

CHAPTER 464

AN ACT providing job security to individuals who are unable to work due to donating an organ or bone marrow, and amending and supplementing P.L.1948, c.110.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1948, c.110 (C.43:21-29) is amended to read as follows:

C.43:21-29 Compensable disability.

5. Compensable disability. (a) In the case of the disability of a covered individual, disability shall be compensable subject to the limitations of P.L.1948, c.110 (C.43:21-25 et al.) if: the disability is the result of the covered individual suffering an accident or sickness not arising out of and in the course of the individual's employment or if so arising not compensable under the workers' compensation law, R.S.34:15-1 et seq., including if the disability is the result of the donation of any organ or bone marrow by the covered individual, and the disability results in the individual's total inability to perform the duties of employment, except that an individual who is otherwise eligible for benefits but only able to return to work on a reduced basis while recovering from the disability may receive benefits pursuant to the provisions of subsection (b) of section 16 of P.L.1948, c.110 (C.43:21-40).

(b) In the case of an individual taking family temporary disability leave, the leave shall be compensable subject to the limitations of P.L.2008, c.17 (C.43:21-39.1 et al.).

2. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

C.43:21-39 Limitation of benefits.

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), no benefits shall be payable under the State plan to any individual:

(a) for the first seven consecutive days of each period of disability; except that:

(1) if benefits shall be payable for three consecutive weeks with respect to any period of disability, then benefits shall also be payable with respect to the first seven days thereof;

(2) (Deleted by amendment, P.L.2019, c.37)

(3) in the case of an individual taking family temporary disability leave, there shall be no waiting period; and

(4) if the benefits shall be payable for a period of disability which is the result of the donation of any organ or bone marrow by the covered individual, then benefits shall be payable with respect to the first seven days thereof;

(b) (1) for more than 26 weeks with respect to any one period of disability of the individual;

(2) for more than six weeks with respect to any one period of family temporary disability leave commencing before July 1, 2020 and more than 12 weeks if the period of leave commences on or after July 1, 2020, or for more than 42 days with respect to any one period of family temporary disability leave commencing before July 1, 2020 and more than 56 days if the period of leave commences on or after July 1, 2020, and is taken on an intermittent basis; and

(3) for more than six weeks of family temporary disability leave during any 12-month period commencing before July 1, 2020 and more than 12 weeks for any 12-month period commencing on or after July 1, 2020, or for more than 42 days of family temporary disability leave taken during any 12-month period commencing before July 1, 2020 and more than 56

days if the period of leave commences on or after July 1, 2020, on an intermittent basis, including family temporary disability leave taken pursuant to R.S.43:21-4(f)(2) while unemployed;

(c) for any period of disability which did not commence while the claimant was a covered individual;

(d) for any period of disability of a claimant during which the claimant is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, certified nurse midwife, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the claimant, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge or for any period of family temporary disability leave for a serious health condition of a family member of the claimant, during which the family member is not receiving inpatient care in a hospital, hospice, or residential medical care facility or is not subject to continuing medical treatment or continuing supervision by a health care provider, who, when requested by the division, shall certify within the scope of the provider's practice, the serious health condition of the family member, the probable duration thereof, and, where applicable, the medical facts within the provider's knowledge;

(e) (Deleted by amendment, P.L.1980, c.90.)

(f) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a crime of the first, second, third, or fourth degree, or for any period during which a covered individual would be disqualified for unemployment compensation benefits for gross misconduct under subsection (b) of R.S.43:21-5;

(g) for any period during which the claimant performs any work for remuneration or profit, except that, in a case of a claim for benefits for a period of family temporary disability on or after July 1, 2020 in which the covered individual has more than one employer, the individual shall have the option of claiming benefits for leave taken from one employer, based on wages paid by that employer, on the condition that the individual does not, during the period for which the benefits are paid, increase the amount of employment time with any one employer;

(h) in a weekly amount which together with any remuneration the claimant continues to receive from the employer would exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be disqualified for unemployment compensation benefits under subsection (d) of R.S.43:21-5, unless the disability commenced prior to such disqualification;

(j) for any period during which the claimant receives any paid sick leave, vacation time or other leave at full pay from the employer of the individual;

and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in P.L.1948, c.110 (C.43:21-25 et al.).

C.43:21-29.2 Rights of employees who are organ, bone marrow donors.

3. For a period of disability which is the result of donating any organ or bone marrow under section 5 of P.L.1948, c.110 (C.43:21-29), a covered individual shall, after the period of disability ends, be entitled to be restored by the individual's employer to the position of employment held by the individual when the period of disability commenced or to an equivalent position of like seniority, status, employment benefits, pay, and other terms and

conditions of employment. If during the period of disability which is the result of donating any organ or bone marrow, the employer experiences a reduction in force or layoff and the covered individual would have lost the position of employment had the individual not experienced the period of disability, as a result of the reduction in force or pursuant to the good faith operation of a bona fide layoff and recall system, including a system under a collective bargaining agreement where applicable, the individual shall not be entitled to reinstatement to the former or an equivalent position. The covered individual shall retain all rights under any applicable layoff and recall system, including a system under a collective bargaining agreement, as if the individual had not experienced the period of disability.

4. This act shall take effect on the 120th day after enactment.

Approved January 21, 2020.