

# P L A N D O C U M E N T

## A PRIVATE PLAN DOCUMENT OF TEMPORARY DISABILITY BENEFITS FOR NEW JERSEY EMPLOYEES

### KELLY SERVICES

(FOR DISABILITIES COMMENCING ON OR AFTER JANUARY 1, 2019)

#### I. INTRODUCTION

This is a statement of the Private Plan of Kelly Services USA, LLC, Kelly Services INC, LLC, Kelly Services Global, LLC, Kelly Global Business Services, LLC, (hereinafter called the Company) for Temporary Disability Benefits in New Jersey. The original Plan effective date is July 1, 2017.

#### II. EMPLOYEE COVERAGE

All Employees of the Company who are in employment as defined by the New Jersey Unemployment Compensation Law, and each former Employee of the Company who has been out of such employment for less than two (2) weeks, unless employed by another Covered Employer, is covered by this Private Plan.

#### III. ELIGIBILITY FOR BENEFITS

To be entitled to benefits, an individual must have been in employment with the Company or other employers covered by the New Jersey Unemployment Compensation Law. The individual must have established at least twenty (20) Base Weeks within the Base Year. In the alternative the individual must have been in such employment and have earned, within the Base Year, 1,000 times the State minimum wage in effect on October 1 of the previous calendar year raised to the next highest multiple of \$100.00 if not already a multiple thereof.

#### IV. CONTRIBUTIONS BY EMPLOYEES

Each Employee covered by this Private Plan will be required to contribute toward the cost of benefits the amount prescribed by law as the amount of worker contribution to the New Jersey State Disability benefits fund for an individual covered by an approved Private Plan under the Temporary Disability Benefits Law. The Company may collect the required contributions by deduction from wages currently or in the next succeeding pay period, but may not thereafter collect a contribution with respect to wages previously paid.

#### V. COMPENSABLE DISABILITY

Disability will be compensable, subject to the limitations of the New Jersey Temporary Disability Benefits Law, where an individual covered by this Private Plan suffers any accident or sickness not arising out of and in the course of his or her employment or if so arising not compensable under the New Jersey Workers' Compensation Law, and resulting in his or her total inability to perform the duties of his or her employment.

#### VI. BENEFITS PROVIDED

##### A. Classification and Amount of Benefits

all eligible employees will receive a benefit equal to sixty-six and two-thirds percent (66 2/3%) of the employee's Average Weekly Wage subject to a weekly maximum of six hundred fifty dollars (\$650.00). For each period of disability, an employee covered by this private plan shall receive a weekly benefit amount of two-thirds (2/3) of the employee's average weekly wage,

subject to a maximum of fifty-three percent (53%) of the statewide average weekly remuneration as determined and promulgated annually by the New Jersey Commissioner of Labor pursuant to law, provided, however, that the employee's weekly benefit rate shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof. The amount of benefits for each day of disability for which benefits are payable shall be one-seventh (1/7) of the corresponding weekly benefit amount, provided that the total benefits for a fractional part of a week shall be computed to the next lower multiple of \$1.00, if not already a multiple thereof.

#### B. Commencement of Benefits

Benefits under this Private Plan will be payable with respect to the eighth (8th) consecutive Day of Disability, or the first Day of accidental injury, and each Day thereafter that the Period of Disability continues. However, if benefits are payable for three (3) consecutive weeks with respect to any Period of Disability, then benefits shall also be payable with respect to the first (1<sup>st</sup>) seven (7) Days thereof.

#### C. Duration of Benefits

The maximum total benefits payable to any eligible individual for any period of disability shall be either 26 times his or her weekly benefit amount or one-third (1/3) of his or her total wages in his or her base year, whichever is the lesser, provided that such maximum amount shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

### VII. Definitions

**Covered individual** means any person who is in employment as defined by the New Jersey Unemployment Compensation Law, for which he or she is entitled to remuneration from a covered employer, or who has been out of such employment for less than two weeks.

**Wages** shall mean all compensation payable by covered employers to covered individuals for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash.

**Base week** means any calendar week during which an individual earned, in employment from a covered employer, remuneration equal to not less than 20 times the State minimum wage in effect on October 1 of the previous calendar year raised to the next higher multiple of \$1.00 if not already a multiple thereof.

