

FAQS – New York DBL

WHO IS ELIGIBLE FOR BENEFITS

Most wage earners employed in New York State are eligible if they are working for a covered employer.

- Full-time employees, who are new to the labor force are eligible after they have worked for four (4) consecutive weeks
- Part-time employees who are new to the labor force are eligible on the 25th day of regular employment for one employer

(Under the law, part-time employment is defined as other than the employer's normal work week. Any part of a day worked is considered a day of employment)

- Employees who have been receiving unemployment benefits are eligible immediately once they begin work; if prior employment is covered employment
- New employees who have previously established DBL eligibility with another employer are eligible as soon as they begin work, as long as the gap in employment is not more than four (4) weeks
- Personal or Domestic employees working for the same employer in a private home at least forty (40) hours a week
- The spouse working for a Sole Proprietor or Partnership, unless excluded by the employer
- Employed college students are eligible for DBL if they meet any of the requirements above
- A corporate officer is an employee and will be covered as such unless he is a nominal officer or receives no wages or remuneration for his service

WHO IS NOT ELIGIBLE

- Government, railroad or maritime workers, Minor children of employers, Golf Caddies or Independent Contractors
- Ministers, Priests, Rabbis, Sextons, Christian Science readers or members of a religious order
- Persons engaged in a professional or teaching capacity in or for a non-profit religious, charitable or educational institution; persons receiving rehabilitative services in a sheltered workshop operated by such institutions under a certificate issued by the U.S. Department of Labor
- Persons receiving aid from religious, charitable or educational institutions who perform work in return for such aid
- Students in elementary or secondary school who work part-time during the school year or during regular vacation periods
- Employees during the first 45 days of "extra employment" defined as those not normally in the labor market who may be hired in the regular and usual course of business to do work for a limited special period of time

WHO IS NOT ELIGIBLE (Cont)

- Employees in “causal employment”; defined as an employee who normally works in a different occupation, hired for a day or less
- Corporate Directors, acting only as such, and not as employees
- Partners & Proprietors are not required but must provide coverage for its employees
- Executive Officers of an incorporated non-profit, religious, charitable or educational institution

Benefits (Employed)

Statutory benefits are 50% of your average weekly wage (based on your last 8 weeks of employment) to a max of \$170 per week. Benefits begin on the 8th day of disability and are paid for 26 weeks maximum, during any 52 week period.
Minimum benefit = \$20.

Benefits (Unemployed)

Unemployed workers who are receiving Unemployment Insurance Benefits and become disabled within 4 weeks from termination of employment, benefits are paid by the former employer's insurance carrier.

If an unemployed worker becomes disabled more than 4 weeks but within 26 weeks after termination of employment and is either eligible for or is receiving unemployment insurance, benefits are paid from the 1st day of total disability and unemployment insurance is discontinued. Unemployed workers are paid by a special fund for disability benefits.

How does an employee file a claim ?

A claim form (DB-450) must be completed as follows and submitted to the insuring carrier. Note, in order to qualify for benefits, the claimant must be under the care of a licensed/certified physician.

STEP 1: Part A – Claimants Statement

Employee/Claimant must complete & sign

STEP 2: Part B – Physicians Statement

The attending physician must complete & sign testifying the claimant is disabled and unable to perform the material duties of employment

STEP 3: Part C – Employers' Statement

The employer must certify employment and provide the necessary information needed for the carrier to process the claim

Is there a time limit to file a claim ?

YES. A claimant must file their claim within 30 days after they become disabled. Claims filed beyond 30 days are not necessarily rejected, but they will not be paid for any disability period more than 2 weeks before the claim is filed; unless they can prove that it was not reasonably possible to file earlier. The claimant will not receive benefits if the claim is filed more than 26 weeks after the disability begins.

Can a claimant appeal rejection ?

YES. A claimant may appeal the carrier's decision directly with the Workers Comp Board within 26 weeks after receiving a notice of denial of benefits. The Board will examine the case and hold a hearing to determine if benefits should be paid.

Taxation of Benefits

Benefits are required to be reported as income. The insurance carrier, acting as a third party payor, is required to withhold FICA from DBL benefits paid in the first 6 months following the onset of disability.

Are Non-New York employees eligible for benefits under their employers' DBL ?

YES, in some instances. Eligibility is usually based on the state in which the employee works. However employees working outside of New York are covered if their service is not localized in any other state, but some of the service is performed within New York and;

- 1) Employees base of operations is in New York
- 2) No base of operations in any state, but the employee is directed and controlled from New York
- 3) The base of operations or place from which the service is directed or controlled is not in any state in which some part of service is performed, and the employees residence is in New York

Will an employee lose eligibility if they change jobs or become unemployed ?

If you change from a job with one "covered employer" to another "covered employer", you are protected from the first day on the new job. If you change to a job in an exempt employment of with a "non-covered" employer and work in such employment for more than four (4) weeks, you lose protection until you satisfy the four (4) consecutive weeks in a "covered employer". Generally, you do not lose protection during the first 26 weeks of unemployment, provided you are eligible for and are claiming unemployment insurance benefits.

Can an employee receive both DBL and Social Security benefits ?

YES. If an employee is entitled to disability benefits, the fact that they are eligible for receiving Social Security benefits does not affect their right to collect DBL.

Does DBL cover pregnancy and/or pregnancy related disabilities ?

YES. If an employee becomes disabled due to a pregnancy, they can be entitled up to 26 weeks of benefits. Eligibility for benefits is based on certification of disability. If an employee is on a leave of absence without pay and becomes disabled within four (4) weeks of the last day worked, the employee is eligible to collect benefits.

Is an employee entitled to DBL benefits for disabilities resulting from an auto accident ?

Yes. An employee injured in an auto accident subject to the No-Fault Law is eligible to receive DBL. No-Fault insurance benefits may be reduced by the amount of disability benefits the employee is eligible to receive.