

43: 2-4

LEGISLATIVE HISTORY CHECKLIST

NJSA: 43:21-4, 43:21-39 "Temporary Disability Benefits"--
allow psychologists to certify)

LAWS OF: 1989 **CHAPTER:** 213

Bill No: S784

Sponsor(s): McManimon

Date Introduced: Pre-filed

Committee: Assembly: Labor

Senate: Labor, Industry & Professions

Amended during passage: Yes

Date of Passage: Assembly: December 11, 1989

Senate: June 13, 1988

Date of Approval: December 29, 1989

Following statements are attached if available:

Sponsor statement: Yes (Below)

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

Sponsor's statement:

This bill would amend the "Temporary Disability Benefits Law"
to permit certification of disability by psychologists.

1 **AN ACT** ¹[to amend the "Temporary Disability Benefits Law,"
2 **approved June 1, 1948 (P.L.1948, c.110)] authorizing licensed
3 practicing psychologists to certify disability under the
4 "unemployment compensation law" and "Temporary Disability
5 Benefits Law" and amending R.S.43:21-4 and P.L.1948, c.110¹.**

6

7 **BE IT ENACTED** by the Senate and General Assembly of the
8 **State of New Jersey:**

9 **¹1. R.S.43:21-4 is amended to read as follows:**

10 **43:21-4. Benefit eligibility conditions. An unemployed**
11 **individual shall be eligible to receive benefits with respect to**
12 **any week only if:**

13 **(a) The individual has filed a claim at an unemployment**
14 **insurance claims office and thereafter continues to report at an**
15 **employment service office or unemployment insurance claims**
16 **office, as directed by the division in accordance with such**
17 **regulations as the division may prescribe, except that the**
18 **division may, by regulation, waive or alter either or both of the**
19 **requirements of this subsection as to individuals attached to**
20 **regular jobs, and as to such other types of cases or situations**
21 **with respect to which the division finds that compliance with**
22 **such requirements would be oppressive, or would be inconsistent**
23 **with the purpose of this act; provided that no such regulation**
24 **shall conflict with subsection (a) of R.S.43:21-3.**

25 **(b) The individual has made a claim for benefits in**
26 **accordance with the provisions of subsection (a) of R.S.43:21-6.**

27 **(c) (1) The individual is able to work, and is available for**
28 **work, and has demonstrated to be actively seeking work, except**
29 **as hereinafter provided in this subsection or in subsection (f) of**
30 **this section.**

31 **(2) The director may modify the requirement of actively**
32 **seeking work if such modification of this requirement is**
33 **warranted by economic conditions.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

**Matter enclosed in superscript numerals has been adopted as follows:
Assembly ALA committee amendments adopted November 27, 1989.**

1 (3) No individual, who is otherwise eligible, shall be deemed
2 ineligible, or unavailable for work, because the individual is on
3 vacation, without pay, during said week, if said vacation is not
4 the result of the individual's own action as distinguished from
5 any collective action of a collective bargaining agent or other
6 action beyond the individual's control.

7 (4) Subject to such limitations and conditions as the division
8 may prescribe, an individual, who is otherwise eligible, shall not
9 be deemed unavailable for work or ineligible because the
10 individual is attending a training program approved for the
11 individual by the division to enhance the individual's employment
12 opportunities or because the individual failed or refused to accept
13 work while attending such program.

14 (5) An unemployed individual, who is otherwise eligible, shall
15 not be deemed unavailable for work or ineligible solely by reason
16 of the individual's attendance before a court in response to a
17 summons for service on a jury.

18 (6) An unemployed individual, who is otherwise eligible, shall
19 not be deemed unavailable for work or ineligible solely by reason
20 of the individual's attendance at the funeral of an immediate
21 family member, provided that the duration of the attendance
22 does not extend beyond a two day period.

23 For purposes of this paragraph, "immediate family member"
24 includes any of the following individuals: father, mother,
25 mother-in-law, father-in-law, grandmother, grandfather,
26 grandchild, spouse, child, foster child, sister or brother of the
27 unemployed individual and any relatives of the unemployed
28 individual residing in the unemployed individual's household.

