

The DBL Book

Guide to the New York
Disability Benefits Law

NBL **NATIONAL BENEFIT LIFE
INSURANCE COMPANY**

STATE DISABILITY SPECIALISTS

ABOUT THIS BOOK

When it comes to DBL, National Benefit wrote the book. And this is it.

We originally wrote The DBL Book in 1972 and have updated it through the years. This is the book's 34th anniversary edition. It tells you everything you need to know about DBL.

The book is written in question and answer form, and is easy to read and use. We recommend that you read it through once--it takes about 15 minutes--then keep it handy, using the table of contents for quick reference.

If you have any specific questions about the law, please contact National Benefit Life or the nearest Workers' Compensation Board office listed in the back of this book.

Please note that the generic word "he" as used in this book means both "he" and "she".

WHAT IS DBL?

"DBL" is a quick way of saying Disability Benefits Law. The New York Disability Benefits Law became effective July 1, 1950 and mandates the payment of weekly cash benefits to wage earners who are disabled as a result of a non-occupational injury or illness.

DBL is different from the Workers' Compensation Law, which mandates benefits for occupational injury and illness.

Along with New York, other states that have statutory disability benefit laws are California, Hawaii, New Jersey, Rhode Island and the territory of Puerto Rico. Each jurisdiction has its own unique laws and benefits.

Contact us for a copy of the "STATUTORY PLANS AROUND THE COUNTRY" chart that outlines the requirements and benefits for each state.

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WHO MUST PROVIDE DBL COVERAGE?

With few exceptions, a New York State employer of one or more persons on each of 30 days in any calendar year becomes a "covered employer," four weeks after the 30th day of such employment. This includes employers of one or more personal or domestic employees who work at least 40 hours a week in their private home.

Sole proprietors and partnerships whose only employee is a spouse are covered employers and required to provide coverage--unless they elect to exclude the spouse. In this case, they must notify the Workers' Compensation Board by filing form DB-212.5.

Corporations with one or two corporate officers who are the sole shareholders and have no other employees are not required to have coverage. However, they become covered employers when they hire an employee, and must obtain coverage.

HOW DOES AN EMPLOYER OBTAIN COVERAGE?

Disability Benefits Law insurance may be provided through private carrier, self-insured plan or the State Insurance Fund. Private carriers cover the majority of employers.

To obtain coverage an employer should contact their insurance broker or agent within 10 days from becoming a covered employer and request a DBL policy.

An employer who chooses to self-insure must first get approval from the Workers' Compensation Board.

WHAT HAPPENS IF AN EMPLOYER DOES NOT HAVE COVERAGE?

Any employer, who fails to obtain coverage for disability benefits within 10 days after becoming a covered employer, will be in non-compliance of the Disability Benefits Law and subject to a fine from the Workers' Compensation Board.

The fine imposed is typically \$500 plus one-half of one percent of the employer's weekly payroll for the period of non-compliance.

If an employee becomes disabled while working for an employer who does not have insurance, the employee is entitled to benefits from the Special Fund for Disability Benefits. The Special Fund will in turn request reimbursement of benefits paid in addition to any fine imposed on the employer.

WHO PAYS THE PREMIUMS FOR DBL COVERAGE?

DBL premiums may be paid entirely by the employer or jointly by the employer and the employee. However, the maximum employee contribution is one-half of one percent of the first \$120 of weekly wages, to a maximum of \$.60 per week.

The maximum contribution for an employee per pay period shall not exceed the following:

<u>PAY PERIOD</u>	<u>MAXIMUM EMPLOYEE CONTRIBUTION</u>
Daily	\$.14
Weekly	.60
Biweekly	1.20
Semimonthly	1.30
Monthly	2.60

If an employee works for two or more employers, he may request each employer to adjust his contributions in proportion to his earnings so that his total contribution does not exceed \$.60 per week.

WHAT BENEFITS ARE PAID UNDER DBL?

A disabled employee will receive 50% of his average weekly wage--based on the last eight weeks earnings--to a weekly maximum of \$170. Benefits are paid beginning with the 8th consecutive day of disability and continue for a maximum of 26 weeks during any consecutive 52-week period. The minimum weekly benefit is \$20, or the average weekly wage if less than \$20.

