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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 6@ VOLUNTARY PLANS

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3253-1 Payment of Disability Benefits Because of

Section 3253-1@ Payment of Disability Benefits Because of Simultaneous Coverage

Simultaneous Coverage

Simultaneous coverage is deemed to exist when an individual is covered by and entitled to benefits from more than one plan (including one or more voluntary plans and the Disability Fund.) Benefits shall be paid from the Disability Fund to individuals who are simultaneously covered by one or more voluntary plans and the Disability Fund, if they are otherwise eligible, in an amount equal to the quotient obtained by dividing the daily benefit amount of unemployment compensation disability or Family Temporary Disability Insurance benefits to which the individual would be entitled if no part of his or her base period wages had been exempt from contributions under Section 3252 of the code and if he or she were covered only by the Disability Fund, by the number of plans (including voluntary plans and the Disability Fund) under which he or she is simultaneously entitled to benefits.

(a)

When an individual is entitled to benefits from the Disability Fund during the same disability benefit period for which he or she received benefits from a voluntary plan, or plans, the amount of all benefits, at a daily rate not exceeding his or her daily benefit rate pursuant to Sections 2627 and 2655 of the code paid or to be paid to him or her under all approved voluntary plans during that disability benefit period, shall be deducted from the benefits payable from the Disability Fund during that benefit period. The remaining balance shall be paid to the claimant, if otherwise

eligible.

(b)

Simultaneous coverage shall be deemed to exist if an individual is covered by and eligible from one or more voluntary plans and the Disability Fund at the time he or she establishes a care recipient period. "Care recipient period," as the term is defined in section 3254-4, means all periods of family care leave that an individual takes within a 12-month period, as defined in section 3301(d) - 1, to care for the same care recipient. The plan or plans under which the care recipient period is established remain liable for all claims associated with the same care recipient through the end of the 12-month period, as defined in section 3301(d) - 1, regardless of any change in employment. Liability for Family Temporary Disability Insurance benefits remains with the plan or plans that covered the individual when the care recipient period was established in accordance with the provisions of section 3254-4. The amount of all benefits paid by the voluntary plans at a daily rate not exceeding the individual's daily benefit rate pursuant to sections 3301 and 3303 of the code during that 12-month period, as defined in section 3301(d) - 1, shall be deducted from the benefits payable from the Disability Fund during that 12-month period, as defined in section 3301(d) - 1. The remaining balance shall be paid to the individual, if otherwise eligible. EXAMPLE 1. Claimant A is employed and covered by both a state plan employer and a voluntary plan employer. She is unable to work for both employers due to the need to provide care for her seriously ill parent. Claimant A establishes valid claims under both the state plan and the voluntary plan. The state plan daily benefit amount is \$104.00. Claimant A may receive \$52.00 a day from the Disability Fund and \$52.00 a day from the voluntary plan for up to six weeks, if otherwise eligible. EXAMPLE 2. Claimant B is employed and covered by a voluntary plan employer and is unable

to work due to the need to provide care for his seriously ill mother. Claimant B establishes a valid claim and receives benefits from the voluntary plan. Claimant B returns to work for the voluntary plan employer and begins concurrent employment for a second employer with state plan coverage. Claimant B later is unable to work for both employers due to the need to again provide care for his seriously ill mother and files a claim with the voluntary plan. Liability for Claimant B's Family Temporary Disability Insurance claim rests solely with the voluntary plan because the plan or plans under which the individual was covered at the commencement of a care recipient period remains liable for all periods of family care leave claimed for the same care recipient through the end of the 12-month period, as defined in section 3301(d) - 1, regardless of whether the need for family care leave is consecutive or intermittent.

EXAMPLE 3. Claimant C, employed by and covered by a voluntary plan employer, is unable to work due to the need to provide care for his seriously ill mother. Claimant C establishes a valid claim and receives benefits from the voluntary plan. Claimant C returns to work for the voluntary plan employer and begins concurrent employment for a second employer with state plan coverage. Later, Claimant C is unable to work for both employers due to the need to provide care for his seriously ill father and establishes a claim with both the voluntary plan and the state plan. With respect to the claim for Claimant C's father, simultaneous coverage exists because Claimant C was concurrently employed when he established the care recipient period for his father. Both plans will therefore remain liable for all subsequent claims associated with the father for the remainder of Claimant C's 12-month period, as defined in section 3301(d) - 1. The voluntary plan and the Disability Fund are each liable for benefits at one half of the state plan rate. The voluntary plan is liable for the amount, if any, above the state plan rate for which the

individual is eligible, as specified by the voluntary plan.