29 (d) The individual has been totally or partially unemployed for
30 a waiting period of one week in the benefit year which includes
31 that week. When benefits become payable with respect to the
32 third consecutive week next following the waiting period, the
33 individual shall be eligible to receive benefits as appropriate with
34 respect to the waiting period. No week shall be counted as a week
35 of unemployment for the purposes of this subsection:

36 (1) If benefits have been paid, or are payable with respect
37 thereto; provided that the requirements of this paragraph shall be
38 waived with respect to any benefits paid or payable for a waiting
39 period as provided in this subsection;

1 (2) If it has constituted a waiting period week under the
2 "Temporary Disability Benefits Law," P.L.1948, c.110
3 (C.43:21-25 et seq.);

4 (3) Unless the individual fulfills the requirements of
5 subsections (a) and (c) of this section;

6 (4) If with respect thereto, claimant was disqualified for
7 benefits in accordance with the provisions of subsection (d) of
8 R.S.43:21-5.

9 (e) (1) With respect to a base year as defined in subsection (c)
10 of R.S.43:21-19, the individual has established at least 20 base
11 weeks as defined in paragraph (1) of subsection (t) of
12 R.S.43:21-19, or, in those instances in which the individual has
13 not established 20 base weeks, the individual has earned
14 \$2,200.00 for benefit years commencing prior to October 1,
15 1984; and, except as otherwise provided in paragraph (2) or
16 paragraph (3) of this subsection, for benefit years commencing
17 on or after October 1, 1984, the individual has earned 12 times
18 the Statewide average weekly remuneration paid to workers, as
19 determined under R.S.43:21-3(c), raised to the next higher
20 multiple of \$100.00 if not already a multiple thereof, or more in
21 the individual's base year.

22 (2) Notwithstanding the provisions of paragraph (1) of this
23 subsection, for benefit years commencing on or after October 1,
24 1984 and before January 1, 1985, an unemployed individual
25 claiming benefits on the basis of service performed in the
26 production and harvesting of agricultural crops shall, subject to
27 the limitations of subsection (i) of R.S.43:21-19, be eligible to
28 receive benefits if it appears that the individual has established
29 at least 20 base weeks as defined in paragraph (2) of subsection
30 (t) of R.S.43:21-19, or, in those instances in which the individual
31 has not established 20 base weeks, the individual has earned
32 \$2,200.00.

33 (3) Notwithstanding the provisions of paragraph (1) of this
34 subsection, an unemployed individual claiming benefits on the
35 basis of service performed in the production and harvesting of
36 agricultural crops shall, subject to the limitations of subsection
37 (i) of R.S.43:21-19, be eligible to receive benefits if during his
38 base year, as defined in subsection (c) of R.S.43:21-19, the
39 individual:

1 (A) Has established at least 20 base weeks as defined in
2 paragraph (1) of subsection (t) of R.S.43:21-19; or

3 (B) Has earned 12 times the Statewide average weekly
4 remuneration paid to workers, as determined under
5 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if
6 not already a multiple thereof, or more; or

7 (C) Has performed at least 770 hours of service in the
8 production and harvesting of agricultural crops.

9 (4) The individual applying for benefits in any successive
10 benefit year has earned at least six times his previous weekly
11 benefit amount and has had four weeks of employment since the
12 beginning of the immediately preceding benefit year. This
13 provision shall be in addition to the earnings requirements
14 specified in paragraph (1), (2), or (3) of this subsection, as
15 applicable.

16 (f) (1) The individual has suffered any accident or sickness not
17 compensable under the Workers' Compensation Law (Title 34 of
18 the Revised Statutes) and resulting in the individual's total
19 disability to perform any work for remuneration, and would be
20 eligible to receive benefits under this chapter (R.S.43:21-1 et
21 seq.) (without regard to the maximum amount of benefits
22 payable during any benefit year) except for the inability to work
23 and has furnished notice and proof of claim to the division, in
24 accordance with its rules and regulations, and payment is not
25 precluded by the provisions of R.S.43:21-3(d); provided,
26 however, that benefits paid under this subsection (f) shall be
27 computed on the basis of only those base year wages earned by
28 the claimant as a "covered individual," as defined in
29 R.S.43:21-27(b); provided further that no benefits shall be
30 payable under this subsection to any individual:

31 (A) For any period during which such individual is not under
32 the care of a legally licensed physician, dentist, optometrist,
33 podiatrist, practicing psychologist or chiropractor;

34 (B) (Deleted by amendment, P.L.1980, c.90.)