DBL is strictly a plan of partial salary replacement and does not reimburse medical expenses.

If an employee works for two or more employers, he is subject to the minimum and maximum DBL benefit. The benefit paid by each insurer is in proportion to his wages from each employer.

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 four 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 is defined as other than the employer's normal

workweek. Any part of a day worked is considered a day of employment.

- Employees who have been receiving unemployment benefits are immediately eligible once they begin work provided that prior employment had been 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 weeks
- Personal or domestic employees working at least 40 hours a week in a private home for the same employer.
- The spouse working for a sole proprietor or partnership-unless excluded by the employer.

Working college students are eligible for DBL benefits if they meet any of the requirements above.

Employees working on a 10-month contract (i.e. covered teachers) remain eligible for 4 weeks after the last day worked. Employees working on a 12-month contract remain eligible after the 4th week as long as they return to work when the new contract begins.

A corporate officer is an employee and will be covered as such, unless he is a nominal officer and receives no wages or remuneration for his services.

WHO IS NOT ELIGIBLE FOR BENEFITS?

Certain classes of employees are not eligible for coverage or are excluded from the definition of employee:

- Minor children of an employer.
- Government, railroad or maritime workers.
- Ministers, priests, rabbis, members of a religious order, sextons or Christian Science readers.
- 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.
- Golf caddies.
- Farm laborers.
- Daytime students in elementary or secondary

school who work part-time during the school year or during regular vacation periods.

- An independent contractor.
- Partners and proprietors are not considered employees.
- Corporate directors, acting only as such, and not as employees.
- Executive officers of any incorporated non-profit, religious, charitable or educational institution--defined as President, Vice President, Secretary or Treasurer.

An otherwise eligible employee loses his eligibility for benefits after working 30 days in non-covered employment i.e. working in non-New York employment or for a municipality or government agency.

An employer may voluntarily elect to provide benefits to most excluded class(es) of employees by filing form **DB-135** or **DB-136, EMPLOYER'S APPLICATION FOR VOLUNTARY COVERAGE** with the Workers' Compensation Board. Upon approval, the employer should notify his insurance carrier.

ARE EMPLOYEES NOT WORKING IN NEW YORK COVERED BY DBL?

In some instances. Eligibility is usually based on the state in which the employee works. However, employees working outside New York are covered if some of their service is performed in New York, and:

1. The employee's base of operations is in New York; or
2. There is no base of operations in any state, but the employee is directed and controlled from New York; or
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 the service is performed, and the employee's residence is in New York.

WHAT CONSTITUTES DISABILITY?

An employee must be prevented from performing his regular duties due to a non-occupational accident or sickness and for which he has not received wages or remuneration. The employee must be certified disabled from working and under the care of a licensed or certified physician, podiatrist, psychologist, chiropractor, dentist or nurse-midwife.

Disabilities caused by injury as a result of war, committing a crime or self-inflicted injury are not covered under the law.

DOES DBL COVER DISABILITIES CAUSED BY OR IN CONNECTION WITH A PREGNANCY?

Yes. Disability related to pregnancy is treated like any other illness. Eligibility for benefits is based on medical certification of total disability, which may occur at any time during pregnancy. An employee on unpaid maternity leave is eligible if she becomes disabled within four weeks after the last day actually worked.

DOES DBL COVER DISABILITIES RESULTING FROM AUTOMOBILE ACCIDENTS?

Yes. DBL is primary over No Fault automobile insurance. No Fault benefits may be reduced by the amount of disability benefits the claimant is eligible to receive. The DBL claim must be filed within 30 days.

WHAT SHOULD AN EMPLOYER DO WHEN AN EMPLOYEE BECOMES DISABLED?

The employer is required to send form **DB-271, STATEMENT OF RIGHTS--DISABILITY BENEFITS LAW**, to his employee after the seventh consecutive day of disability. The Statement of Rights is available from the insurance carrier or the Workers' Compensation Board. The employer should also send the employee a **DB-450, NOTICE AND PROOF OF CLAIM FOR DISABILITY BENEFITS**.

