

Self-Insurance Quarterly Workshop

April 21, 2016

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Agenda

- Wages
- PTD
- Return to Work
- Contested Issues
- Overpayments

Wage Calculations

- ORC 4123.56 (A) and 4123.61 governs wage calculations and provides the basis for computation of Benefits
- BWC Policy established under authority of ORC 4123.61 and 4123.56
- Listed under www.ohiobwc.gov - BWC Library tab and Policy in the pull down.

Included Earnings

- Bonuses- Generally not used in FWW unless the period of time for the bonus is specifically only within the 6 weeks prior to the date of injury
- For the AWW Bonuses can be used as long as the time period for earning the bonus is in the 52 week look back period
- Allowances are generally considered earnings, but reimbursements are not.
- Stipends, Vacation, sick and holiday pay
- Most income derived from individual's effort and subject to Social Security withholding

Excluded Earnings

- Bonus unrelated to work activity
- Deferred Compensation
- Retirement benefits - Social Security and other programs
- Reimbursements- Obtain receipt for item, request reimbursement
- WC benefits (except working wage loss)
- Unemployment
- Income not subject to Social Security withholding.

Permanent Total Disability

- ORC 4123.58 and OAC 4121-3-34 govern permanent total disability awards and rate calculations
- Permanent Total Disability means the inability to perform sustained remunerative employment due to the allowed conditions in the claim
- What should you do if an injured worker is awarded PTD benefits?



**DON'T
PANIC**



Permanent Total Disability

- Use the BWC PTD rate calculation tool
- Use the BWC PTD rate calculation tool
- Use the BWC PTD rate calculation tool
- USE THE BWC PTD RATE CALCULATION TOOL
- Questions?

Permanent Total Disability

Factors to consider when calculating the PTD rate:

- AWW rate for the date of the injury
 - Minimum and Maximum PTD rate
 - Offset Rate
- Social Security Disability
- Claimant's age
- Lump Sum advancement
 - Can not recover more than 25% of weekly benefit, only 20% for attorney fees
- Disabled Workers' Relief Fund

Permanent Total Disability

- If PTD rate plus Social Security Disability (SSDI) exceed the Max rate for the year of injury, pay at the offset rate.
- Otherwise it will likely be $\frac{2}{3}$ of AWW or minimum rate (50% of Max rate)

Permanent Total Disability

PTD Adjustments

- Claimant reaches retirement age
- Social Security disability stops
- If PTD rate set at offset rate it should be adjusted when claimant reaches retirement age

Disabled Workers' Relief Fund

DWRF Annual Processing

- Special Claims department will review all PTD claims annually for Social Security disability.
- DWRF order will be issued annually
- Communication with employer to verify AWW and PTD rates
- Communication with claimant to verify payment rates
- Special claims also completes a monthly cross match with SSA to address any changes

Disabled Workers' Relief Fund

- DWRF Orders:
 - DWRF Orders are issued on **all** initial determinations regarding DWRF benefits. An Order is issued even when the injured worker is found to be ineligible for the receipt of DWRF benefits. The Order will contain the weekly PTD declared rate, as well as the weekly amount of social security disability benefits for DWRF orders.
 - Either the employer or claimant may appeal a DWRF order to the Industrial Commission for adjudication.

Return to Work

- Documentation
 - Release to work modified duty or full duty
 - Medco 14 with return to work date either with restrictions or full duty
 - Job Offer letter, or other form of verification for modified duty

Modified Duty

- Release with restrictions
 - Bring back at same job regular pay and regular hours
 - No TT owed
 - No compensation to be reported on SI -40 Unless injured worker is paid wage loss

Modified Duty

- Release with restrictions
 - Modified duty job same pay or modified pay
 - Provide documentation verifying injured worker has actually worked- pay history, time stamp, job offer letter
 - Injured worker may be owed wage loss, injured worker must prove eligibility but employer must provide assistance

Modified Duty

- Release with restrictions
 - Unable to provide work within restrictions
 - May owe TT benefits or WL benefits- should advise injured worker of options
 - Pay appropriate benefits

Full Duty

- Every claim should have a full duty release, medical only and lost time.
- Needed to confirm no compensation - TT or WL is owed.
- Medco 14, RTW slip, Office notes

Disputed Issues

- Assist Injured workers- provide information regarding actions being taken in the claim and advise of options should they disagree
- Correspondence in writing, otherwise there is no evidence that the injured worker was advised of contested issue

Contested Issues

- C9 or treatment request denial
- Compensation denial, or only partially paid
- Stopping TT requiring additional information
- Wage Loss eligibility
- Bill denial
- Additional Allowances

Contested Issues

- Initiated by injured worker or employer
- Employer advises of position and injured workers' options
- Injured worker determines if a motion is necessary (except wage loss)

Contested Issues

- Injured Worker Motion - Employer provides response to injured worker and BWC
- Employer Motion- Filed directly with BWC
- C9- Employer provides response to injured worker, provider and BWC
- Terminate Benefits- Employer advises injured worker of position, advises of options. TT can not be stopped without meeting appropriate conditions

Overpayments

- BWC policy -Recoupment of an overpayment of compensation can be pursued until it recovered in full, regardless of the amount of the overpayment and the time that has passed.
- This refers to the difference between the time the overpayment occurred and was discovered. This is not a reference to the amount or how far back an employer can collect

Overpayment

- SI employers are not collection agencies. Do not harass injured workers
- Options:
 - Collect from injured worker from future payments in original claim or future claims.
 - Collect from claims reimbursement fund if opted in

Overpayment

- Overpayment collection may be limited to two years from filing application
- ORC 4123.52 (A) The commission shall not make any modification, change, finding, or award which shall award compensation for a back period in excess of two years prior to the date of filing application therefor.
- Decisions- Cobble v IC and Drone v IC generally limit recovery to two years.

Overpayment

- Notify injured worker of nature of overpayment, amount of overpayment and proposal to collect the overpayment.
- Advise of options should injured worker disagree
- Do not collect overpaid amounts if there is a dispute to be addressed by IC.

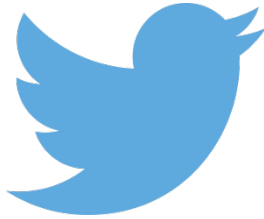
Wrap up

- All active employers have submitted SI-40, Thank you
- Working on streamlining BWC handling of Medical only claims. Do not file unnecessarily.
- What would you like to see done on MO claims?
- Electronic claim filing
- TPA transitions- Impact on audits
- Workshop topics?

Questions?

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breaking news on workers' compensation?**

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efforts to detect and deter workers' compensation fraud**



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