35 (C) For any period of disability due to willfully or
36 intentionally self-inflicted injury, or to injuries sustained in the
37 perpetration by the individual of a crime of the first, second or
38 third degree;

39 (D) For any week with respect to which or a part of which the

1 individual has received or is seeking benefits under any
2 unemployment compensation or disability benefits law of any
3 other state or of the United States; provided that if the
4 appropriate agency of such other state or the United States
5 finally determines that the individual is not entitled to such
6 benefits, this disqualification shall not apply;

7 (E) For any week with respect to which or part of which the
8 individual has received or is seeking disability benefits under the
9 "Temporary Disability Benefits Law," P.L.1948, c.110
10 (C.43:21-25 et seq.);

11 (F) For any period of disability commencing while such
12 individual is a "covered individual," as defined in subsection 3(b)
13 of the "Temporary Disability Benefits Law," P.L.1948, c.110
14 (C.43:21-25 et seq.).

15 (2) Benefit payments under this subsection shall be charged to
16 and paid from the State disability benefits fund established by
17 the "Temporary Disability Benefits Law," P.L.1948, c.110
18 (C.43:21-25 et seq.), and shall not be charged to any employer
19 account in computing any employer's experience rate for
20 contributions payable under this chapter.

21 (g) Benefits based on service in employment defined in
22 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable
23 in the same amount and on the terms and subject to the same
24 conditions as benefits payable on the basis of other service
25 subject to the "unemployment compensation law;" except that,
26 notwithstanding any other provisions of the "unemployment
27 compensation law:"

28 (1) With respect to service performed after December 31,
29 1977, in an instructional research, or principal administrative
30 capacity for an educational institution, benefits shall not be paid
31 based on such services for any week of unemployment
32 commencing during the period between two successive academic
33 years, or during a similar period between two regular terms,
34 whether or not successive, or during a period of paid sabbatical
35 leave provided for in the individual's contract, to any individual
36 if such individual performs such services in the first of such
37 academic years (or terms) and if there is a contract or a
38 reasonable assurance that such individual will perform services
39 in any such capacity for any educational institution in the

1 second of such academic years or terms;

2 (2) With respect to weeks of unemployment beginning after
3 September 3, 1982, on the basis of service performed in any
4 other capacity for an educational institution, benefits shall not
5 be paid on the basis of such services to any individual for any
6 week which commences during a period between two successive
7 academic years or terms if such individual performs such
8 services in the first of such academic years or terms and there
9 is a reasonable assurance that such individual will perform such
10 services in the second of such academic years or terms, except
11 that if benefits are denied to any individual under this paragraph
12 (2) and the individual was not offered an opportunity to perform
13 these services for the educational institution for the second of
14 any academic years or terms, the individual shall be entitled to
15 a retroactive payment of benefits for each week for which the
16 individual filed a timely claim for benefits and for which
17 benefits were denied solely by reason of this clause;

18 (3) With respect to those services described in paragraphs (1)
19 and (2) above, benefits shall not be paid on the basis of such
20 services to any individual for any week which commences during
21 an established and customary vacation period or holiday recess
22 if such individual performs such services in the period
23 immediately before such vacation period or holiday recess, and
24 there is a reasonable assurance that such individual will perform
25 such services in the period immediately following such period or
26 holiday recess;

27 (4) With respect to any services described in paragraphs (1)
28 and (2) above, benefits shall not be paid as specified in
29 paragraphs (1), (2), and (3) above to any individual who
30 performed those services in an educational institution while in
31 the employ of an educational service agency, and for this
32 purpose the term "educational service agency" means a
33 governmental agency or governmental entity which is
34 established and operated exclusively for the purpose of providing
35 those services to one or more educational institutions.

36 (h) Benefits shall not be paid to any individual on the basis of
37 any services, substantially all of which consist of participating
38 in sports or athletic events or training or preparing to so
39 participate, for any week which commences during the period

1 between two successive sports seasons (or similar periods) if
2 such individual performed such services in the first of such
3 seasons (or similar periods) and there is a reasonable assurance
4 that such individual will perform such services in the later of
5 such seasons (or similar periods).

6 (i) (1) Benefits shall not be paid on the basis of services
7 performed by an alien unless such alien is an individual who was
8 lawfully admitted for permanent residence at the time the
9 services were performed and was lawfully present for the
10 purpose of performing the services or otherwise was
11 permanently residing in the United States under color of law at
12 the time the services were performed (including an alien who is
13 lawfully present in the United States as a result of the
14 application of the provisions of section 203(a)(7) (8 U.S.C. § 1153
15 (a) (7)) or section 212(d)(5) (8 U.S.C. § 1182 (d)(5)) of the
16 Immigration and Nationality Act (8 U.S.C. § 1101 et seq.));
17 provided that any modifications of the provisions of section
18 3304(a)(14) of the federal Unemployment Tax Act (26 U.S.C. §
19 3304 (a)(14)), as provided by Public Law 94-566, which specify
20 other conditions or other effective dates than stated herein for
21 the denial of benefits based on services performed by aliens and
22 which modifications are required to be implemented under State
23 law as a condition for full tax credit against the tax imposed by
24 the federal Unemployment Tax Act, shall be deemed applicable
25 under the provisions of this section.

