

U.S.

■ SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

TERMS: The Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

Employer Contributions — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA (Social Security) taxes on behalf of their agricultural employees. On the other hand, an employer whose yearly wage payments amount to less than \$2,500, but who pays at least \$150 in cash wages to a particular farmworker during the year, must pay FICA taxes on that worker's wages.

Worker Contributions — The employer's share of the tax is currently 7.65 percent of each worker's wages, and the worker is required to contribute an equal amount, which the employer must deduct from the worker's earnings each time wages are paid. As FICA taxes are withheld throughout the year, the employer must regularly forward both the employer's and the worker's share to the U.S. treasury, and by January 31 of the following year the employer must report the total amount of wages paid and FICA taxes withheld to the Social Security Administration for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

Benefits — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. In 2017, a worker must have at least \$1,300 in FICA-covered earnings during a 3-month calendar period to receive credit for one quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

ENFORCEMENT: *Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710).* IRS is responsible for collection of FICA taxes from employers. Any worker who believes that taxes are being incorrectly deducted from wages, or improperly reported to the government, should contact the nearest office of IRS.

The agency responsible for the administration of benefits is the *Social Security Administration, U.S. Department of Health and Human Services, Baltimore, Maryland 21235 (410-965-0100).* Any question about benefits and credits to the worker's earnings record may be directed to the nearest Social Security office. Offices can be located by phone, at 800-772-1213 (toll-free), or online at secure.ssa.gov/ICON/main.jsp.

California

■ CALIFORNIA DISABILITY COMPENSATION LAW

TERMS: When working for a farm operator or any other employer who paid more than \$100 in wages during any 3-month period (calendar quarter) in the current or previous year, farmworkers are required to pay disability unemployment insurance taxes, which must be withheld from their wages by the employer and turned over to the state.

In general, a worker who is unemployed due to physical or mental illness or injury is eligible for weekly benefits if the worker (1) has been unemployed and disabled for a waiting period of 7 consecutive days, (2) has submitted to a required examination to determine disability, (3) has, not later than 49 days after the first day of unemployment and disability, filed a first claim and doctor's certification, and (4) has earned at least \$300 in wages during a certain one-year period preceding the payment of benefits. Disability benefits currently range from \$50 to \$1,173 a week, depending on recent earnings. A worker is not eligible for disability benefits for any day of unemployment and disability for which the worker has received or is entitled to receive unemployment compensation, workers' compensation or similar cash benefits.

ENFORCEMENT: *Employment Development Department, Sacramento, California 95814 (800-480-3287)*. Workers who are unemployed and disabled may file a claim for disability benefits using SDI Online (www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 800-480-3287 in English, or 866-658-8846 in Spanish).

Hawaii

■ HAWAII TEMPORARY DISABILITY INSURANCE LAW

TERMS: In general, an agricultural worker or any other employee is eligible to receive temporary disability benefits if the worker (1) is unable to perform normal employment duties due to sickness, pregnancy, termination of pregnancy, donation of a bodily organ, or accident other than a work-related injury, (2) is under the care of a licensed doctor or other health care provider who has certified the disability, and (3) was employed at least 20 hours in each of 14 or more weeks, and earned a total of at least \$400, during the year preceding the first day of disability.

Under the Temporary Disability Insurance Law, it is the employer's responsibility to provide his or her eligible employees with disability benefits. However, to finance the cost, the employer may deduct from the employees' wages up to one-half the cost of coverage, but not more than a certain limit set by the state (\$5.12 a week in 2017); the employer must cover the rest of the cost. In general, workers who earned less than \$400 and worked less than 14 weeks for 20 or more hours each in the year before a particular pay period are not required to pay a contribution for that pay period.

ENFORCEMENT: *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9188)*. A worker who becomes disabled by a condition not connected with or resulting from employment may file a disability insurance claim with the employer, generally within 90 days after the onset of the disability. The claim must include a doctor's signed certification of disability.

Any employee who is denied disability benefits by an employer or an employer's insurer may appeal the denial to the Department, which must hold a hearing and issue a determination.

New Jersey

■ TEMPORARY DISABILITY BENEFITS LAW

TERMS: The Temporary Disability Benefits Law provides for the payment of cash benefits to disabled workers, to replace earnings lost due to an accident or injury that is not employment-related. Benefits may be provided through the state disability benefits fund or a state-approved private plan.

State Disability Benefit Plan —

Contributions — A farm employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 farmworkers for some part of a day in each of 20 different weeks this year or last, is generally required to contribute 0.5 percent of the wages paid to his or her workers to the state disability benefits fund. At the same time, farmworkers who are employed by any such agricultural operation generally must contribute 0.28 percent of their own earnings to the same fund. The workers' contributions are withheld from their earnings by the employer, who must forward the deductions to the state agency along with the employer's share.

