

EMPLOYMENT DEVELOPMENT DEPARTMENT

**Amendment of Title 22, California Code of Regulations
Section 2601-1**

DISABILITY INSURANCE DEFINITIONS

Text of Proposed Amendments

NOTE: Language to be repealed is shown in ~~strikeout~~ format;
language to be added is shown in underline format.

AMEND SECTION 2601-1 TO READ AS FOLLOWS:

§ 2601-1. Disability Insurance Definitions.

Unless the context otherwise requires, the terms used in this part relating to unemployment compensation disability benefits shall have the following meaning:

(a) "Affidavit" means a written statement under oath made in compliance with Code of Civil Procedure sections 2012 through 2015.6 including a declaration under penalty of perjury made in compliance with Code of Civil Procedure section 2015.5.

~~(a)~~(b) "Authorized representative" of a claimant means an individual who:

(1) Is authorized by a power of attorney or other authorization satisfactory to the department to represent or act ~~in~~ on behalf of a disabled person who is incapable of fulfilling the requirements of filing claims for disability benefits.

(2) Files with the department upon a prescribed form a duly sworn affidavit that the disabled person, according to information received by the individual from the disabled person's physician or practitioner, is incapable of making a claim for disability benefits, and that the individual assumes the responsibility of acting ~~in~~ on behalf of such disabled person in accordance with the code and this part.

~~(b)~~(c) "Certificate" means the signed statement of a physician, practitioner, or a registrar of a county hospital of this State, on a form prescribed by the department, except that a certificate signed by a physician licensed by and practicing in a state other than California or in a foreign country, or in a territory or possession of a country, except a duly authorized medical officer of any facility of the United States Government, shall be accompanied by a further certification that such physician holds a valid license in the state or foreign country, or in the territory or possession of the country, in which he or she is practicing. In addition,

upon request of the department, the claimant shall furnish a statement giving the reason he or she is receiving his or her care and treatment outside this State.

~~(c)~~(d) "Claimant" means an individual who has filed a first claim for disability benefits.

~~(d)~~(e) "Continued claim" means the claim certifying to a period of uninterrupted disability occurring subsequent to the period covered by the first claim.

(f) "Copy" means any written or printed material, duplicated by electronic means or photographic reproduction, which may be submitted or received by the department, claimants or other entities for purposes of collecting or transmitting information relating to a first or continued claim.

(g) "Electronic means" includes facsimile, electronic mail, Internet, or any other acceptable electronic method as determined by the department.

~~(e)~~(h) "First claim" means the claim initially filed on a form prescribed by the department with respect to a single uninterrupted period of unemployment and disability and certifying to a period of disability.

(i) "Form" means a hardcopy or electronic form used by the department to collect or to solicit information from and communicate information to claimants, medical providers, employers, insurance companies, and third party administrators.

~~(f)~~(j) "Independent medical examination" means the examination or examinations required by the director for compliance with subdivision (c) of Section 2627 of the code in addition to the certificate of a physician required by Section 2708 of the code, and for compliance with Sections 2706-3 and 2627(c)-1 of these regulations.

~~(g)~~(k) "Insurer" means an insurance carrier admitted to write disability insurance in the State of California.

(l) "Mail" means deposit with the United States Postal Service or any other authorized postal service, addressed to the recipient's mailing address last known to the sender, with express, priority, or first class postage.

~~(h)~~(m) "Physician" wherever used in this part and in Part 2 (commencing with Section 2601) of Division 1 of the code means "physician" as defined in Section 3209.3 of the Labor Code or a duly authorized medical officer of any facility of the United States Government. "Physician" also includes any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this State or in any foreign country, or in a territory or possession of any country.

~~(i)~~(n) "Regular wages" as used in Section 2656 of the code means compensation paid entirely by an employer directly to his or her employee as a full or partial payment of his or her remuneration during a period of disability.

(o) "Signature" includes a mark made in compliance with Section 14 of the Civil Code, or a digital signature affixed by any means used by the sender, accepted by the recipient, and acceptable under Section 16.5 of the Government Code and Chapter 10 of Division 7 of Title 2 of the California Code of Regulations.

(p) "Statement on letterhead" means any document that is provided by

electronic means or in printed format that officially identifies the issuing entity, which may be a county, state, or equivalent government or private entity for purposes of providing the information described in Section 2708(c)-1 of these regulations.

~~(j)~~(q) "Voluntary plan" means a plan for the payment of disability benefits as described in Chapter 6 (commencing with Section 3251) of Part 2 of Division 1 of the code.

~~(k)~~(r) "Week" means the seven consecutive day period beginning with the first day of unemployment and disability with respect to which a valid claim is filed for benefits and thereafter the seven consecutive day period commencing with the first day immediately following such week or subsequent continued weeks of unemployment and disability.

~~(l)~~(s) "Weekly wage" as that term is used in Section 2656 of the code means any remuneration earned, exclusive of wages paid for overtime work, during the last full week of work immediately preceding the claimant's first day of unemployment and disability, except that for good cause the department may determine the "weekly wage" in any other equitable manner.

(t) "Writing" means the original or a copy of any form of recorded message, provided by electronic means or printed format, capable of comprehension by ordinary visual means.

~~(m)~~(u) For the purposes of Section 140.5 of the code no individual shall be deemed eligible for disability benefits for any week of unemployment unless such unemployment is due to a disability.

(1) If an individual has been neither employed nor registered for work at a public employment office or other place approved by the director for more than three months immediately preceding the beginning of a period of disability, he or she is not eligible for benefits unless the department finds that the unemployment for which he or she claims benefits is due to a disability and is not due to his or her previous withdrawal from the labor market.

~~(n)~~(v) A claimant shall be notified in writing of any determination on his claim and of the reasons for any denial of his or her claim. Appeals from such determinations or denials of his or her claim may be filed in accordance with Section 2707.2 of the code and Sections 5000 through 5111 of these regulations which set forth the applicable appeals procedures.

NOTE: Authority cited: Sections 305, 306, and 2602, Unemployment Insurance Code. Reference: Sections 140.5, 2601, 2626, 2627, 2656, 2706.1, 2707.2 and 2708, Unemployment Insurance Code.
