

MEMORANDUM

DATE: June 24, 2009

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell
Chairperson
State Council for Persons with Disabilities

RE: H.B. 170 (Unemployment Compensation)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 170 which includes several features which would enable more persons to qualify for unemployment benefits. For example, an employee could resign and qualify for unemployment if the relocation of a spouse's employment makes commuting impractical (lines 12-14). An employee discharged for disclosing an intention to resign due to a spouse's relocation could similarly qualify for benefits (lines 32-35). Existing law does not disqualify an applicant from benefits upon resignation linked to domestic violence. See Title 19 Del.C. §3314(1). The bill adds a similar protection for persons discharged due to circumstances directly resulting from the individual's experience of domestic violence (lines 51-68). Finally, the bill authorizes benefits for persons available for part-time work under certain circumstances (lines 75-81).

The most important provisions affecting persons with disabilities appear at lines 21-25 and 41-45:

An individual, who quits work to care for their spouse, child under the age of 18, or parent with a verified illness or disability, will not be considered to have left work voluntarily without good cause attributable to such work. For the purposes of this paragraph, a "verified illness or disability" is defined as one that necessitates the care of the individual's ill or disabled spouse, child under the age of 18, or parent that lasts longer than the individual's employer is willing to grant leave for.

An individual, who is discharged from work because the individual is providing care for their spouse, child under the age of 18, or parent with a verified illness or disability, will not

be considered to have been discharged from work for good cause attributable to such work. For the purposes of this paragraph, a “verified illness or disability” is defined as one that necessitates the care of the individual’s ill or disabled spouse, child under the age of 18, or parent that lasts longer than the individual’s employer is willing to grant leave for.

SCPD has two recommendations. First, if the federal law allows, it would be preferable to delete “under the age of 18”. Parents of children who are adults, as a practical matter, may have to provide care on the same basis as caring for a parent. There is no legal obligation but there is a familial duty equivalent to that of caring for a parent. Second, it’s unclear if the employer-authorized “leave” is paid or unpaid. For clarity, the sponsors may wish to assess whether the federal law provides guidance in this context.

SCPD endorses the proposed legislation (subject to consideration of the above recommendations) since it would promote the availability of care for family members with an illness or disability. .

Thank you for your consideration and please contact SCPD if you have any questions regarding our position on the proposed legislation.

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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