

Insurance Coverage Office (ICO)

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Insurance Coverage Office

**Workers' Compensation
Considerations**

Procedures

- A workers' compensation injury must be reported to the Third-Party Administrator (TPA) within 24 hours.
- The First Report of Injury Form is submitted by the Injured Worker's employing Human Resource (HR) Department via the TPA website.

http://pmacompanies.com/generic_reportaclaim.html

- Once the claim is submitted, the TPA Claims Processing Office immediately sends a confirmation of receipt that includes the Claim Number assigned to the claim.
- Include your email address in the block "SEND EMAIL COPY TO ORIGINATOR" to obtain a copy of what was submitted electronically.

- A hard copy of the First Report of Injury Form is sent to the HR Department.
- If the First Report of Injury notes that an employee is missing time from work, the TPA sends a Wage and Salary Verification Letter and Form to the HR Department Contact.
- The HR Representative for the employing organization must complete the Wage & Salary Verification Form and return it to the TPA. (Example of this form is attached)
- Send copies of any and all disability notes to the TPA with the Form.

- Within 14 days of receiving the initial “Physician’s Report of Workers’ Compensation Injury”, the employer shall provide to the health care provider/physician who issued the aforementioned report and the TPA a report of the modified duty jobs which may be available to the employee.
- This report must be signed and returned by the health care provider within 14 days of the next date of service but not later than 21 days from receipt of such form.
- The Injured Worker will be charged sick or annual leave until the TPA determines if the claim is a compensable.

- **§ 2321 Minimum duration of incapacity.**

Permanent injury relating to hearing or vision loss, surgical, medical and hospital services, medicines and supplies, and funeral benefits shall be paid from the first day of injury. Beginning with the fourth day of incapacity, all compensation otherwise provided by law shall be paid. If the incapacity extends to 7 days or more, including the day of injury, the employee shall receive all compensation otherwise provided by law from the first day of injury.

- The HR Department receives the first check and agreements to compensation unless the Injured Worker is represented by an attorney.
- The HR Department also receives the receipt for compensation paid once an employee returns to work. (Examples attached)
- The TPA provides an indemnity register via email every two weeks to the Human Resources contact of the employing Organization. (Example attached)
- The HR Department will recoup the lost wage payments from the employee through payroll deductions. (Example attached)

- **Injured Worker Lost Wage Benefits Calculation:**

§2302 Wages; definition and computation; valuation of board and lodging.

(a) "Average weekly wage" means the weekly wage earned by the employee at the time of the employee's injury at the job in which the employee was injured, including overtime pay, gratuities and regularly paid bonuses (other than an employer's gratuity or holiday bonuses) but excluding all fringe or other in-kind employment benefits. The term "average weekly wage" shall include the reasonable value of board, rent, housing or lodging received from the employer, which shall be fixed and determined from the facts in each particular case.

(b) The average weekly wage shall be determined by computing the total wages paid to the employee during the 26 weeks immediately preceding the date of injury and dividing by 26, provided that:

(1) If the employee worked less than 26 weeks, but at least 13 weeks, in the employment in which the employee was injured, the average weekly wage shall be based upon the total wage earned by the employee in the employment in which the employee was injured, divided by the total

(2) If an employee sustains a compensable injury before completing that employee's first 13 weeks, the average weekly wage shall be calculated as follows:

a. If the contract was based on hours worked, by determining the number of hours for each week contracted for by the employee multiplied by the employee's hourly rate;

b. If the contract was based on a weekly wage, by determining the weekly salary contracted for by the employee; or

c. If the contract was based on a monthly salary, by multiplying the monthly salary by 12 and dividing that figure by 52; and

d. If the hourly rate of earnings of the employee cannot be ascertained, or if the pay has not been designated for the work required, the average weekly wage, for the purpose of calculating compensation, shall be taken to be the average weekly wage for similar services performed by other employees in like employment for the past 26 weeks.

(3) In any event, the weekly compensation allowed shall not exceed the maximum or be less than the minimum provided by law.

- To determine the maximum and minimum allowable weekly compensation, reference the Department of Labor's website: <http://dia.delawareworks.com/workers-comp/documents/Workers%20Compensation%20Rate%20Chart.pdf>
- Once a weekly compensation rate is established by the TPA, this rate stays the same for the life of the claim.
- An attorney or an employee can request for benefits to be paid under both the PIP and Workers' Compensation claims when an automobile is involved.
 - The most common request is for the Workers' Compensation claim to pay all the medical bills and 66 2/3 of the wages while PIP pays the difference between both wage benefits.

- **Title 29 § 5933 Leaves. (Salary Supplement)**

- Whenever an officer or employee of the State, including those exempt from the classified service, qualifies for workers' compensation disability benefits, such officer or employee, for a period not to exceed 3 months from the date such compensation begins, shall not be charged sick leave and shall receive from the State the difference, if any, between the total of:
 - (1) The amount of such compensation,
 - (2) any disability benefits received under the Federal Social Security Act, and
 - (3) any other employer supported disability program,
- and the amount of wages to which the officer or employee is entitled on the date such compensation begins...
- If while performing a hazardous duty assignment the employee shall be entitled to 12 months. (See the memo for application)