DOES THE FAMILY AND MEDICAL LEAVE ACT AFFECT DBL BENEFITS?

Yes. If the disability begins more than 4 weeks after the last day worked, the employee is not eligible to receive DBL benefits. Benefits for these disabilities would be payable by the Special Fund for Disability Benefits.

HOW DOES AN EMPLOYEE CLAIM DISABILITY BENEFITS?

Form **DB-450, NOTICE AND PROOF OF CLAIM FOR DISABILITY BENEFITS**, is available from employers, insurance carriers or the Workers' Compensation Board. The claimant must complete and sign '**PART A - CLAIMANT'S STATEMENT**'. The attending doctor must certify the claimant is disabled from working and complete and sign '**PART B - HEALTH CARE PROVIDER'S STATEMENT**'.

The completed DB-450 should be filed promptly with the insurance carrier.

IS THERE A TIME LIMIT FOR FILING A DBL CLAIM?

Yes. An employee must file a claim within 30 days after becoming disabled. If a claim is filed late, and unless the claimant can demonstrate that it was impossible to file sooner, benefits may not be paid for any period of disability prior to two weeks before the claim was filed. No benefits may be paid at all if the claim was filed later than 26 weeks after the disability began. An exception is a claimant who is a minor or is mentally incompetent and without guardian or committee.

CAN A CLAIMANT APPEAL A REJECTED CLAIM?

Yes. The claimant may appeal the carrier's decision directly to the Workers' Compensation Board within 26 weeks after receiving form **DB-451, NOTICE OF TOTAL OR PARTIAL REJECTION OF CLAIM FOR DISABILITY BENEFITS**. The Board will examine the case and if necessary hold a hearing to determine if benefits should be paid.

WHAT HAPPENS IF A DISABILITY OCCURS WHILE UNEMPLOYED?

If a worker becomes disabled while eligible for or receiving unemployment insurance benefits, his unemployment insurance benefits will cease and he may claim disability benefits.

If the disability occurs:

- within the first 4 weeks after termination of employment, he must file with his former employer's insurance carrier.
- more than 4 weeks but within 26 weeks after termination, he must file with the Special Fund for disability benefits, which is administered by the Workers' Compensation Board.

WHAT HAPPENS IF AN EMPLOYEE CHANGES JOBS?

An employee, who has already attained eligibility and changes jobs from one covered employer to another, is eligible on the first day of the new job, as long as there's less than four weeks separation between jobs or he is receiving unemployment benefits. However, an employee loses eligibility after four weeks in non-covered employment, e.g., municipal government, or non-New York employment.

CAN AN EMPLOYEE RECEIVE BOTH DBL AND SOCIAL SECURITY RETIREMENT BENEFITS?

Yes. The fact that an employee is eligible for or receiving retirement benefits under the Social Security Act does not affect his right to Disability Benefits. However, the employee may elect to be exempted from the Disability Benefits Law by filing a waiver with the Workers' Compensation Board. The employee would cease to be eligible for benefits and the employer may no longer deduct a contribution.

ARE DBL BENEFITS TAXABLE?

Yes. Benefits must be reported as income.

Federal legislation requires third-party payers, such as insurance carriers, to report to employers all "sick pay" paid to their employees. Benefit payments received under a DBL policy are considered "sick pay" and must be reported as income.

See "FICA/MEDICARE TAX WITHHOLDING" for further explanation.

The following is a brief summary of relevant tax laws. For information regarding specific tax questions, we urge employers to contact their tax consultant or the IRS.

FICA/MEDICARE TAX WITHHOLDING

Public Law 97-123 requires FICA (Social Security and Medicare) taxes to be withheld from sick pay paid. The employee's regular share of FICA tax, 7.65% for 2009, is withheld from all DBL payments made within the six calendar months following the month in which an employee last worked. However, a portion of the DBL benefit may not be subject to withholding tax if the employee contributes to the cost of insurance i.e. \$.60 per week. To assure proper withholding, each year the employer should advise his insurance carrier the percent of DBL benefit subject to tax.

