Section 3 – Short Term Disability (STD) Benefits
LESS THAN TWELVE MONTH EDUCATIONAL EMPLOYEES
Frequently Asked Questions (FAQs)

Important: For more information, visit the SBO website at de.gov/statewidebenefits
(Navigation: Select your group > Select "Disability Insurance")

Table of Contents

- **Less Than Twelve Month Educational Employees Identified.....Pages 1-2**
- **Coverage.....Pages 2-3**
- **Claim Filing Requirements.....Pages 4-7**
- **Medical Records vs. "Out-of-Work" Notices..... Page 7**
- **Benefit Payments.....Pages 7-14**
- **Employment While Receiving STD Benefits.....Page 14**
- **Vocational Rehabilitation & Rehabilitative Employment..... Page 15**
- **Additional Employee Responsibilities..... Page 15**
- **State or Double State Share Health Care Coverage..... Page 16**
- **Family and Medical Leave Act (FMLA).....Page 16**
- **Income Taxes..... Page 16**
- **Deferred Compensation Program..... Page 16**
- **Service Pension Credits..... Page 17**
- **Exhaustion of the STD Benefit Period..... Page 17**
- **Escrow of Accrued Annual and Sick Leave..... Page 17**

Less Than Twelve Month Educational Employees Identified

(1) Who are "Less Than Twelve Month Educational Employees"?

"Less Than Twelve Month Educational Employees" means those employed by School Districts, Charter Schools, the DOE, University of Delaware, Delaware State University and Delaware Technical Community College whose normal working period is a school year or semester which is less than 12 months in duration per calendar year. "Less

Than Twelve Month Educational Employees" are not defined or categorized by the employee's length of employment

Coverage

(2) What is a Short Term Disability (STD) plan?

By definition, Short Term Disability (STD) plans provide enrolled employees with partial income replacement for a short period of time should the employee become disabled due to a covered accident, sickness, or pregnancy. In the State of Delaware's STD plan, Total Disability or Totally Disabled means an employee is prevented by:

1) Injury;
2) Sickness;
3) Mental Condition;
4) Substance Abuse;
5) Pregnancy; or
6) Loss of license due to medical condition;

from performing the essential duties of their occupation, and as a result, is earning 20% or less of their pre-disability base pay.

(3) How is pre-disability base pay defined?

"Pre-Disability Base Pay" or "Creditable Compensation" means the employee's usual rate of pay paid to the employee on the last day of employment before the employee developed a disability including hazardous duty pay, if applicable. Pre-disability earnings do not include commissions, bonuses, shift differential pay, overtime pay or any other fringe benefit or extra compensation. For purposes of the DIP, Pre-Disability Base Pay is the employee's usual rate of pay prior to the date of disability.

(4) What disabilities are not covered in the STD plan?

The STD plan does not cover and no benefit shall be paid for:

- injury, sickness, mental condition, substance abuse, or pregnancy not being treated by a health care provider;
- disability caused by or contributed to by war or act of war (declared or not);
- disability caused by commission of or attempt to commit a felony, or to which a contributing cause was the employee being engaged in an illegal occupation;
- disability caused by or contributed to by an intentionally self-inflicted injury; or
- injury sustained as a result of doing any work for pay or profit from another employer.

(5) Is there a Pre-existing Conditions Limitation in the STD plan?

No. There is no pre-existing conditions limitation in the STD plan.

(6) What is the coverage for Less Than Twelve Month Educational Employees who become disabled during a non-working period?

Disabilities that begin during a non-working period may not be claimed until the normal working period resumes. The actual date of the disability will always be the date listed in The Hartford's claim system; however, the elimination period begins the first working day of the new school year. For example, a disability that occurs on July 1st for a Less Than Twelve Month Educational Employee will show a July 1st date of disability in The Hartford's claim system; however, the elimination period begins the first working day of the new school year. NOTE: "Normal working periods" are defined as the scheduled working days for the employee.

(7) What is the coverage for Less Than Twelve Month Educational Employees who become disabled during the school year and whose disability runs through non-working months?

