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Janeese Lewis George

Councilmember Janeese Lewis George

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the Universal Paid Leave Amendment Act of 2016 to prohibit private disability insurance providers from reducing short-term disability benefits based on actual or estimated paid leave benefits an eligible individual may be entitled to from the District, regardless of the jurisdiction in which the insurance policy was issued or written; and to amend Title I of the Insurance Trade and Economic Development Amendment Act of 2000 to make offsetting or reducing benefits under a short-term disability insurance policy based on estimated or actual benefits received under the Universal Paid Leave Amendment Act of 2016 enforceable under that law, regardless of the jurisdiction in which the insurance policy was issued or written.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

resolution may be cited as the “Short-Term Disability Insurance Benefit Protection Clarification Emergency Declaration Resolution of 2026”.

Sec. 2. (a) There exists an immediate need to extend the provisions within the Short-Term Disability Insurance Benefit Protection Clarification Temporary Amendment Act of 2025, effective July 16, 2025 (D.C. Law 26-17; 72 DCR 6109), which will expire on February 26, 2026, to protect benefits from the District’s Universal Paid Leave (“UPL”) program and benefit payments from short-term disability insurance plans for District workers who are entitled to both.

(b) Many District employers provide optional, private short-term disability insurance plans as part of the compensation package paid and available to employees. These plans provide enrolled employees with partial income replacement for the employee’s absence from work due

37 to recovery from injury or illness, including postpartum recovery. A typical short-term disability
38 plan provides between 40 and 60% of the employee's salary up to a duration of between 3 to 6
39 months, based on documented medical need. Some employers pay the premiums for these plans,
40 while many employers require employees to pay all or part of the premiums.

41 (c) The District's UPL program launched in July 2020. It provides benefits, in the form of
42 partial wage replacement, to District workers who need to take time off from work for events
43 associated with the birth or placement of a new child, including bonding ("parental leave"),
44 recovery from serious illness or injury ("medical leave"), or caring for a family member with a
45 serious illness or injury ("family leave"). District employers pay quarterly contributions into a
46 social insurance fund from which benefits are paid to eligible workers when a qualifying leave
47 event arises.

48 (d) The UPL program provides up to 12 total weeks of benefits for parental leave,
49 medical leave, and family leave.

50 (e) Many District workers use the public and private programs together, relying on them
51 to achieve closer to full wage replacement in total and to extend the period of wage replacement
52 to more fully cover unpaid periods of leave from work necessitated by sometimes complex and
53 lengthy medical needs.

54 (f) In 2021, the Council learned that, since the UPL program began paying benefits to
55 workers, private insurance companies providing coverage to District workers were offsetting the
56 amount of benefits paid under their short-term disability plans by the amount of benefits the
57 employee was expected to receive from the District's UPL program, regardless of whether the
58 beneficiary had applied for or received those paid leave benefits or not, and regardless of the
59 purpose for which the leave was used (i.e., parental bonding leave rather than medical leave).

60 (g) In Council Period 24, the Committee on Labor and Workforce Development (“Labor
61 Committee”) worked to partially close this coordination of benefits loophole to prohibit benefit
62 offsetting by including amendments to the Universal Paid Leave Act of 2016, effective April 7,
63 2017 (D.C. Law 21-264; D.C. Official Code § 32-541.01 et seq.), in the Fiscal Year 2022 Budget
64 Support Act of 2021, effective November 13, 2021 (D.C. Law 24-45; 68 DCR 10163).

65 (h) It later came to the attention of the Labor Committee that the Department of
66 Insurance, Securities, and Banking’s (“DISB”) ability to enforce the anti-offsetting law, as
67 intended, was hampered by the fact that the agency’s enforcement authority is typically limited
68 to insurance policies that were written or issued in the District. Thus, DISB was likely unable to
69 take enforcement action against an insurer for unlawfully offsetting UPL benefits for District-
70 based employees because the employer’s short-term disability policy was written or delivered
71 outside the District.

72 (i) Some employers of District employees—such as national employers or those based in
73 other states—may purchase a policy that was written or delivered outside the District. It was
74 previously reported to the Labor Committee that several insurance companies do not believe
75 their short-term disability benefit is protected by the District's anti-offsetting provision and
76 Council offices continue to hear reports of District workers being victims of offsetting practices.

77 (j) The Council did not intend for UPL benefits to reduce or limit workers' access to
78 short-term disability benefits as:

79 (1) The UPL law states that the right to UPL benefits is not to be diminished by a
80 collective bargaining agreement, by any other contract, or by an employer policy;

81 (2) The law enumerates 2 programs, unemployment insurance and long-term
82 disability insurance, that, if an individual is receiving benefits under those programs, will make

83 the individual ineligible for UPL benefits, implying that individuals are permitted to receive
84 benefits under other programs like short-term disability;

85 (3) The law states that the UPL benefits shall not prevent an employer from
86 supplementing or providing greater benefits than required under the UPL law;

87 (4) Individual workers often use the programs for different purposes, such as UPL
88 for bonding leave and short-term disability for postpartum recovery which are subject to
89 different time restrictions; and

90 (5) The UPL program and short-term disability insurance have completely
91 separate and independent funding mechanisms.

92 (k) Under the UPL law, it is unlawful for any person to interfere with an employee's right
93 to UPL. Using the UPL benefits as an offset for short-term disability benefits renders the UPL
94 benefit meaningless because an employee receives no more benefit than they would in the
95 absence of UPL; that is interference.

96 (l) The intent of this legislation is to continue to strengthen DISB's enforcement authority
97 to prevent interference by including an extraterritoriality clause that requires application of the
98 law regardless of the jurisdiction in which the private market short-term disability insurance
99 policy was written or issued.

100 (m) The current temporary measure will expire on February 26, 2026, and action must be
101 taken to enact a new round of emergency and temporary legislation while passage of the
102 permanent bill is pending in the current Council period.

103 Sec. 3. The Council of the District of Columbia determines that the circumstances
104 enumerated in section 2 constitute emergency circumstances making it necessary that the Short-

105 Term Disability Insurance Benefit Protection Clarification Emergency Amendment Act of 2026

106 be adopted after a single reading.

107 Sec. 4. This resolution shall take effect immediately.