

# Salary Continuation

## What is salary continuation?

Salary continuation (wages in lieu of temporary total compensation) allows an employer of record (EOR) to pay an employee his or her regular full wages and benefits after a workplace injury or illness occurs.

The injured worker has the option to accept or reject payment of salary continuation unless there is a collective bargaining contract that states otherwise. If the injured worker rejects payment of salary continuation, BWC may pay temporary total compensation (TT). The EOR may pay the injured worker salary continuation until the EOR or injured worker terminates payment. At that time, BWC may pay TT, if appropriate.

If BWC finds, at any time, the EOR is not paying the injured worker's regular full wages, BWC may begin paying TT if the injured worker has submitted a signed *Request for Temporary Total Compensation (C-84)* or equivalent information and supporting medical evidence.

This fact sheet provides an overview of the injured worker and EOR responsibilities and rights related to salary continuation. This list is not all-inclusive.

### The **injured worker's** responsibilities and rights

- o You are not required to accept salary continuation in lieu of TT unless a collective bargaining contract states otherwise.
- o You should not experience a break in service that impacts seniority or other benefits when your EOR pays salary continuation.
- o Your EOR cannot force you to use sick time over the same period that he or she pays salary continuation unless there is a collective bargaining contract that states otherwise.

### The **EOR's** responsibilities and rights

- o You must pay your injured worker a full paycheck on the next scheduled pay date after the injury or illness occurs. You cannot wait until BWC or the Industrial Commission of Ohio (IC) makes a determination. If you miss paying an injured worker on a scheduled pay date, you forfeit the right to pay salary continuation in the claim, and BWC may begin to pay TT if the injured worker has submitted a signed request for TT and supporting medical evidence.
- o You may not wait until the injured worker has missed 14 consecutive days to pay the first seven days of disability. You must pay salary continuation when it is apparent the injured worker will miss eight or more days due to the work-related injury or illness. Payment of eight or more days of salary continuation indicates a lost-time claim.
- o You are not required to pay salary continuation if the injured worker misses seven or fewer days due to a work-related injury or illness. If you pay salary continuation for less than eight days, the claim is a medical-only claim. If a medical-only claim subsequently becomes a lost-time claim and you wish to pay salary continuation, you must go back and pay all days at that time.
- o If you wish to pay salary continuation, you must notify BWC prior to BWC issuing the initial determination decision.
- o You cannot pay salary continuation once BWC has ordered TT unless a collective bargaining contract requires you pay salary continuation.
- o You must report the injured worker's earnings in writing. This earnings report must be for the 52 weeks prior to the date of injury – or whatever portion of that time the injured worker worked for your company. BWC uses this information to determine the full and average weekly wage in the claim.

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- o You must submit a *Salary Continuation Agreement (C-55)* or equivalent information, signed by a representative of your company and the injured worker, for each period of salary continuation to be paid. This does not mean for each pay period but for each period of disability as identified on the C-55. You should base the end date of the payment of salary continuation on the expected period of disability as supported by medical documentation, not to exceed 45 days. Do not list "until return to work" or a vague future date on the form to avoid submitting additional C-55s.
- o You should pay salary continuation only for periods of disability related to the allowed conditions in the claim. BWC encourages you to review medical documentation to confirm the injured worker remains off work for the allowed conditions and to determine if return to work (light duty) is possible.
- o **Important note** – If BWC discovers the injured worker continues to work other jobs, BWC will notify you.
- o If the injured worker had more than one job at the time of the accident, you may choose to pay salary continuation for all of the injured worker's lost wages or cover only your company's portion of the injured worker's lost wages. If you choose to cover only your company's portion, BWC will pay TT to the injured worker when he or she submits supporting medical evidence and a signed request for TT. The amount of TT paid and payment to the injured worker from your company will not exceed the TT maximum rate for the claim. BWC will set an indemnity reserve in the claim if we pay TT. **However, you may choose to replace the earnings from the injured worker's other job(s).**
- o You may pay an injured worker the wage he or she earned prior to the injury even if the worker returns to work in a different position and is receiving a lower wage due to work restrictions.
- o You must notify BWC within 72 hours when you have discontinued the payment of salary continuation and/or when the injured worker returns to work. Failure to do so may affect your eligibility to participate in salary continuation.
- o Under salary continuation, you, BWC or the IC may schedule an independent medical exam (IME). The IME addresses issues such as return-to-work capability, functional limitations/restrictions, vocational rehabilitation potential, maximum medical improvement (MMI) and appropriateness of current treatment. However, BWC or the IC does not schedule an IME for the sole purpose of determining the issue of MMI. A finding of MMI has no impact on payment of salary continuation. In addition, BWC does not view salary continuation as TT for scheduling a 90-day exam.
- o BWC does not authorize you to pay salary continuation in lieu of wage loss, permanent partial, permanent total, death awards or any other awards of compensation.
- o You cannot pay salary continuation to an injured worker who no longer works for your company.
- o The payment of salary continuation will no longer suppress the claim reserve for claims with a date of injury on or after Jan. 1, 2011.
- o You are eligible to pay salary continuation if you are participating in the deductible program, effective July 1, 2012. However, you cannot pay salary continuation for claims with a date of injury prior to July 1, 2012, if you were enrolled in the deductible program.

If you have questions regarding our salary continuation policy, contact your claims service specialist or employer services specialist at your local customer service office, or call **1-800-644-6292**.