In this situation, the calendar day elimination period begins during the school year and continues through the end of the current school year. If for example, an employee should become disabled in March of a school year, the elimination period begins on the date of disability and extends through the end of the employee's normal working period for that school year. With the exception of employees eligible for parental leave, employees in less than twelve month contracts who elected to be paid throughout the year (26 pay versus 22 pay periods) will receive a "day's adjustment" to pay them for the contracted days worked from the start of the school year through and including the elimination period. Once the elimination period has been satisfied, the employee will be paid a daily STD benefit for each contractual workday in the period approved for STD benefits by The Hartford. Employees in less than twelve month contracts eligible for parental leave who elected to be paid throughout the year, will receive a "days adjustment" to pay them for the contracted days worked from the start of the school year, including the elimination period through the end of the maternity leave approved by The Hartford only if the employees diagnosis changes and the STD leave is extended.

To be more specific, if the disability starts on April 1st, the employee will be required to satisfy a 30 calendar day elimination period which will end on April 30th. If The Hartford approves the claim through July 15th, the employee will be paid STD benefits beginning May 1st through the end of the employee's normal working period for the current school year. The employee will then be placed in an unpaid status beginning the first day of their non-working period through July 15th by the employing organization.

Claim Filing Requirements

(8) Are employees enrolled in the DIP required to file an STD claim?

Yes. Employees enrolled in the DIP must file an STD claim with The Hartford if the employee expects to be out of work for at least 30 calendar days *even* if the employee applied for and/or is receiving lost wage benefits (i.e., Workers' Compensation and/or Personal Injury Protection (PIP) benefits from the state or a personal automobile policy) and/or parental leave upon the birth of a child(ren). Once an employee exhausts the calendar day elimination period, the employee will be deemed to have applied for STD benefits and shall *not* be eligible to utilize paid sick and/or annual leave in lieu of application for Short Term Disability benefits. Employees not meeting the requirements noted in Section 9.0 of the Disability Insurance Program (DIP) Rules and Regulations posted on SBO's website will also be deemed to have applied for STD benefits and shall not be eligible to utilize paid sick and/or annual leave in lieu of application for an extension of STD benefits.

(9) If an employee is receiving Workers' Compensation (WC) benefits due to an injury that occurred at work, does the employee have to file an STD claim?

Yes. The Workers' Compensation statute (Title 19, Chapter 23 of the Delaware Code) provides benefits to workers who are injured or who contract an occupational disease while working. The workers' compensation lost wages benefit, paid based on 66 2/3% of the employee's average weekly wage up to a maximum established by the Secretary of the Department of Labor, is an offset to the STD benefit. By filing for STD benefits, the employee will receive up to 75% of pre-disability base pay including hazardous duty pay, if applicable. The employee may use available annual leave, sick leave, compensatory time, or donated leave to bring the 75% STD benefit payment up to 100% of pre-disability base salary if and when the salary supplement has been exhausted. For more information on Workers' Compensation (WC) benefits or the salary supplement, please contact the Insurance Coverage Office at 1-877-277-4185 or by email at inscov@delaware.gov.

(10) If an employee is receiving Personal Injury Protection (PIP) benefits due to an injury that occurred while occupying a state owned vehicle and in the course and scope of his/her work, does the employee have to file an STD claim?

Yes. The State of Delaware's self-insured plan provides PIP benefits which complies with 21 Del. C. §2118 which is the Delaware PIP No-Fault Car Insurance statute. This statute outlines Delaware's requirements of insurance for motor vehicles and provides benefits to workers who are injured while occupying a state owned vehicle in the course and scope of their work. It provides payment for medical bills, lost wages, funeral expenses, and replacement personal services for up to two years from the date of the motor vehicle accident; or up to the amount of the State's PIP policy limits. PIP

lost wage benefits are paid based on 80% of the average weekly wage (as of the date of the motor vehicle accident) and determined by obtaining the biweekly compensation rate in PHRST divided by two then multiplied by 80%. The PIP lost wage benefit is an offset to the STD benefit. The PIP claim runs concurrent with the Workers' Compensation claim and the STD claim. Once the PIP limits are exhausted, the handling of the claim is transferred to the Workers' Compensation carrier for further handling. By filing for STD benefits, the employee will receive up to 75% of pre-disability base pay including hazardous duty pay, if applicable. The employee may use available annual leave, sick leave, compensatory time or donated leave to bring their wage and benefits payment up to 100% of pre-disability base if and when the salary supplement has been exhausted. For more information on State sponsored PIP benefits or the salary supplement, please contact the Insurance Coverage Office at 1-877-277-4185 or by email at inscov@delaware.gov.