26 (2) Any data or information required of individuals applying
27 for benefits to determine whether benefits are not payable to
28 them because of their alien status shall be uniformly required
29 from all applicants for benefits.

30 (3) In the case of an individual whose application for benefits
31 would otherwise be approved, no determination that benefits to
32 such individual are not payable because of alien status shall be
33 made except upon a preponderance of the evidence.

34 (j) Notwithstanding any other provision of this chapter, the
35 director may, to the extent that it may be deemed efficient and
36 economical, provide for consolidated administration by one or
37 more representatives or deputies of claims made pursuant to
38 subsection (f) of this section with those made pursuant to
39 Article III (State plan) of the Temporary Disability Benefits

1 Law," P.L.1948, c.110 (C.43:21-25 et seq.).¹
2 (cf: P.L.1989, c.89, s.1)

3 ¹[1.] 2.¹ Section 15 of P.L.1948, c.110 (C.43:21-39) is
4 amended to read as follows:

5 15. Limitation of benefits. Notwithstanding any other
6 provision of the ¹[Temporary Disability Benefits Law]
7 "Temporary Disability Benefits Law," P.L.1948, c.110
8 (C.43:21-25 et seq.),¹ no benefits shall be payable under the
9 State plan to any person:

10 (a) for the first seven consecutive days of each period of
11 disability; except that if benefits shall be payable for three
12 consecutive weeks with respect to any period of disability
13 commencing on or after January 1, 1968, then benefits shall also
14 be payable with respect to the first seven days thereof;

15 (b) for more than 26 weeks with respect to any one period of
16 disability;

17 (c) for any period of disability which did not commence while
18 the claimant was a covered individual;

19 (d) for any period during which the claimant is not under the
20 care of a legally licensed physician, dentist, optometrist,
21 podiatrist, ¹practicing¹ psychologist, or chiropractor, who, when
22 requested by the division, shall certify within the scope of the
23 practitioner's practice, the disability of the claimant, the
24 probable duration thereof, and¹, where applicable,¹ the medical
25 facts within the practitioner's knowledge;

26 (e) (Deleted by amendment, P.L.1980, c.90.)

27 (f) for any period of disability due to willfully and
28 intentionally self-inflicted injury, or to injury sustained in the
29 perpetration by the claimant of a ¹[high misdemeanor] crime of
30 the first, second, or third degree¹;

31 (g) for any period during which the claimant performs any
32 work for remuneration or profit;

33 (h) in a weekly amount which together with any remuneration
34 the claimant continues to receive from the employer would
35 exceed regular weekly wages immediately prior to disability;

36 (i) for any period during which a covered individual would be
37 disqualified for unemployment compensation benefits under
38 subsection (d) of R.S.43:21-5, unless the disability commenced
39 prior to such disqualification; and there shall be no other cause

1 of disqualification or ineligibility to receive disability benefits
2 hereunder except as may be specifically provided in this act.
3 (cf: P.L.1983, c.47, s.1)

4 ¹[2.] 3.¹ This act shall take effect immediately.

5

6

7

LABOR AND EMPLOYMENT

8

Workers' Compensation

9

10 Permits licensed practicing psychologists to certify disability
11 under the "unemployment compensation law" and "Temporary
12 Disability Benefits Law."

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator McMANIMON

1 AN ACT ¹[to amend the "Temporary Disability Benefits Law,"
2 approved June 1, 1948 (P.L.1948, c.110)] authorizing licensed
3 practicing psychologists to certify disability under the
4 "unemployment compensation law" and "Temporary Disability
5 Benefits Law" and amending R.S.43:21-4 and P.L.1948, c.110¹.
6

7 BE IT ENACTED *by the Senate and General Assembly of the*
8 *State of New Jersey:*

9 ¹1. R.S.43:21-4 is amended to read as follows:

10 43:21-4. Benefit eligibility conditions. An unemployed
11 individual shall be eligible to receive benefits with respect to
12 any week only if:

13 (a) The individual has filed a claim at an unemployment
14 insurance claims office and thereafter continues to report at an
15 employment service office or unemployment insurance claims
16 office, as directed by the division in accordance with such
17 regulations as the division may prescribe, except that the
18 division may, by regulation, waive or alter either or both of the
19 requirements of this subsection as to individuals attached to
20 regular jobs, and as to such other types of cases or situations
21 with respect to which the division finds that compliance with
22 such requirements would be oppressive, or would be inconsistent
23 with the purpose of this act; provided that no such regulation
24 shall conflict with subsection (a) of R.S.43:21-3.

