

# **Salary Continuation & Occupational Injury Leave**

Presented by the joint  
labor and management  
committee

# Labor Management Committee

- Sandra F. Bell, OCSEA
- Kevin Birchfield, OCSEA
- Jeff Buffer, BWC
- Mike Latas, IC
- Jamecia Little, ODJFS
- Vickie Miller, OEA
- Karl Wilkins, DYS
- Yolanda Barnes, DRC
- Bonnie Cross, DAS
- Amy Hager, DYS
- Brian Henry, DMH
- David Long, OCB
- Kristen Rankin, OCB

# Intent Through Bargaining

- Speed treatment and pay to injured workers
- Provide a safe return to work
- Improve the quality of medical care
- Standardize claim processing (application, letters, etc.)
- Control costs
- Create an Occupational Injury Leave appeal process

# Affected Employees

	OCSEA	1199	OEA	FOP	Exempt
Salary Continuation	34.02	16.01	33.02	27	OAC 123:1-33-17
effective	9/1/2009	11/1/2009	11/1/2009	11/1/2009	11/1/2009
Occupational Injury Leave	34.04 & Appendix K	Appendix C	28.02	42	OAC 123:1-33-17
effective	4/16/2009	6/1/2009	7/1/2009	7/1/2009	11/1/2009
Approved Physicians	Appendix K	Appendix C	28.02	42	OAC 123:1-33-17
effective	11/1/2009	11/1/2009	11/1/2009	11/1/2009	11/1/2009

# Salary Continuation

# Salary Continuation

- Definition
- Eligibility
- Benefits
  - Minimize Paycheck Disruptions
  - Cost Containment
- Transitional Work Program
- Program Termination
- Repayment
- Coordination with Other Leaves

# Definition of Salary Continuation

- Lost Time Workers' Compensation Claims
- Permanent employees only
- 100% of total rate of pay
- Based on medical necessity not to exceed 480 hours
- Replaces "First Seven Days" under previous contracts

# Salary Continuation Eligibility

The employee must:

- Follow Agency accident reporting guidelines
- Apply for Workers' Comp within 20 days of the incident
- Be evaluated by a Physician
  - Must be an "Approved Physician" after 11/1/09
- Be written off by a Physician who must complete
  - BWC's form C-84 Request for Temporary Total Compensation or
  - BWC's MEDCO-14 Physician's Report of Work Ability
- Participate in Transitional Work Program if available
- Not accept OIL or TT

# Benefits of Salary Continuation

- Establishment of an approved physician network
- Efficient and effective treatment and claim management
- Minimal disruption in employee's income
- Cost containment

# Minimize Income Disruptions

- Agencies should assist injured employees by
  - Filing claim with BWC promptly
  - Identifying Approved Physicians
  - Investigating injuries quickly
- Payment of SC
  - Higher rate of pay than TT from the BWC
  - Approved once Physician submits C-84 or Medco 14
  - Employee and Agency will get letter from TPA
    - Employee can stop daily call-offs
  - Paid even if BWC has not yet allowed the claim

# Cost Containment

- Wages paid under SC will not be included in the BWC's rate making methodology; therefore directly lowering an agency's worker's compensation premiums

# Transitional Work Programs

- Assignment of duties employee can perform while based on restrictions given by Physician
- May involve a reduction in regularly scheduled work hours
  - Employee can use SC for remaining hours
- SC benefits will be terminated if the employee refuses to work in TWP

## Transitional Work Programs Cont'd

- Permanent bargaining unit employees can use SC for continuing treatment if:
  - 480 hour limit has not been reached
  - Can not schedule appointment for non-work hours
  - Employer can not flex schedule
- Maximum
  - One hour per appointment
  - No more than three appointments per week

# Salary Continuation Termination

Salary continuation will end when any of the following occur:

- The 480 hours has been exhausted
- It is not medically necessary for the employee to be off work
- The employee's BWC claim is denied
- The IC determines that the employee has reached MMI
- The employee is disqualified from receiving BWC benefits
- The employee accepts Temporary Total benefits or OIL
- The injured worker is no longer in state service or has voluntarily or involuntarily disability separated
- The employee refuses a TWP assignment

# Salary Continuation Repayment

- If BWC allows the claim, SC will continue
  - If agency appeals claim allowance, SC will continue pending IC decision.
  - If IC upholds claim allowance SC will continue
  - If IC denies claim, SC will stop and employee must repay SC
    - The agency will work with the employee to establish a repayment schedule or reduce leave balances

# Salary Continuation - Repayment

- If BWC denies the claim, SC will cease
  - If employee appeals and IC allows the claim, SC will be paid retroactively
  - If employee appeals and IC upholds the denial, SC will not be paid and any SC must be repaid
    - The agency will work with the employee to establish a repayment schedule or reduce leave balances

# Salary Continuation & Other Leaves

- Employee considered “in active pay status”
- Sick leave is not charged while on SC
- Employee cannot use leave while on SC
- Employee accrues sick and personal while on SC but not vacation
- Employee is not eligible for holiday pay or other leaves
- FMLA will be captured concurrently

# Questions

- Submit questions to [ocbinfo@das.state.oh.us](mailto:ocbinfo@das.state.oh.us)
- Check internet often for additions to the frequently asked questions document
- More information about the development of the Approved Physician List will be made available closer to November 1, 2009.

# Approved Physician List

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# Approved Physician List

- Definition
- Benefits
- Claims Management

# Who is an Approved Physician?

- Effective November 1, 2009
- BWC Certified Providers
- Must have the following credentials:
  - MD, DO, DC, DPM, PhD, DDS, & Mechanotherapists
- Agreed to by Labor/ Management Committee
- Committed to diagnose, evaluate and treat the employee within 7 calendar days of the original date of injury.