(11) If an employee is receiving Personal Injury Protection (PIP) benefits due to an injury that occurred while occupying a *non-state* owned vehicle, does the Employee have to file for Short Term Disability (STD) benefits?

Yes as PIP benefits obtained through an employee's personal automobile insurance carrier are considered "Other Income Benefits," which are an offset to STD benefits.

(12) If an employee is receiving Parental Leave, does the employee have to file for Short Term Disability (STD) benefits?

Yes. Employees enrolled in the DIP are required to file an STD claim even if the employee is eligible for or receiving parental leave. Per House Bill No. 3 As Amended by House Amendment No. 4, STD, parental leave and any rights and benefits available under the FMLA shall run concurrently.

(13) How does an employee file a STD claim?

Visit the SBO website at de.gov/statewidebenefits (Navigation: select your group > choose "Disability Insurance") to view the "File a STD Claim" document for step-by-step instructions.

(14) When should employees file a STD claim?

Employees should file their STD claim with The Hartford no later than 15 calendar days from the date of disability or absence from work **even if** the employee applied for and/or is receiving lost wage benefits (i.e., Workers' Compensation and/or Personal Injury Protection (PIP) benefits) from the State of Delaware and/or "Other Income Benefit" defined in the Short Term Disability benefits booklet. Claims filed with The Hartford after the 16th calendar day will still be processed with the contingency that

the claims process *may* not be completed by the exhaustion of the elimination period resulting in delayed claim (wage) payments to the employee.

(15) Will The Hartford notify the employee's Human Resource/Benefits Office that an STD claim was filed?

Yes. The Hartford will notify and also verify the employee's last full day and any partial days worked with the employee's Human Resource/Benefits Office via email.

(16) What process is used by The Hartford to make a claim determination?

Below is an overview of the claim filing and adjudication process:

Business Day 0

- Employee contacts The Hartford to report a claim.
- For telephonic submissions, The Hartford's clinical examiner captures the information and explains the claim process to the employee.

Business Day 1-3

- For online submissions, The Hartford's examiner calls the employee to explain the claim process and to review the information on the employee's submission. If The Hartford has the health care provider's contact information, they send a fax to the provider requesting medical documentation. If they do not receive information within 5 business days, The Hartford will call the health care provider's office to make sure we have the correct fax number and resend the fax. Please note if The Hartford does not have the health care provider's information, they will call the claimant to obtain their health care provider's information.

Business Day 5

- If medical information has not been received, The Hartford contacts the employee and requests that they have the health care provider's office call The Hartford.
- The Hartford will remind the employee that if the information is not received by the 15th business day, the claim will be closed *until* the information is received.
- If all the medical information has been received, then The Hartford will adjudicate the claim.

Business Day 15

- The claim will be closed if health care provider information is still missing.
- The Hartford will send a letter to the employee (and an email to the employing organization) notifying both parties of the claim determination.

(17) What happens if The Hartford denies the claim or the claim is later terminated before the employee has returned to work?

If an employee's STD claim is denied and/or later terminated or if the employee disagrees with a claim determination, the employee may file an appeal. A detailed description of the appeals process is displayed on the SBO website. Employees not meeting the requirements noted in Section 9.0 of the Disability Insurance Program

(DIP) Rules and Regulations will be deemed to have applied for an extension of STD benefits and are not eligible to utilize paid leave in lieu of application for an extension of STD benefits.

Medical Records vs. "Out-of-Work" Notices

(18) What happens if a health care provider requests payment for the release of medical information to The Hartford?

The employee is responsible for the payment of any initial fees requested by their health care provider(s) for the release of medical information and/or subsequent attending physician statements (APS's) requested by The Hartford. If additional more detailed information (i.e., medical records, narrative reports, etc.) is required by The Hartford in order to consider a claim, The Hartford will honor a reasonable fee request.

