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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 2@ Disability Compensation

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Chapter 2@ Disability Benefits

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Article 4@ Filing, Determination and Payment of Disability Benefit Claims

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Section 2708(b)-1@ Warrants the Participation of the Employee

2708(b)-1 Warrants the Participation of the Employee

Section 2708(b) of the code requires a claimant to establish that the serious health condition "warrants the participation of the employee" and includes physical assistance and/or psychological comfort as acceptable types of care. When a serious health condition renders the care recipient unable to attend to his or her own basic medical, hygienic, or nutritional needs or safety, or to transport himself or herself to the doctor, then that serious health condition warrants the participation of the claimant to provide care for that care recipient by physically assisting him or her to accomplish these tasks. Providing reassurance and emotional support that is beneficial to a child, spouse, parent, grandparent, grandchild, sibling, or registered domestic partner with a serious health condition is another type of acceptable care. EXAMPLE 1. Claimant A's wife has a heart condition that requires her to take medication regularly and to avoid stress-inducing events. Her father lives in another country and dies there in a car accident. Claimant A takes a week off work and accompanies his wife to her father's funeral in that country and claims Family Temporary Disability Insurance benefits. The medical certificate indicates the wife's heart condition does not warrant Claimant A's participation in her care. Claimant A is not eligible for benefits because his participation was not warranted by his wife's heart condition.

Therefore, the time that he took off work was not for the purpose of caring for her

pursuant to a treating physician or practitioner's instruction. EXAMPLE 2. Claimant B's sister dies suddenly in Nevada. As a result of her death, Claimant B's father becomes so severely depressed that he is incapacitated and cannot take care of his daily needs. He requires counseling and mental health services in order to cope with his grief. Claimant B establishes a claim for Family Temporary Disability Insurance benefits. The medical certificate indicates the father's serious health condition warrants Claimant B's participation in his care. Claimant B takes time off work to provide his father with psychological comfort by attending counseling sessions with him at a mental health clinic and comforting him in his home.

Claimant B may receive benefits, if otherwise eligible, because his father's serious health condition warrants the psychological comfort of Claimant B. EXAMPLE 3.

Claimant C's elderly mother decides to move into an apartment upstairs from the one where she currently lives. The mother has no serious health condition.

Claimant C takes time off work to help her mother move into the new apartment.

Claimant C establishes a claim for Family Temporary Disability Insurance benefits.

The medical certificate indicates Claimant C's mother does not have a serious health condition that warrants Claimant C's participation in her care. Claimant C is not eligible for benefits because her mother does not have a serious health condition that warranted Claimant C's care.

(b)

A care recipient's serious health condition may also warrant the claimant's participation in situations where the claimant is needed to substitute for others who are caring for the care recipient, or to make arrangements for care, such as transfer to a nursing home.

(c)

A care recipient's serious health condition may warrant the participation of the

care provider intermittently, rather than in one single block of time. EXAMPLE 1: Claimant A's registered domestic partner undergoes radiation for cancer one day every month over 500 miles from their home. Claimant A takes two days off work for each radiation appointment to accompany her registered domestic partner to and from the appointment. Claimant A establishes a claim for benefits supported by a medical certificate that indicates her care is warranted for two days every month due to her domestic partner's serious health condition. Claimant A may receive Family Temporary Disability Insurance benefits for the days she takes leave from work, if otherwise eligible.