25 (b) The individual has made a claim for benefits in
26 accordance with the provisions of subsection (a) of R.S.43:21-6.

27 (c) (1) The individual is able to work, and is available for
28 work, and has demonstrated to be actively seeking work, except
29 as hereinafter provided in this subsection or in subsection (f) of
30 this section.

31 (2) The director may modify the requirement of actively
32 seeking work if such modification of this requirement is
33 warranted by economic conditions.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly ALA committee amendments adopted November 27, 1989.

1 (3) No individual, who is otherwise eligible, shall be deemed
2 ineligible, or unavailable for work, because the individual is on
3 vacation, without pay, during said week, if said vacation is not
4 the result of the individual's own action as distinguished from
5 any collective action of a collective bargaining agent or other
6 action beyond the individual's control.

7 (4) Subject to such limitations and conditions as the division
8 may prescribe, an individual, who is otherwise eligible, shall not
9 be deemed unavailable for work or ineligible because the
10 individual is attending a training program approved for the
11 individual by the division to enhance the individual's employment
12 opportunities or because the individual failed or refused to accept
13 work while attending such program.

14 (5) An unemployed individual, who is otherwise eligible, shall
15 not be deemed unavailable for work or ineligible solely by reason
16 of the individual's attendance before a court in response to a
17 summons for service on a jury.

18 (6) An unemployed individual, who is otherwise eligible, shall
19 not be deemed unavailable for work or ineligible solely by reason
20 of the individual's attendance at the funeral of an immediate
21 family member, provided that the duration of the attendance
22 does not extend beyond a two day period.

23 For purposes of this paragraph, "immediate family member"
24 includes any of the following individuals: father, mother,
25 mother-in-law, father-in-law, grandmother, grandfather,
26 grandchild, spouse, child, foster child, sister or brother of the
27 unemployed individual and any relatives of the unemployed
28 individual residing in the unemployed individual's household.

29 (d) The individual has been totally or partially unemployed for
30 a waiting period of one week in the benefit year which includes
31 that week. When benefits become payable with respect to the
32 third consecutive week next following the waiting period, the
33 individual shall be eligible to receive benefits as appropriate with
34 respect to the waiting period. No week shall be counted as a week
35 of unemployment for the purposes of this subsection:

36 (1) If benefits have been paid, or are payable with respect
37 thereto; provided that the requirements of this paragraph shall be
38 waived with respect to any benefits paid or payable for a waiting
39 period as provided in this subsection;

1 (2) If it has constituted a waiting period week under the
2 "Temporary Disability Benefits Law," P.L.1948, c.110
3 (C.43:21-25 et seq.);

4 (3) Unless the individual fulfills the requirements of
5 subsections (a) and (c) of this section;

6 (4) If with respect thereto, claimant was disqualified for
7 benefits in accordance with the provisions of subsection (d) of
8 R.S.43:21-5.

9 (e) (1) With respect to a base year as defined in subsection (c)
10 of R.S.43:21-19, the individual has established at least 20 base
11 weeks as defined in paragraph (1) of subsection (t) of
12 R.S.43:21-19, or, in those instances in which the individual has
13 not established 20 base weeks, the individual has earned
14 \$2,200.00 for benefit years commencing prior to October 1,
15 1984; and, except as otherwise provided in paragraph (2) or
16 paragraph (3) of this subsection, for benefit years commencing
17 on or after October 1, 1984, the individual has earned 12 times
18 the Statewide average weekly remuneration paid to workers, as
19 determined under R.S.43:21-3(c), raised to the next higher
20 multiple of \$100.00 if not already a multiple thereof, or more in
21 the individual's base year.