(19) Can The Hartford use "out-of-work" slips and/or a copy of the employee's Family Medical and Leave Act (FMLA) application and/or submission in lieu of obtaining medical information?

No. The Hartford is *required* to obtain medical information (i.e., test results, lab reports, x-rays, etc.) from all health care provider(s).

Benefit Payments

(20) When do STD benefit payments commence and for how long?

For a disability caused by a covered sickness and/or accident, STD benefits commence after completion of a 30 calendar day elimination period and are paid for contractual days *during the employees normal working period* for *up* to a maximum period of 182 calendar days. The 182 calendar day STD benefit period *includes* the 30 calendar day elimination period. Each day an employee receives a total disability benefit or a residual (partial) disability benefit or a minimum disability benefit, counts toward the exhaustion of the maximum 182 calendar day STD benefit period.

(21) What is an elimination period?

An elimination period starts on the date of disability and is the period of time that must be satisfied before disability benefits begin. Employees are eligible to utilize earned sick leave (not to exceed the employee's sick leave balance) up to 100% of pre-disability base pay. Employees may also utilize earned annual leave, compensatory time, or donated leave for absences due to accident, illness, pregnancy* or injury for periods before disability benefits commence such that the employee receives 100% of pre-disability base pay for such periods, not to exceed the employee's sick leave balance.

* Parental leave shall be used to cover the elimination period upon the birth of child for eligible employees in lieu of earned sick or annual leave, compensatory time or donated leave. Since each school district, charter school, and institution of higher education has a separate parental leave policy, school personnel must direct questions about their HR/Benefits Office.

Educational and non-Merit employees who are injured on the job and approved for Workers' Compensation (WC) must comply with the **leave** rules that apply to your employing organization.

The date of the injury is the first day of the STD calendar day elimination period.

(22) How is the elimination period satisfied for Less Than Twelve Month Educational Employees?

The elimination period begins on the date of the employee's physical and/or mental incapacity and must commence and conclude within normal working periods for employees who work less than twelve months per calendar year.

The "normal working period" for Less Than Twelve Month Educational Employees *includes* the winter and spring breaks and non-contractual days during the STD elimination period and is defined as the first scheduled day of work during the school year through the last scheduled day of work during the current school year. The "non-working period" is defined as the period between the last scheduled day of the employee's normal working period in the current school year through the first scheduled day of the employee's working period at the start of the subsequent school year. Employees who are unable to satisfy the elimination period before the end of the current school year will resume completion of the elimination period as of the first day of their normal working period in the subsequent school year, as long as the employee remained continuously disabled through the non-working period.

Disabilities that begin during a non-working period may not be claimed until the employee's normal working period resumes. The actual date of disability will remain unchanged however the elimination period begins the first working day of the employee's normal working period in the new school year.

(23) Does the elimination period in the STD plan have to be satisfied consecutively?

No. The calendar day elimination period does not have to be satisfied consecutively. It can be satisfied intermittently. Consider the following two examples:

<u>Example 1</u>
Mitchell is absent from work for 15 days due to disability. Mitchell "prematurely" returned to work on a full-time basis for 2 days before their symptoms reappear

and their physician re-certifies his disability. Because Mitchell returned to work for less than 14 days, The Hartford will consider this a recurrence of Mitchell's initial disability and Mitchell's next day of absence from work will count as Mitchell's 16th day toward satisfaction of Mitchell's calendar day elimination period. Please refer to Q&A 30 for an explanation of the statutory recurrent period.

Example 2

As part of Mary's chemotherapy treatment, Mary receives an injection on Monday and is absent from work due to sickness connected with the injection on Tuesday and Wednesday every other week. In other words, Mary misses the first 3 days of work every other week because of chemotherapy treatments. As long as each time Mary returns to work is less than 14 consecutive days, The Hartford will consider each day Mary misses as part of Mary's elimination period. At this pace, Mary will satisfy the elimination period as follows:

1st week:	3 days
3rd week:	6 days
5th week:	9 days

(24) What is the bi-weekly STD benefit and who pays it?