The carrier in accordance with federally prescribed procedures deposits the employee's withholding. Notification of this deduction is sent to the employer who must then deposit his portion of the FICA tax.

EXCEPTIONS:

The insurance carrier does not deduct FICA when:

- The employee continued to receive salary and the benefit payment represents employer reimbursement.
- The employer notified the carrier his employees are not subject to FICA, i.e. certain non-profit groups.

OVERWITHHOLDING:

In some cases, the FICA deduction may be greater than required by law. The employer may adjust over withholding on line #9 of his 941 report.

FEDERAL TAX WITHHOLDING

In accordance with Public Law 96-601 a claimant may request withholding of Federal tax from his DBL benefit. Upon receipt of the prescribed form, W4-P, National Benefit will deduct Federal taxes from the claimant's DBL benefit. The minimum withholding is \$20 per week.

WHAT DOES NATIONAL BENEFIT OFFER?

When you consider purchasing statutory disability benefits insurance protection to safeguard your client's employees, you should be mindful of the company behind the coverage. You want to choose a reputable company that is financially secure and capable of paying benefits when they file a claim. When you purchase New York Disability Benefits Law insurance from

National Benefit Life Insurance Company (NBL), you can be assured you have chosen an industry leader known for its expertise, stability, and performance in New York DBL insurance.

With more than 40 years experience, National Benefit Life Insurance Company specializes in providing DBL coverage and we are pleased to say we are a leading insurer of this coverage in New York. Currently, we insure nearly 48,000 employers statewide covering 500,000 employees and process 18,000 new DBL claims each year.

National Benefit Life is fortunate to have a well-trained and professional State Disability Benefits Claims Department. All our examiners average ten+ years state disability experience and most have been employed by NBL at least eight years.

National Benefit Life Insurance Company is a member of Citigroup, one of the leading financial service companies in the country. NBL is rated A+(Superior) by A.M. Best and is licensed in all 50 states.

We demonstrate our market dedication by providing:

- Competitive standard rates for groups with 1 to 49 employees.
- Experience rating and quick quotes for groups with 50 or more employees.
- Experienced customer service representatives ready to answer your inquiries -- (800) 535-2711.
- Direct Billing -- flexible options; multiple or list format.
- Additional coverage available - enriched benefits, out-of-state, voluntary coverage for excluded classes.
- Dedicated claim examiners assigned for case management.
- "NBL-Direct" instant claim inquiry -- (800) 535-2710 – available 24/7.
- IME's (Independent Medical Exams) and Medical Director available for consultation.
- Monthly benefit statements and year-end summaries to policyholders.

FOR MORE INFORMATION:

If you'd like to know more about **NATIONAL BENEFIT LIFE, State Disability Specialists** — Call, write or fax:

POLICY ADMINISTRATION

GENERAL INQUIRIES

(800) 535-2711 Fax (800) 584-9370

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WORKERS' COMPENSATION BOARD

Disability Benefits Offices

www.web.state.ny.us

100 Broadway – Menands

Albany, NY 12241

(866) 750-5157

State Office Building

44 Hawley St.

Binghamton, NY 13901

(866) 802-3604

111 Livingston St.

22nd Floor

Brooklyn, NY 11201

(800) 877-1373

107 Delaware Ave.

Buffalo, NY 14202

(866) 805-3630

220 Rabro Drive – Suite 100

Hauppauge, NY 11788

(866) 681-5354

175 Fulton Ave

Hempstead, NY 11550

(866) 805-3630

215 W. 125th Street – 3rd Floor
New York, NY 10027
(800) 877-1373

41 North Division St.
Peekskill, NY 10566
(866) 746-0552

168-46 91st Ave. – 3rd Floor
Queens, NY 11432
(800) 877-1373

130 Main Street W.
Rochester, NY 14614
(866) 211-0644

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(866) 802-3730

*Explanation of Rating: Best ratings range in order from the highest ratings as follows:

A++, A+, A, A-, B++, B+, B, B-, C++, C+, C, C-, D, E, F, S.

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