22 (2) Notwithstanding the provisions of paragraph (1) of this
23 subsection, for benefit years commencing on or after October 1,
24 1984 and before January 1, 1985, an unemployed individual
25 claiming benefits on the basis of service performed in the
26 production and harvesting of agricultural crops shall, subject to
27 the limitations of subsection (i) of R.S.43:21-19, be eligible to
28 receive benefits if it appears that the individual has established
29 at least 20 base weeks as defined in paragraph (2) of subsection
30 (t) of R.S.43:21-19, or, in those instances in which the individual
31 has not established 20 base weeks, the individual has earned
32 \$2,200.00.

33 (3) Notwithstanding the provisions of paragraph (1) of this
34 subsection, an unemployed individual claiming benefits on the
35 basis of service performed in the production and harvesting of
36 agricultural crops shall, subject to the limitations of subsection
37 (i) of R.S.43:21-19, be eligible to receive benefits if during his
38 base year, as defined in subsection (c) of R.S.43:21-19, the
39 individual:

1 (A) Has established at least 20 base weeks as defined in
2 paragraph (1) of subsection (t) of R.S.43:21-19; or

3 (B) Has earned 12 times the Statewide average weekly
4 remuneration paid to workers, as determined under
5 R.S.43:21-3(c), raised to the next higher multiple of \$100.00 if
6 not already a multiple thereof, or more; or

7 (C) Has performed at least 770 hours of service in the
8 production and harvesting of agricultural crops.

9 (4) The individual applying for benefits in any successive
10 benefit year has earned at least six times his previous weekly
11 benefit amount and has had four weeks of employment since the
12 beginning of the immediately preceding benefit year. This
13 provision shall be in addition to the earnings requirements
14 specified in paragraph (1), (2), or (3) of this subsection, as
15 applicable.

16 (f) (1) The individual has suffered any accident or sickness not
17 compensable under the Workers' Compensation Law (Title 34 of
18 the Revised Statutes) and resulting in the individual's total
19 disability to perform any work for remuneration, and would be
20 eligible to receive benefits under this chapter (R.S.43:21-1 et
21 seq.) (without regard to the maximum amount of benefits
22 payable during any benefit year) except for the inability to work
23 and has furnished notice and proof of claim to the division, in
24 accordance with its rules and regulations, and payment is not
25 precluded by the provisions of R.S.43:21-3(d); provided,
26 however, that benefits paid under this subsection (f) shall be
27 computed on the basis of only those base year wages earned by
28 the claimant as a "covered individual," as defined in
29 R.S.43:21-27(b); provided further that no benefits shall be
30 payable under this subsection to any individual:

31 (A) For any period during which such individual is not under
32 the care of a legally licensed physician, dentist, optometrist,
33 podiatrist, practicing psychologist or chiropractor;

34 (B) (Deleted by amendment, P.L.1980, c.90.)

35 (C) For any period of disability due to willfully or
36 intentionally self-inflicted injury, or to injuries sustained in the
37 perpetration by the individual of a crime of the first, second or
38 third degree;

39 (D) For any week with respect to which or a part of which the

1 individual has received or is seeking benefits under any
2 unemployment compensation or disability benefits law of any
3 other state or of the United States; provided that if the
4 appropriate agency of such other state or the United States
5 finally determines that the individual is not entitled to such
6 benefits, this disqualification shall not apply;

7 (E) For any week with respect to which or part of which the
8 individual has received or is seeking disability benefits under the
9 "Temporary Disability Benefits Law," P.L.1948, c.110
10 (C.43:21-25 et seq.);

11 (F) For any period of disability commencing while such
12 individual is a "covered individual," as defined in subsection 3(b)
13 of the "Temporary Disability Benefits Law," P.L.1948, c.110
14 (C.43:21-25 et seq.).

15 (2) Benefit payments under this subsection shall be charged to
16 and paid from the State disability benefits fund established by
17 the "Temporary Disability Benefits Law," P.L.1948, c.110
18 (C.43:21-25 et seq.), and shall not be charged to any employer
19 account in computing any employer's experience rate for
20 contributions payable under this chapter.

