

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON LABOR AND WORKFORCE DEVELOPMENT
ELISSA SILVERMAN, CHAIRPERSON
1350 Pennsylvania Avenue, NW, Washington, D.C. 20004

To: Chairman Phil Mendelson
From: Councilmember Elissa Silverman 
Date: July 7, 2022
Subject> Request to Agendize Measures for the July 12, 2022, Additional Legislative Meeting

I respectfully request the following emergency measures be placed on the agenda for the July 12, 2022, Additional Legislative Meeting:

- **Short-Term Disability Insurance Benefit Protection Emergency Declaration Resolution of 2022**
- **Short-Term Disability Insurance Benefit Protection Emergency Amendment Act of 2022**
- **Short-Term Disability Insurance Benefit Protection Temporary Amendment Act of 2022**

This legislation will update earlier legislation passed on emergency, temporary, and permanent bases, to apply the existing law to all insurance policies covering District employees.

Last year, the Council passed legislation to prohibit insurance companies that provide short-term disability insurance from “offsetting” or reducing their benefit payments based on the amount of Universal Paid Leave benefits the insurer expects the employee to receive. This practice was contrary to Council intent in passing the Universal Paid Leave Act.

However, it has since come to the attention of the Labor Committee, that the Department of Insurance, Securities, and Banking’s (“DISB”) ability to enforce the anti-offsetting law, as intended, is hampered by the fact that the agency’s enforcement authority is typically limited to insurance policies that were written or issued in the District. Thus, DISB may be unable to take enforcement action against an insurer for unlawfully offsetting UPL benefits for District-based employees because the employer’s short-term disability policy was written or delivered outside the District. Some employers of District employees—such as national employers or those based in other states—may purchase a policy that was written or delivered outside the District. It has been reported to the Committee that several insurance companies do not believe their short-term disability benefit is protected by the District’s anti-offsetting provision, and at least one District-based employee of a Maryland employer was recently informed that their insurance payment would be offset by the UPL benefit amount. The intent of this emergency legislation is to strengthen DISB’s enforcement authority by including an “extraterritoriality” clause that requires application of the law regardless of the jurisdiction in which the short-term disability insurance policy was written or issued.

Drafts of the measures are attached. If you have any questions regarding these measures, please contact Liz Weiss at 202-727-1974 or lweiss@dccouncil.us.

cc: Members, Council of the District of Columbia
Office of the Secretary
Office of the General Counsel