The STD plan pays wage payments ***up to*** 75% of pre-disability base pay including hazardous duty pay, reduced by "Other Income Benefits". The STD benefit is paid as a bi-weekly wage through the State of Delaware's payroll system known as "PHRST" according to the state's payroll schedule (or other payroll system for Delaware Solid Waste Authority (DSWA) and the University of Delaware (UD)). **NOTE:** It is the current or former employee's responsibility to promptly notify and repay overpaid STD benefit wages in full to the State of Delaware as a result of a current or retroactive Other Income Benefits award.

(25) What are "Other Income Benefits"?

Other Income Benefits means the amount of any benefit for loss of income, provided to the employee or to the employee's family, as a result of the period of Disability for which the employee is claiming benefits under this Plan. This includes any such benefits for which the employee or the employee's family are eligible, or that are paid to the employee, the employee's family, or to a third party on the employee's behalf. This includes the amount of any benefit for loss of income from:

1) the United States Social Security Act, the Civil Service Retirement System, the Railroad Retirement Act, the Jones Act, the Canada Pension Plan, the Quebec Pension Plan or similar plan or act that the employee, the employee's spouse, or the employee's children are eligible to receive because of the employee's Disability;

2) any plan or arrangement of coverage, whether insured or not, as a result of employment by or association with the State of Delaware, or as a result of membership in or association with any group, association, union or other organization;
3) the Veteran's Administration or any other foreign or domestic govern- mental agency for the same disability;
4) any governmental law or program that provides disability or unemployment benefits as a result of the employees job with the State of Delaware;
5) individual insurance policy where the premium is wholly or partially paid by the State of Delaware;
6) any temporary or permanent disability benefits under a workers' compensation law, occupational disease law, or similar law including the Salary Supplement;
7) compulsory "no-fault" automobile insurance; or
8) the portion of a settlement or judgement of a lawsuit that represents or compensates for the employees loss of earnings for the same disability.

(26) What is Workers' Compensation (WC) and where can I find more information about this plan?

Workers' Compensation (WC) is a system, established under Chapter 23 of Title 19 of the Delaware Code, which provides compensation to workers who are injured or who contract an occupational disease while working. The benefits can include medical care, temporary disability payments and compensation for a resulting permanent impairment. In the event of the death of an injured worker, benefits are payable to the family of the worker. Benefits may be paid voluntarily or it may be necessary to petition the Office of Workers' Compensation for relief. Temporary disability payments that are paid through the Workers' Compensation program and administered by the Insurance Coverage Office (ICO) are unrelated to disability benefits paid under the DIP. Information regarding the WC program can be found on the ICO website or by calling 1-877-277-4185.

(27) What is the Salary Supplement?

"Salary Supplement" means in accordance with 29 **Del.C.** §5933 that whenever an officer as defined in 29 **Del.C.** §5812(n)(1), or employee of the State including those exempt from the classified service, qualifies for workers' compensation disability benefits, the officer or employee, for a period not to exceed 3 months from the date the compensation begins, is not charged sick leave and shall receive from the State the difference, if any, between the total of: The amount of the compensation, disability benefits received under the Federal Social Security Act, and another employer supported disability program, and the amount of wages to which the officer or employee is entitled on the date the compensation begins, provided the injury or disease for which the compensation is paid is not the direct result of the officer or

employee's misconduct and occurs during a period of employment for which the employee is entitled to receive wages. No more than 1 period of supplemental pay shall be made under this subsection for a work injury, including a recurrence or aggravation of that work injury. The 3 month limitation will not apply to any employee injured while performing a hazardous duty assignment and whose injury or injuries arose out of and in the course of performing hazardous duty; providing, however, the employee will be entitled to the benefits of this section for not more than 12 months. Those positions are outlined in 29 **Del.C.** §5933 (c) and (d) and 29 **Del.C.** §5916(e).

(28) How is the STD benefit paid when an employee is receiving WC and STD benefits simultaneously once the salary supplement has exhausted?

The Hartford's system applies the minimum benefit ***if*** the difference between the 75% STD amount and the 66-2/3% WC benefit is less than the 10% or $25.00 minimum STD benefit. In other words, depending on the WC benefit amount being paid to the employee, the employee will be paid an STD amount that will be the greater of:

- The full difference between the 75% STD wage and the WC benefit amount, or
- 10% of the STD benefit before the deduction of Other Income Benefits, or
- $25.00.

