

4123-18-04 Living maintenance allowance.

The bureau shall order living maintenance to be paid from the surplus fund, established by section 4123.34 of the Revised Code, to each injured worker in accordance with the guidelines listed below. Living maintenance payments are compensation under Chapters 4121. and 4123. of the Revised Code.

An injured worker is eligible for living maintenance payments in accordance with the guidelines of this rule.

- (A) Living maintenance payments shall begin on the date that the injured worker actually begins to participate in an approved vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan as defined in rule 4123-18-05 of the Administrative Code. Living maintenance is not payable on the date of referral for vocational rehabilitation services, nor the date the injured worker signed the rehabilitation agreement. Activities performed prior to the injured worker's active participation in the approved vocational rehabilitation assessment plan and/or comprehensive vocational rehabilitation plan are considered pre-plan activities for which living maintenance is not paid.

If salary continuation is offered by the employer of record, an injured worker maintains the right to choose to receive either salary continuation or living maintenance during vocational rehabilitation. However, if temporary total or living maintenance has been paid in the claim, the injured worker shall be paid living maintenance when participating in an approved vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan. Whenever salary continuation is paid by the employer, it must be paid at the injured worker's regular (full) salary level.

- (B) The bureau shall order suspension of living maintenance payments at such time as it becomes evident that the injured worker will not be able to participate actively in their vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan for a period of thirty days or more due to the medical instability of the injured worker. The suspension of living maintenance shall not affect an injured worker's right to compensation or benefits under the Revised Code for which the injured worker otherwise qualifies.

- (1) The bureau shall assist the injured worker in obtaining the payment of other workers' compensation benefits to which the injured worker would normally be entitled absent involvement in a vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan upon the cessation of living maintenance payments.

- (2) Medical hold and eligibility.

Upon request from the MCO, the bureau shall determine whether, based on adequate medical documentation, the injured worker's vocational rehabilitation plan should be closed with a medical hold.

(a) A medical hold will retain the injured worker's eligibility for vocational rehabilitation services for up to a maximum of two years from the date of vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan file closure. The bureau and the MCO shall thereafter monitor the injured worker's medical status with the attending physician.

(b) When the bureau becomes aware of the restabilization of the injured worker's medical condition, the injured worker's vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan shall be reactivated and, absent any extenuating circumstances, appropriate rehabilitation services shall begin as soon as possible.

(C) The bureau shall order termination of living maintenance payments upon the earlier of:

- (1) The injured worker's return to work other than as part of a gradual return to work plan; or
- (2) Closure of the injured worker's vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan pursuant to paragraph (E) of rule 4123-18-05 of the Administrative Code.

The termination of living maintenance shall not affect an injured worker's right to compensation or benefits under the Revised Code for which the injured worker otherwise qualifies.

(D) The bureau may order deduction from any living maintenance payment an amount equal to:

- (1) One-seventh of the weekly payment to which an injured worker is entitled for each full day during which the injured worker fails, without good cause, to participate in their approved vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan.
- (2) Any wages or other remuneration received by the injured worker while participating in an approved vocational rehabilitation assessment plan or comprehensive vocational rehabilitation plan and receiving living maintenance must either be endorsed over to the bureau, or will be deducted from the injured worker's living maintenance payments or from future awards of compensation.

(E) Living maintenance payments shall not be ordered by the bureau for a period or periods exceeding six months in the aggregate, unless the bureau determines that the injured worker will benefit from an extension of vocational rehabilitation services.

(F) Appeals regarding determination of an injured worker's eligibility for living maintenance payments shall be filed with the bureau within fourteen days of receipt of the bureau's determination.

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