# Benefits of Approved Physicians

- A partnership that is established between Labor and Management to jointly select the panel providers
- This allows for additional and extensive provider education including:
  - ✓ Understanding the nature of each agency's operations
  - ✓ Providing the injured worker with prompt, quality medical treatment
  - ✓ Providing the employer with timely and legible medical documentation

# Claims Management

- Employees are able to seek timely treatment and receive appropriate medical care
- Employers and BWC/MCOs are able to receive informative & timely medical documentation
- Transitional work assignments will be better coordinated through the partnerships with approved physicians

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# Occupational Injury Leave

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# Occupational Injury Leave

- Definition
- Eligibility
- Processing Timelines
- Claim Administration
- Claim Denial
- Appeal Administration
- Appeal Process
- Appeal Panel

# What is Occupational Injury Leave?

## Definition:

- In order to receive OIL benefits in lieu of Workers' Compensation Temporary Total Disability Compensation (TTD), the employee must conclusively establish that an allowed physical condition was "inflicted by" a ward in the course of, and arising out of, the injured employee's employment.
- A definition section has been added to the contracts to more clearly define terminology used.

# Occupational Injury Leave Eligibility

The employee must:

- Follow their agency's accident reporting guidelines
- Complete and submit the employee section of the Illness/Injury Form ADM 4303 within 20 calendar days from the date of injury
- Provide the approved physician with BWC's form C-84 Request for Temporary Total Compensation or BWC's MEDCO-14 Physician's Report of Work Ability and follow-up with the approved physician to ensure the form is submitted appropriately
- File a Workers' Compensation claim at the same time the employee requests OIL benefits

# OIL Processing Timelines

Within 5 business days of receipt of the request for OIL benefits the employer shall notify the DAS designee if the employer:

- agrees with the OIL benefits request
- disagrees with the OIL benefits request or
- has the OIL benefits request under investigation and forward the application

The employer shall make a good faith effort to complete any investigation of an OIL benefits request within 20 calendar days and notify the DAS designee of their findings

# OIL Claim Administration

- The employee must submit medical documentation from an approved physician supporting the extent of disability.
- OIL is payable for allowed psychological conditions BUT ONLY IF related to allowed physical conditions.
- OIL benefits will be paid pending the initial determination of the BWC claim.
- An employee receiving OIL benefits shall accrue sick leave and personal leave but shall not accrue vacation leave.
- Pay under OIL shall not be charged to the employee's accumulation of sick leave.

# OIL Claim Administration Cont'd

- The employee is not eligible to use leave balances while receiving OIL.
- The employee is not eligible for other paid leaves, including holiday pay, disability and other leaves of absence while receiving OIL.
- Once an employee's OIL application has been approved, the employee shall not be subject to the agency's daily call-off procedures or any other absentee requirements that are not included in the union contracts, unless the employee is participating in the transitional return to work program.
- The employee is responsible for notifying the agency of their expected return to work date.
- The employee is responsible for filing OIL extensions

# Denial of OIL Benefits

- If OIL is denied, but the Workers' Compensation claim is still pending, the employee may be eligible for salary continuation, not to exceed 480 hours.
- Hours previously paid under OIL will be counted toward the 480 hours of SC
- If the OIL claim is denied or the employee is disqualified from receiving OIL benefits, the employee must, after all administrative appeals have been exhausted, either substitute sick, vacation, or personal leave, or reimburse the employer any OIL benefits received during the period of time from the date of injury until the final administrative determination.
- The agency will work with the employee to determine if leave will be deducted or to set up a repayment procedure.

# OIL Appeal Administration

- OIL denials can no longer be grieved. A new appeal process was created.
- Benefits will end and the employee will not be eligible for OIL benefits during the appeal process.
- The employee may be eligible for salary continuation during the appeal process, which may not exceed 480 hours.
- If the employee accepts Workers' Compensation Temporary Total benefits during the appeal process, he/she may continue to submit OIL extension paperwork.
- If the appeal is upheld, OIL benefits will be awarded and the agency will work with the employee to repay any Workers' Compensation Temporary Total benefits that were awarded.

# OIL Appeal Process

- Within 20 calendar days from the date the initial denial letter is postmarked, the employee must submit the OIL Appeal Form to DAS benefits with additional information to support the appeal.
- DAS may overturn the denial
  - The employee will be notified in writing.
- DAS will uphold the denial if the employee failed to provide new information to support the appeal or if claim doesn't meet OIL criteria.
  - The employee will be notified in writing.
  - A copy of the letter, the OIL application and other documents will be sent to the appropriate labor union.
- If it is determined that further review is necessary, the union will submit a request to OCB for a panel to be convened to review the claim.

# OIL Appeal Process Panel

- The OIL appeal panel will consist of 3 members:
  - ✓ A representative of an agency which is not the employing agency and who regularly works with OIL
  - ✓ A representative of the Union who is not employed by the employing agency
  - ✓ A representative or designee of the State Employment Relations Board (SERB)
- The panel will be convened within 14 days of OCB's receipt of the request
- The panel will complete a file review of the claim and any information provided by the employee and make a determination to uphold or overturn the denial
- The panel will issue a decision immediately or within 3 days if further investigation is necessary
- The panel's decision will be in writing and will be final

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# Forms

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# Forms

- Employee
  - ADM 4303 has been revised
    - Replaces FROI and OIL Application
  - OIL Forms
    - Extension
    - Appeal
- Physician
  - C-84 Request for Temporary Total Disability
  - Medco-14 Physician's Report of Work Ability

# Forms

- All forms will be available at:

<http://das.ohio.gov/hrd/beneforms-DisabilityWorkers'Compensation.html>

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