Consider the following examples:

<u>Example 1 (Without Overtime)</u>
Mickey's weekly base pay is $727.30. Mickey's WC benefit at 66 2/3% of $727.30 is $484.89. Mickey's STD wage payment for total disability is 75% of $727.30 or $545.48. As $54.55 (10% of $545.48 is greater than $25.00 but less than $60.59 ($545.48 - $484.89), Mickey will be paid an STD benefit of $60.59.

<u>Example 2 (With Overtime)</u>
Jessie, who is paid the same salary as Mickey, worked overtime resulting in a WC rate of $491.64. Due to the definition of pre-disability base pay (Q&A 2), Jessie's STD wage payment is also $545.48. As $53.84 ($545.48 - $491.64) is less than the 10% minimum of $54.55 and more than $25.00, Jessie will be paid the STD minimum benefit of $54.55.

See Q&A 33 for more information on the minimum benefit.

(29) How is the disability benefit administered if the employee is also utilizing paid sick, annual or parental leave, approved for Workers' Compensation and/or Personal Injury Protection (PIP) and the Family and Medical Leave Act (FMLA)?

The STD benefit, paid sick, annual or parental leave, Workers Compensation (WC), Personal Injury Protection (PIP) and the Family and Medical Leave Act (FMLA) are separate benefits offered to employees. These benefits must be coordinated but they are *separate* benefits. The State of Delaware has established policies for combining paid leave (i.e. STD & WC, etc.) and FMLA for educational employees. Approved FMLA will run concurrently with the STD benefit period for Merit employees.

(30) Are Group Accident and Critical Illness considered "Other Income Benefits"?

No. Group Accident and Group Critical Illness benefits are not considered Other Income Benefits and will not reduce the STD benefit payment.

(31) What are Residual (Partial) Disability benefits?

If while covered under this benefit, an employee becomes disabled and works on a part-time or limited duty basis earning more than 20% but no more than 80% of pre-disability weekly earnings, The Hartford will classify the employee as being "Residually Disabled." If an employee should become residually disabled, the following calculation is used by The Hartford to determine the weekly STD benefit:

$$\text{Weekly Residual Benefit} = \frac{(A - B) \times C}{A}$$

A = Pre-Disability Base Pay including hazardous duty pay, if applicable
B = Current Weekly Earnings
C = The weekly STD benefit payable if the employee develops a total disability

Consider this example:
John's Pre-Disability Base Pay was $1,000 per week. John returns to work part-time and currently earns $600 per week. John's 75% Short Term Disability weekly benefit is $750. John would receive a residual Short Term Disability benefit of $300 based on the following calculation:

A = $1,000 (John's Pre-Disability Base Pay)
B = $ 600 (John's Current Weekly Earnings)
C = $ 750 (John's Weekly Short Term Disability Benefit payable: $1,000 X 0.75 = $750)

$$\text{Weekly Residual Benefit: } \frac{(\$1{,}000 - \$600) \times \$750}{\$1{,}000} = \$300$$

Each day an employee receives a residual disability benefit counts toward the exhaustion of the maximum 182 calendar day STD benefit period.

(32) Are STD benefits affected by increases or reductions in salary?

Yes. Creditable compensation during periods an employee receives STD benefits shall include general salary increases awarded or reductions in salary instituted during the period of short term disability coverage.

(33) What is the minimum STD benefit payment?

The minimum STD benefit is $50.00 (if paid on a bi-weekly basis) or 10% of the gross STD benefit before deduction of other income benefits, whichever is greater. If, however the employee is receiving 100% of pre-disability base pay from any other income replacement sources, the minimum STD benefit payment will *not* be paid. Each day an employee receives a minimum disability benefit, counts toward the exhaustion of the maximum 182 calendar day STD benefit period.

(34) How is the STD benefit payment calculated if disability starts or ends in the middle of a pay period?

If an employee is working an alternate schedule, the calendar days used to satisfy the elimination period are converted to a Monday through Friday schedule. Once the elimination period has been satisfied, the STD plan will pay 1/5 of the weekly benefit amount for each weekday the employee is disabled during a pay period as all STD benefit payments are calculated using a 5 day work week.

(35) Can the STD benefit payment be supplemented?