Benefits — A farmworker who (1) became totally disabled while working for a subject employer, or less than 2 weeks after leaving such a job, (2) is not eligible for workers' compensation, (3) is not covered by a private disability benefit plan, as described below, (4) is under the care of a licensed doctor who can certify the disability, and (5) has earned the necessary qualifying wages and meets the program's other qualifications, may be eligible for temporary disability benefits. The amount of weekly benefits is generally equal to a certain percentage of the worker's average weekly earnings over the 52 weeks immediately preceding the disability.

Private Plans —

Employer Options — Instead of participating in the state disability program, a covered employer (as defined in brief above) may establish a private plan using a commercial insurance provider or a self-insurance arrangement. All private benefit plans must be approved by the state agency.

Worker Contributions — An employer may cover part of the cost of providing benefits by requiring workers to pay contributions to the plan, but a majority of the employer's workforce must agree to that before the plan is approved by the state agency. Furthermore, a private plan may not force a worker to pay more than the level of contributions that workers pay under the state program.

Benefits — The eligibility requirements for benefits under a private plan must be no more restrictive than the requirements for benefits from the state disability benefits fund, and the amount of benefits from a private plan must equal or exceed those payable under the state program.

ENFORCEMENT: *Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460).* A worker who is disabled by an injury or illness not connected with employment, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2.

Any dispute over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

Puerto Rico

■ TEMPORARY DISABILITY BENEFIT ACT

TERMS: Except for motor vehicle drivers (who are covered by the law discussed in the next summary), agricultural workers who are disabled by an injury or illness not connected with employment are generally eligible for disability benefits if they have earned at least \$150 over a certain one-year reference period prior to applying for benefits.

Weekly disability payments for workers with earnings primarily in agriculture currently range from \$12 to \$55, depending on actual earnings during the reference period. When an injury not connected with employment results in loss of sight, loss of an arm or leg, loss of part of a hand or foot, or death, the worker or the worker's dependents may also be entitled to a one-time payment for dismemberment or death.

In contrast with other industries, agricultural employers and employees are not required to pay contributions to the disability benefit fund to help finance the program. Benefits for farmworkers are paid from the treasury of Puerto Rico.

ENFORCEMENT: *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* Disability claims may be filed at any local Employment Security office.

■ CHAUFFEURS SOCIAL SECURITY LAW

TERMS:

Contributions — Every employer who hires any agricultural worker or other person who operates a motor vehicle in connection with the job, must withhold 50 cents each week from the worker's pay as dues to the Chauffeurs Social Security fund. Within 60 days after the end of each 3-month period during the year, the employer must send all such withheld amounts to the administering agency, along with the employer's share of contributions, which is set at 30 cents a week.

Benefits — Workers who have paid dues to the Chauffeurs Social Security fund for the minimum prescribed number of weeks and meet other eligibility requirements may qualify for up to 30 weeks of cash benefits for illness, a one-time payment for permanent and total disability, a one-time bonus upon voluntary retirement, and cash benefits in the event of the worker's death or the death of the worker's spouse or child.

Reinstatement to Employment — In the case of a worker's illness or non-permanent disability for which benefits are payable under these provisions, the employer is generally obligated to reinstate the worker within 30 days after he or she is discharged from treatment, provided that (1) the job still exists when the worker requests reinstatement, (2) the worker is mentally and physically able to perform the job, and (3) the request is made no later than one year after the onset of the disability.

ENFORCEMENT: *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* Application for benefits may be made at any local Chauffeurs Social Security office.

If an employer fails to comply when a worker requests reinstatement to the job after a period of disability ends, the worker may take action in civil court to recover the wages he or she would have received if reinstated, as well as monetary damages.

Rhode Island

■ RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT

TERMS: Farmworkers, like most other employees in Rhode Island, are required to pay 1.2 percent of their earnings (up to a certain annual limit) to the state temporary disability insurance fund. The tax is deducted from the worker's pay by the employer and sent to the state, which in turn credits the worker for the amount of wages reported by the employer.

A farmworker who is unemployed and unable to perform his or her usual work because of a physical or mental condition (including pregnancy) is generally eligible for temporary disability benefits if the worker has accumulated the necessary wage credits. Recipients may also qualify for an allowance for dependents.

Benefits are not payable for any week in which the worker has received unemployment insurance or workers' compensation benefits.

ENFORCEMENT: *Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420)*. Claims for disability benefits may be filed online, at uiclaims.ri.gov/tdionline/.