing how TDI and TCI benefits are funded through the same exact payroll deduction, TCI benefits are subject to Federal and State income taxes whereas TDI benefits are not.

Employers should also be aware of the TCI Program's requirement regarding job-protection, which does not apply in the TDI context. Specifically, when an employee's TCI leave comes to an end, employers are required to reinstate the employee to the same position the employee held when their leave began, or to a position with

equivalent seniority, status, employment benefits, pay, and other terms and conditions of employment including fringe benefits and service credits that the employee had been entitled to at the commencement of the leave.

As for healthcare insurance, employers must maintain any existing health benefits of the employee in force for the duration of the TCI leave as if the employee had continued to be employed continuously from the date the employee commenced the leave until the date the TCI benefits terminate. However, employees must continue to pay any employee shares of the cost of health benefits as was required prior to the leave.

Sick leave pay and vacation pay do not affect the amount received in TCI benefits, but the employee may not perform any work during the leave.

TCI Eligibility and Requirements

Where the need for TCI leave is foreseeable, employees must provide their employer with at least thirty (30) days' written notice prior to their leave indicating their need to file for TCI benefits, the date that the leave will commence, and the expected return to work date. Employees must submit their application for TCI leave to the RIDLT within the first thirty (30) days *after* taking their first day of leave from work for TCI-sanctioned bonding or caregiving purposes. Moreover, employees must be out of work for seven (7) consecutive days or longer due to the need to provide care for someone with a serious health condition or to bond with a child in order to be eligible for TCI benefits. As part of the application process, employees taking TCI leave for purposes of bonding with a newborn will be required to supply to the RIDLT the newborn's birth certificate or official hospital birth record.

In order for an employee to be eligible to receive TCI benefits, an employee must have earned wages in Rhode Island equaling at least \$14,700.00 during the base period. If an employee does not meet this threshold, the employee may still be eligible for TCI benefits if: (a) the employee earned at least \$2,450.00 in one of the base period quarters; (b) the employee's total base period wages are at least 1.5 times the highest quarter earnings; and (c) the employee's base period wages equal at least \$4,900.00.

Next Steps

In order to ensure that operations continue to run smoothly if and when employees take TCI leave, employers should take the necessary steps to prepare for this one-week increase to TCI benefits taking effect on January 1, 2023. Some action steps employers can consider taking include, but are not limited to, retaining a temp agency to secure temp employees to perform the duties of those employees on TCI leave or divvying up the responsibilities of those employees on TCI leave and allocating them to other employees during the TCI leave.

The [Employment & Labor Practice Group](#) at [Partridge Snow & Hahn](#) is fully updated on the TCI Program and other related issues and is available to answer your questions.

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