**Base year** means the 52 calendar weeks

**Period of disability** with respect to any individual shall mean the entire period of time, during which he or she is continuously and totally unable to perform the duties of his or her employment, except that two periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one continuous period of disability; provided the individual has earned wages during such 14 day period with the employer who was his or her last employer immediately preceding the first period of disability.

**Average weekly wage** means the amount derived by dividing a covered individual's total wages earned from his or her most recent covered employer during the base weeks in the eight (8) calendar weeks immediately preceding the calendar week in which the disability commenced, by the number of such base weeks or by eight whichever is less. If this computation yields a result which is less than the individual's average weekly earnings in employment, as defined in the chapter to which the New Jersey Temporary Disability Benefits Law is a supplement, with all covered employers, during the base weeks in such eight (8) calendar weeks, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the base weeks in the eight (8) calendar weeks immediately preceding the week in which the disability commenced.

For periods of disability commencing on or after July 1, 2009, if these computations both yield a result which is less than the individual's average weekly earnings in employment with all covered employers during the base weeks in the 26 calendar weeks immediately preceding the week in which the period of disability commenced, then the average weekly wage shall, upon a written request to the department by the individual on a form provided by the department, be computed by the department on the basis of earnings from all covered employers of the individual during the base weeks in those 26 calendar weeks, and, in the case of a claim for benefits from a private plan, that computation of the average weekly wage shall be provided by the department to the individual and to the employer.

**Statewide average weekly remuneration** means the average weekly remuneration paid to workers by employers subject to this chapter as computed and determined by the Commissioner of Labor on or before September 1 of each year on the basis of 1/52 of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of workers reported by such employers.

### VIII. NON-DUPLICATION OF BENEFITS

- (a) No benefits shall be required or paid under this plan for any period with respect to which benefits are paid or payable under any unemployment compensation or similar law, or under any disability or cash sickness benefit or similar law, of this State or of any other state or of the federal government, except that:

- (1) If a claimant is otherwise eligible for benefits under P.L.1948, c.110 (C.43:21-

25 et seq.) and benefits are also paid or payable to the claimant under a disability benefit law of another state, the claimant shall be paid the benefits provided by P.L.1948, c.110 (C.43:21-25 et seq.), reduced by the amount paid9 concurrently under the provisions of the other state's law; and

(2) If a claimant is otherwise eligible for benefits under P.L.1948, c.110 (C.43:21- 25 et seq.) and benefits are also paid or payable to the claimant under a disability or cash sickness program known as maintenance and cure as provided under the federal maritime law commonly referred to as the Jones Act, the claimant shall be paid the benefits provided by P.L.1948, c.110 (C.43:21-25 et seq.), reduced by the amount paid concurrently under the provisions of the maintenance and cure program.

(b) No benefits shall be required or paid under this plan for any period with respect to which benefits, other than benefits for permanent partial or permanent total disability previously incurred, are paid or payable on account of the disability of the covered individual under any workers' compensation law, occupational disease law, similar legislation, of this State or of any other state or the federal government, except that:

(1) Where a claimant's claim for compensation for temporary disability, under the provisions of subsection a. of R.S.34:15-12, is contested, and thereby delayed, and such claimant is otherwise eligible for benefits under this chapter, said claimant shall be paid the benefits provided by this chapter until and unless said claimant receives compensation under the provisions of subsection a. of R.S.34:15-12;

(2) In the event that workers' compensation benefits, other than benefits for permanent partial or permanent total disability previously incurred, are subsequently awarded for weeks with respect to which the claimant has received disability benefits pursuant to this act, the State fund, or the private plan, as the case may be, shall be entitled to be subrogated to such claimant's rights in such award to the extent of the amount of disability payments made hereunder; and

(3) If there has been a settlement of a workers' compensation claim pursuant to R.S.34:15-20 in an amount less than that to which the claimant would otherwise be entitled as disability benefits under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), for the same illness or injury, the claimant shall be entitled to disability benefits for the period of disability, reduced by the amount from the settlement received by the claimant under R.S.34:15-20. The State fund or a private plan seeking to recover any amount of disability benefit payments from a workers' compensation award shall be required to demonstrate that the recovery is in compliance with the provisions of this section.

(c) Disability benefits otherwise required under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) shall be reduced by the amount paid concurrently under any governmental or private retirement, pension or permanent disability benefit or allowance program to which his most recent employer contributed on his behalf.

