

## Summary of Text

Section 355.2(c) is amended to explicitly exclude certain persons under the Black Car Operator's Fund and the New York Jockey Injury Fund from the definition of employee.

Sections 355.4 and 355.8 are amended to include standards for benefits at least as favorable in plans providing for paid family leave.

A new section 355.9 has been added to include paid family leave definitions.

A new subpart 380-1 clarifies applicability.

Subpart 380-2 has been added to describe eligibility for paid family leave and the types of qualifying events necessary to take paid family leave. Qualifying events for paid family leave include leave to care for a child after birth or placement for adoption or foster care within the first 12 months after the birth or placement; for a qualifying exigency arising from the service of a family member in the armed forces of the United States; or to care for a family member with a serious health condition as defined in section 355.9.

Section 380-2.5 provides that employees working 20 or more hours per week become eligible after 26 consecutive weeks of work, and employees who work less than 20 hours a week become eligible on the 175<sup>th</sup> day of work, and describes the rate of paid family leave for part-time workers, as well as establishing 26 weeks as the maximum amount of disability and paid family leave benefits that may be taken in a year.

Section 380-2.6 provides for an optional waiver for an employee whose regular work schedule never achieves the 26 weeks or 175 days in a 52 consecutive week period required to become eligible for paid family leave.

Subpart 380-3 has been added to explain the notice requirements for taking paid family leave. If the leave is foreseeable, the employee is required to give the employer at least 30

days advance notice – if they fail to do so, the self-insured employer or carrier may file a partial denial of the family leave claim for up to 30 days. If notice is not practicable, the employee must notify the employer as soon as it is practicable.

A new subpart 380-4 describes the notice of claim and certification requirements for a paid family leave claim, including medical certification and HIPAA authorization. For leave taken to care for a family member with a serious health condition, the employee must obtain medical certification from the health provider with information about the patient's health condition, and the estimation of frequency and duration of leave necessary, among other information. For a qualifying exigency, the employee must provide a copy of the military member's active duty orders and/or other documentation supporting the leave.

For leave to bond with a child, the birth mother must provide a birth certificate or documentation of pregnancy or birth from a health care provider including the mother's name and birth or due date. A second parent must provide a birth certificate, documentation from a health care provider, voluntary acknowledgment of paternity or court order of filiation. An adoptive parent must submit documentation showing an adoption is in process, or documentation illustrating the leave is to further the adoption. A foster parent must submit a letter from the county or city department of social services or local volunteer agency.

A new subpart 380-5 provides information about filing a claim, as well as the payment and denial process of a paid family leave claim, including uninsured employers. The employee must complete the Request for Paid Family Leave on the form designated by the carrier, and, if the carrier allows it, may file the claim in advance if the leave is foreseeable. The carrier will provide the employee with contact information and any missing information, and within 18 days will pay or deny a completed claim. Section 380-5.5 also provides that

when the employer is uninsured, such claims will be paid from the Special Fund for Disability Benefits. Part 380-5.6 provides a framework for method of payment of claims.

Subpart 380-6 has been added to explain the benefit rate and use of accruals by an employee in conjunction with paid family leave.

Subpart 380-7 has been added to detail employer obligations under paid family leave, including collecting contributions, continuing health insurance (as long as the employee continues contributing to the cost as before paid family leave), and maintaining paid family leave insurance coverage as an individual business owner. Employers may deduct contributions before paid family leave becomes effective, and must post a notice concerning paid family leave. Subpart 380-7 also provides information about continuing deductions while an employee is out on leave.

A new subpart 380-8 provides for reinstatement of the employee to the same or a comparable job upon returning from paid family leave, as well as a process for discrimination or retaliation claims if reinstatement is denied after being formally requested by the employee. The Board will schedule hearings to determine a discrimination case.

Subpart 380-9 has been added to provide a process for disputes related to paid family leave. Any claim-related dispute arising under the paid family leave statute will be eligible for, and subject to, arbitration. This Subpart outlines the arbitration process and fee structure, including requiring a \$25 filing fee by the initiating party which is refundable by the carrier should the employee prevail. It also provides that all disputes shall be resolved by desk arbitration unless the arbitrator finds further development of the record necessary.

Subpart 380-10 has been added to provide for public employers that opt-in for voluntary coverage for paid family leave. A public employer may opt-in for paid family leave only. It

outlines a process for providing coverage for public employees who are or are not represented by an employee organization as described in section 212-b. Subpart 380-10 also provides that if the public employer already offers disability leave benefits and wishes to provide paid family leave benefits, both must be offered under a single insurance policy.

Subpart 361 is amended to provide that Article 9 benefits (both disability and paid family leave) to employees will meet the requirements of the Superintendent of Financial Services.

Part 361.1 has been amended to provide for including paid family leave in the self-insurance regulations, including the option for self-insurers under section 204 to also self-insure for paid family leave or purchase a paid family leave policy from an insurance carrier.

Part 361.2 has been amended to make clear that self-insurers are responsible for covering the cost of paid family leave if it exceeds the statutory maximum contribution which may be collected from employees.

Part 361.3 has been amended to indicate that the security deposit for a self-insurer for both paid family leave and disability benefits will be combined, and outlines the process for the surety bond.

Part 361.4 has been amended to include clarifying information about self-insurer reports to be submitted to the Department of Financial Services, and outlines what information will be required in those reports.

Part 361.5 has been amended to restrict the use of third-party administrators to those licensed by the Workers' Compensation Board.

Parts 361.6 and 361.7 have been amended to fix capitalization and numeration.

Part 376 has been amended to change chairman to Chair, and to reflect the minimum amount of deposit for disability benefits only.