Yes. Employees with a non-child birth diagnosis or who are not eligible for parental leave may use available annual leave, sick leave, compensatory time, and/or donated leave to bring the STD benefit payment up to a maximum of 100% of pre-disability base pay. Parental leave shall be used to supplement the STD benefit to equal 100% of pre-disability base pay for employees entitled to parental leave upon the birth of a child. An employee eligible for parental leave may not use accrued annual leave, sick leave or other leave in lieu of parental leave for the birth of a child(ren) to supplement the STD benefit in connection with the birth of a child(ren).

(36) When will STD benefit payments stop?

STD benefit payment will cease on the first to occur of the following:

1) the date the employee is no longer disabled;
2) the date the employee is released to return to full time work;
3) the date the employee fails to furnish proof of continued disability;
4) the date the employee refuses to be examined, if The Hartford requires an examination;
5) the last day benefits are payable according to the Maximum Duration

of Benefits;

6) the date the employee is no longer an employee covered by the Delaware State Employees' Pension Plan pursuant to 29 **Del.C.** Chapter 55; or
7) the date of the employee's death

(37) What happens if a disability recurs after the employee returns to work as an active full-time employee?

If an employee returns to work on a full-time basis for 15 consecutive calendar days or more during the STD benefit period, any recurrence of a disability will be treated as a new disability with a new corresponding calendar day elimination period that must be satisfied before disability benefits commence. If recurrent periods of disability are due to the same or a related cause and are separated by less than 15 consecutive calendar days of work as an active full-time employee, The Hartford will consider the disability to be the same period of disability.

(38) What happens if an employee is diagnosed with another disability while receiving STD benefits?

If The Hartford extends an employee's period of disability because of a new cause (disability), the 182nd calendar day associated with the first disability will not be extended and the plan's exclusions will apply to the new cause of disability. Consider this example:

> Example
> Robert suffers a stroke, files a claim with The Hartford and is granted STD benefits for a period of 8 weeks. Five days before Robert is scheduled to return to work, he falls ill and is diagnosed with pneumonia (new cause of disability). The 182nd calendar day is determined based on his original date of disability (stroke).

Employment While Receiving STD Benefits

(39) What happens to an employee's job while receiving STD benefits?

The employing organization may not permanently fill an employee's position while the STD claim is in an approved status. Through the approved STD benefit period however, all employing organizations retain the right to impose disciplinary measures up to and including dismissal for just cause. For Merit employees, "just cause" means that management has sufficient reasons for imposing accountability.

Vocational Rehabilitation & Rehabilitative Employment

(40) What is Vocational Rehabilitation?

Vocational Rehabilitation means employment or services that prepare an employee, if disabled, to resume gainful work. Vocational Rehabilitation Services include, when appropriate, any necessary and feasible vocational testing, vocational training, work-place modification, prosthesis, or job placement. Vocational Rehabilitation is determined in conjunction with a referral by the SBO Return To Work Coordinator (RTWC) and/or The Hartford.

(41) What is Rehabilitative Employment?
Rehabilitative Employment is part of the Vocational Rehabilitation program stated above and must be approved in writing by the employee's Human Resource/Benefits Office. Consider this example:

> Jamie works 37.5 hours per week. Jamie's physician recommends a gradual return to work to build up strength to return to Jamie's 7.5 hours workday. Jamie begins their return to work progression by working (3) 5 hour workdays, gradually resuming up to their normal 7.5 hour workday.

(42) Do earnings from Rehabilitative Employment affect the weekly benefit?

Yes. If an employee is in an approved program of Rehabilitative Employment and is disabled, the weekly benefit will be the amount calculated for Total Disability, reduced by up to 50% of the income received from each week of Rehabilitative Employment.

Additional Employee Responsibilities

(43) Are employees required to advise The Hartford and their Human Resource/Benefits Office of income received from other sources?

Yes. Employees must also provide The Hartford and their Human Resource/Benefits Office with a copy of the benefit determination from all other source(s).

(44) While filing and/or receiving STD benefits, are employees required to stay in contact with their supervisor and/or Human Resource/Benefits Office?

Yes, employees are required to stay in contact with their supervisor and/or employing organization Human Resource/Benefits Office throughout all absences and provide all documentation requested.