21 (g) Benefits based on service in employment defined in
22 subparagraphs (B) and (C) of R.S.43:21-19(i)(1) shall be payable
23 in the same amount and on the terms and subject to the same
24 conditions as benefits payable on the basis of other service
25 subject to the "unemployment compensation law;" except that,
26 notwithstanding any other provisions of the "unemployment
27 compensation law:"

28 (1) With respect to service performed after December 31,
29 1977, in an instructional research, or principal administrative
30 capacity for an educational institution, benefits shall not be paid
31 based on such services for any week of unemployment
32 commencing during the period between two successive academic
33 years, or during a similar period between two regular terms,
34 whether or not successive, or during a period of paid sabbatical
35 leave provided for in the individual's contract, to any individual
36 if such individual performs such services in the first of such
37 academic years (or terms) and if there is a contract or a
38 reasonable assurance that such individual will perform services
39 in any such capacity for any educational institution in the

1 second of such academic years or terms;

2 (2) With respect to weeks of unemployment beginning after
3 September 3, 1982, on the basis of service performed in any
4 other capacity for an educational institution, benefits shall not
5 be paid on the basis of such services to any individual for any
6 week which commences during a period between two successive
7 academic years or terms if such individual performs such
8 services in the first of such academic years or terms and there
9 is a reasonable assurance that such individual will perform such
10 services in the second of such academic years or terms, except
11 that if benefits are denied to any individual under this paragraph
12 (2) and the individual was not offered an opportunity to perform
13 these services for the educational institution for the second of
14 any academic years or terms, the individual shall be entitled to
15 a retroactive payment of benefits for each week for which the
16 individual filed a timely claim for benefits and for which
17 benefits were denied solely by reason of this clause;

18 (3) With respect to those services described in paragraphs (1)
19 and (2) above, benefits shall not be paid on the basis of such
20 services to any individual for any week which commences during
21 an established and customary vacation period or holiday recess
22 if such individual performs such services in the period
23 immediately before such vacation period or holiday recess, and
24 there is a reasonable assurance that such individual will perform
25 such services in the period immediately following such period or
26 holiday recess;

27 (4) With respect to any services described in paragraphs (1)
28 and (2) above, benefits shall not be paid as specified in
29 paragraphs (1), (2), and (3) above to any individual who
30 performed those services in an educational institution while in
31 the employ of an educational service agency, and for this
32 purpose the term "educational service agency" means a
33 governmental agency or governmental entity which is
34 established and operated exclusively for the purpose of providing
35 those services to one or more educational institutions.

36 (h) Benefits shall not be paid to any individual on the basis of
37 any services, substantially all of which consist of participating
38 in sports or athletic events or training or preparing to so
39 participate, for any week which commences during the period

1 between two successive sports seasons (or similar periods) if
2 such individual performed such services in the first of such
3 seasons (or similar periods) and there is a reasonable assurance
4 that such individual will perform such services in the later of
5 such seasons (or similar periods).

6 (i) (1) Benefits shall not be paid on the basis of services
7 performed by an alien unless such alien is an individual who was
8 lawfully admitted for permanent residence at the time the
9 services were performed and was lawfully present for the
10 purpose of performing the services or otherwise was
11 permanently residing in the United States under color of law at
12 the time the services were performed (including an alien who is
13 lawfully present in the United States as a result of the
14 application of the provisions of section 203(a)(7) (8 U.S.C. § 1153
15 (a) (7)) or section 212(d)(5) (8 U.S.C. § 1182 (d)(5)) of the
16 Immigration and Nationality Act (8 U.S.C. § 1101 et seq.));
17 provided that any modifications of the provisions of section
18 3304(a)(14) of the federal Unemployment Tax Act (26 U.S.C. §
19 3304 (a)(14)), as provided by Public Law 94-566, which specify
20 other conditions or other effective dates than stated herein for
21 the denial of benefits based on services performed by aliens and
22 which modifications are required to be implemented under State
23 law as a condition for full tax credit against the tax imposed by
24 the federal Unemployment Tax Act, shall be deemed applicable
25 under the provisions of this section.

26 (2) Any data or information required of individuals applying
27 for benefits to determine whether benefits are not payable to
28 them because of their alien status shall be uniformly required
29 from all applicants for benefits.

30 (3) In the case of an individual whose application for benefits
31 would otherwise be approved, no determination that benefits to
32 such individual are not payable because of alien status shall be
33 made except upon a preponderance of the evidence.