## **IX. FURTHER LIMITATION OF BENEFITS**

Notwithstanding any other provisions of this Private Plan, no benefits will be payable hereunder:

1. For more than twenty-six (26) weeks with respect to any one Period of Disability
2. For any Period of Disability which did not commence while the claimant was a Covered Individual i.e., a person who is in employment as defined by the New Jersey Unemployment Compensation Law, for which he or she is entitled to remuneration from an employer covered by such law, or who has been out of such employment for less than two (2) weeks.
3. For any Period of Disability during which the claimant is not under the care of a legally licensed Physician (as defined herein), , who, when requested by the Company, will certify within the scope of his or her practice, the Disability of the claimant, the probable duration thereof, and the medical facts within his or her knowledge.
4. For any Period of Disability due to willfully and intentionally self-inflicted injury or to injury sustained in perpetration 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.
5. For any Period of Disability during which the claimant performs any work for remuneration or profit.
6. In a weekly amount which together with any remuneration the claimant continues to receive from the Company would exceed his or her regular weekly wages immediately prior to Disability.
7. For any Period of Disability during which the claimant would be disqualified for unemployment compensation benefits under the New Jersey Unemployment Compensation Law due to a labor dispute, unless the Disability commenced prior to such disqualification.

## **XI. CLAIMS PROCEDURES**

Benefits under the private plan will be determined and paid to eligible employees and former employees on the basis of the company's employment records by the company's personnel administration. In lieu of which, no later than 30 days after the commencement of the period of disability, the claimant shall furnish to the company a notice and claim for the disability benefits under this private plan.

When requested such notice and proof shall include certification of such disability by the attending physicians or a record of hospital confinement. Failure to furnish notice and proof within the time or in the manner above provided shall not invalidate or reduce any claim if it shall be shown to the satisfaction of the company not to have been reasonably possible.

An employee claiming benefits under this private plan shall, when requested by the company submit himself or herself at intervals, but more often than once a week, for examination by a legally licensed physician, dentist, optometrist, practicing psychologist, podiatrist, chiropractor, certified nurse midwife, or public health nurse designated by the company, during the duration of the claim.

If a person claiming benefits hereunder is unable to agree with the company as to the benefits hereunder, he or she may, within one year of the date from which benefits are claims, appeal to the:

Division of Temporary Disability Insurance  
Private Plan Compliance Section  
PO Box 957  
Trenton, New Jersey 08625-0957

## **XII. GOVERNING LAW**

This Private Plan and its interpretation and administration will be governed by the New Jersey Temporary Disability Benefits Law. In the event of ambiguity or conflict, the Law will prevail.

## **XIII. AMENDMENT AND TERMINATION**

No reduction in the amount of duration of benefits or increase in the rate of employee contributions shall be made without prior approval of the Division of Temporary Disability Insurance. Approval shall be given if the Division finds that the plan, after such modification, continues to meet the requirements of the act and this chapter and, if the employees are to contribute towards the cost of such modified plan, that a majority of the employees covered by the plan have agreed to the modification by written election (by ballot or otherwise) in accordance with this chapter. The plan shall not be modified without the approval of the Division. This plan may be terminated by the company upon proper notice to the Division.

## **XIV. GUARANTEEING CLAUSE**

The benefits payable to each employee covered under this private plan shall be at least equal, in both weekly amount and duration, to those which would be payable to the employee under the state plan, but for his or her inclusion in this private plan.

# Kelly Supplemental Benefits

**Supplemental Benefit Class 2 – “Regular Part-Time” and “Regular Full-Time” Employees** all eligible employees will receive a benefit which is the **greater** of sixty-six and two-thirds percent (66 2/3%) of Average Weekly Wages up to a maximum of six hundred forty-three dollars (\$650.00)/week OR one hundred percent (100%) of Net Pay\* for the first (1<sup>st</sup>) twenty-eight (28) Days of Disability. Then the **greater** of sixty-six and two-thirds percent (66 2/3%) of Average Weekly Wages, subject to a six hundred forty-three dollars (\$650.00) maximum weekly benefit OR sixty (60%) of Net Wages, whichever is greater. Maximum duration is 26 weeks.

**Supplemental Benefit Class 3 – “Regular Part-Time” and “Regular Full-Time” Employees Who Have Purchased the Employer’s Optional Disability Coverage** all eligible employees will receive a benefit which is the **greater** of sixty-six and two-thirds percent (66 2/3%) of Average Weekly Wages up to a maximum of six hundred forty-three dollars (\$650.00)/week OR 100% of Net Wages. Maximum duration is 26 weeks.