State or Double State Share Health Care Coverage

(45) Will employees continue to earn state share or double state share for health care coverage while receiving STD benefit payments?

Yes. Employees receiving STD benefit payments will continue to earn state share or double state share as applicable. Please refer to the Group Health Insurance Plan (GHIP) Eligibility and Enrollment Rules on SBO's website.

Family and Medical Leave Act (FMLA)

(46) What is the Family and Medical Leave Act (FMLA)?

FMLA is a labor law that entitles eligible employees to take up to twelve workweeks of unpaid, job-protected leave during a twelve month period for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Qualified medical and family reasons include personal and family illness, family military leave, pregnancy, adoption, or the foster care placement of a child. FMLA also provides qualifying exigency and military caregiver leave for employees with family members who are covered military members. Per Bill No. 3 As Amended by House Amendment No. 4, STD, parental leave and any rights and benefits available under the FMLA shall run concurrently.

Income Taxes

(47) While an employee is on Short Term Disability (STD), are earnings subject to income tax?

Yes, all earnings (STD and paid leave) are subject to Federal, State, and local (if applicable) income tax withholding.

Deferred Compensation Program

(48) Can employees continue to participate in the Deferred Compensation Program while receiving Short Term Disability (STD) wages?

Employees may not defer any portion of the 75% STD payment. However, if an employee uses accrued sick and/or annual leave or parental leave to supplement the STD payment, the employee may defer any portion of the paid leave amount after health care deductions have been exhausted. For more information on the Deferred Compensation Program, please contact the Office of the State Treasurer (OST) at 1-302-672-6700 or visit the OST website.

Service Pension Credits

(49) Will employees continue to accrue service pension credits while receiving STD benefit payments?

Yes. Employees receiving STD benefit payments will continue to accrue service pension credits.

Exhaustion of the STD Benefit Period

(50) What happens after an employee exhausts the STD benefit period (awarded 182 calendar days of STD benefits)?

Employees who exhaust the maximum STD benefit period because they were awarded 182 calendar days of STD benefits, except those entitled to hazardous duty pay as defined in 29 **Del.C.** §5933(c), and those working on a temporary reduced, alternate, light duty and/or part-time basis, shall no longer be an employee of the State or any of its political subdivisions provided the employee has exhausted their FMLA entitlement and/or is not FMLA eligible. Employees entitled to hazardous duty pay as defined in 29 **Del.C.** §5933 (c) who exhaust the STD benefit period shall no longer be an employee of the State or any of its political subdivisions at the end of their entitlement to hazardous duty pay or parental leave provided the employee has exhausted their FMLA entitlement and/or is not FMLA eligible and is not working on a temporary reduced, alternate, light duty and/or part-time basis.

Escrow of Accrued Annual and Sick Leave

(51) Prior to the commencement of Long Term Disability (LTD) benefits, can an employee escrow accrued leave if they expect to return to work?

Yes. *Prior to the commencement of LTD benefits*, an employee whose employment was terminated due to the exhaustion of the STD benefit period may submit a written request to their Human Resource/Benefits Office to escrow accrued annual and sick leave for a maximum period of six months. If the member returns to full-time State employment in a benefit eligible position for 30 calendar days within the six month escrow period, the member's leave balances will be restored. If the member does not return to State employment in a benefit eligible position, the escrowed leave will be paid to the member based on the rules in place by the member's former employing organization (agency or district).

Disclaimer -
If there is any conflict in interpretation between the FAQ's and the Short Term Disability (STD) and Long Term Disability (LTD) plan contract provisions and existing law, the contract provisions and/or law govern.

Questions regarding the Disability Insurance Program?
Please contact the Statewide Benefits Office Customer Service Team by telephone at 1-800-489-8933 or by email at benefits@delaware.gov.

Questions regarding Parental Leave?
Please contact your Human Resource/Benefits Representative. Non-Executive Branch Agencies, including elected offices, school districts, and charter schools should contact your Human Resource/Benefits Office.

Questions regarding Workers' Compensation, state Personal Injury Protection or the Salary Supplement?
Please contact the Insurance Coverage Office at 1-877-277-4185 or by email at inscov@delaware.gov.