34 (j) Notwithstanding any other provision of this chapter, the
35 director may, to the extent that it may be deemed efficient and
36 economical, provide for consolidated administration by one or
37 more representatives or deputies of claims made pursuant to
38 subsection (f) of this section with those made pursuant to
39 Article III (State plan) of the "Temporary Disability Benefits

1 Law," P.L.1948, c.110 (C.43:21-25 et seq.).¹

2 (cf: P.L.1989, c.89, s.1)

3 ¹[1.] 2.¹ Section 15 of P.L.1948, c.110 (C.43:21-39) is
4 amended to read as follows:

5 15. Limitation of benefits. Notwithstanding any other
6 provision of the ¹[Temporary Disability Benefits Law]
7 "Temporary Disability Benefits Law," P.L.1948, c.110
8 (C.43:21-25 et seq.),¹ no benefits shall be payable under the
9 State plan to any person:

10 (a) for the first seven consecutive days of each period of
11 disability; except that if benefits shall be payable for three
12 consecutive weeks with respect to any period of disability
13 commencing on or after January 1, 1968, then benefits shall also
14 be payable with respect to the first seven days thereof;

15 (b) for more than 26 weeks with respect to any one period of
16 disability;

17 (c) for any period of disability which did not commence while
18 the claimant was a covered individual;

19 (d) for any period during which the claimant is not under the
20 care of a legally licensed physician, dentist, optometrist,
21 podiatrist, ¹practicing¹ psychologist, or chiropractor, who, when
22 requested by the division, shall certify within the scope of the
23 practitioner's practice, the disability of the claimant, the
24 probable duration thereof, and¹, where applicable,¹ the medical
25 facts within the practitioner's knowledge;

26 (e) (Deleted by amendment, P.L.1980, c.90.)

27 (f) for any period of disability due to willfully and
28 intentionally self-inflicted injury, or to injury sustained in the
29 perpetration by the claimant of a ¹[high misdemeanor] crime of
30 the first, second, or third degree¹;

31 (g) for any period during which the claimant performs any
32 work for remuneration or profit;

33 (h) in a weekly amount which together with any remuneration
34 the claimant continues to receive from the employer would
35 exceed regular weekly wages immediately prior to disability;

36 (i) for any period during which a covered individual would be
37 disqualified for unemployment compensation benefits under
38 subsection (d) of R.S.43:21-5, unless the disability commenced
39 prior to such disqualification; and there shall be no other cause

1 of disqualification or ineligibility to receive disability benefits
2 hereunder except as may be specifically provided in this act.

3 (cf: P.L.1983, c.47, s.1)

4 ¹[2.] 3.¹ This act shall take effect immediately.

5

6

7

LABOR AND EMPLOYMENT

8

Workers' Compensation

9

10 Permits licensed practicing psychologists to certify disability
11 under the "unemployment compensation law" and "Temporary
12 Disability Benefits Law."

1 (g) for any period during which the claimant performs any
work for remuneration or profit;

3 (h) in a weekly amount which together with any remuneration
the claimant continues to receive from the employer would
5 exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be
7 disqualified for unemployment compensation benefits under
subsection (d) of R.S. 43:21-5, unless the disability commenced
9 prior to such disqualification; and there shall be no other cause
of disqualification or ineligibility to receive disability benefits
11 hereunder, except as may be specifically provided in this act.

2. This act shall take effect immediately.

13

15

STATEMENT

17 This bill would amend the "Temporary Disability Benefits Law"
to permit certification of disability by psychologists.

19

21

LABOR AND EMPLOYMENT

Workers' Compensation

23

Permits certification of disability by psychologists.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 784

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 27, 1989

The Assembly Labor Committee reports favorably Senate, No. 784 with committee amendments.

One of the requirements for a person to be eligible for temporary disability benefits under the "Temporary Disability Benefits Law" is that the person be under the care of a legally licensed physician, dentist, optometrist, podiatrist, or chiropractor, who, when requested by the Division of Unemployment and Temporary Disability Insurance, must certify, within the scope of the practitioner's practice, the disability of the claimant. This bill adds licensed practicing psychologists to that list of health care professionals who are permitted to certify a disability for purposes of that law.

As amended, the bill also provides that a practicing psychologist may certify a disability for the purposes of disability benefits received while unemployed pursuant to subsection (f) of R.S.43:21-4. The other committee amendments to the bill are technical in nature.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 784

STATE OF NEW JERSEY

DATED: MAY 9, 1988

The Senate Labor, Industry and Professions Committee reports favorably Senate Bill No. 784.

One of the requirements for a person to be eligible for temporary disability benefits under the "Temporary Disability Benefits Law" is that the person be under the care of a legally licensed physician, dentist, optometrist, podiatrist, or chiropractor, who, when requested by the Division of Unemployment and Temporary Disability Insurance, must certify within the scope of the practitioner's practice, the disability of the claimant.

This bill adds psychologists to that list of health care professionals who are permitted to certify a disability for purposes of that law.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.