

## **POST INJURY EARNINGS REPORTING INSTRUCTIONS**

In December of 1999, **Texas Workers' Compensation Commission Rule §129.2** became effective. This rule requires employers in the state of Texas to report certain types of post injury earnings (PIE) on the DWC-6: Supplemental Report of Injury form no later than 10 days after the end of the pay period in which they were paid to their insurance carriers. The rule was created to ensure that an injured worker receives no more than 100% of his or her preinjury wages in the event of a work related injury. Below is an explanation of each type of post injury earning. **Please refer to your district's board policy before issuing any type of leave or other payments listed below.**

### **Sick and Annual Leave**

These types of leave are only to be reported when the **employee voluntarily elects** to use them. If the employee does not voluntarily elect to use the leave, it is not considered PIE and does not need to be reported.

There are two types of policies that describe how leave is distributed. Below is a description of each. Please read this carefully before reporting any type of leave.

### **Offsetting Policy**

This type of policy requires the employer to pay the employee leave in the form of a supplement.

The amount is equal to the difference between the carrier's income benefit payment and the preinjury weekly wage. It is designed to ensure the employee receives up to 100% of preinjury wages.

**Salary supplements (offsets) after the first week of lost time are not considered PIE and the employer is not required to report them.**

For example, assume Mary makes \$350 a week and her Temporary Income Benefit rate is \$262.50. The amount of the sick leave offset would be: $\$350 - \$262.50 = \mathbf{\$87.50}$
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As stated above the district is not required to report offsets after the first week. However, any voluntarily elected sick leave payments for the first week of lost time must be reported. Why? TASB does not pay the injured worker for the first week of lost time until the injured worker misses a total of 14 days from work due to the injury. The first week of lost time is legally known as the "waiting period". **If an employee voluntarily elects to use leave for the first week of lost time, it must be reported.** If the adjuster receives this information timely, no waiting period check will be issued on the 2<sup>nd</sup> week.

### **Non-offsetting Policy**

This type of policy pays the employee full weekly increments of leave equal to preinjury wages in the event of an injury. These payments are considered PIE when an employee elects to use them. Districts with non-offsetting policies must report **all weeks** of leave.

For Example, assume Mary makes \$350 a week. **The amount of her sick leave check from the district would be \$350.**

### **Modified Duty Wages**

Districts must also report wages that the employee earns when working on a modified duty basis. They may be equal to full preinjury wages or at a reduced rate. If an employee **refuses** an offer, the district is also required to report the amount of refused earnings to TASB.

It is important for the district to review the required elements of a Bona Fide Offer of Employment as indicated in **DWC Rule §129.6**. TASB Risk Management Fund Workers' Compensation Program Contacts can access this template that may be used to extend an offer of employment in the Return to Work Program in the **Risk Management Fund Resources** section of myTASB. Password administration questions? Click here: <http://tasbrmf.org/library/mytasb.aspx>

The DWC Rule governing bona fide offers of employment is located on the DWC web site at: <http://www.tdi.state.tx.us/wc/indexwc.html>. Just go to Rules on the right side and DWC Rule 129.6.

### **Employer Paid Employee Contributions**

These are contributions that the employee normally pays for, however the employer agrees to pay for the employee in order to ease the financial hardship from the injury placed on the claimant by ensuring the benefit is continued.

For example, assume Mary's portion of health insurance is \$150 per month. The district normally pays \$350 per month for Mary. Because Mary is injured, the employer decides to pay its portion in addition to Mary's portion.

The amount reported to TASB would be: **\$34.49/wk** ( $\$150 / 4.34821$ )

### **Salary Continuation**

This type of PIE is self-explanatory. If the employer decides to continue the employee's normal rate of pay (not sick or annual leave) in the event of an injury, it must be reported to TASB. Holiday pay and certain spring break payments are examples of salary continuation.

### **Other Pecuniary Wages**

Other pecuniary (measured in the form of money) wages or monetary allowances may also be considered PIE. Below are several examples.

- Monetary allowances (i.e., lunch allowances)
- TRS Supplements paid after the injury date
- Extended Sick Leave
- Hardship Leave
- Sick Leave Pool or Bank

The above list is not conclusive. If your district is paying other wages after the date of injury, they may also qualify as PIE and may need to be reported. Please contact your adjuster for additional information on other wages paid after the date of injury.

### **Post Injury Earnings Are NOT...**

The following types of wages do not need to be reported

- any non-pecuniary wages paid to the employee by the employer after the injury (i.e. lodging provision)
- any accrued sick leave or accrued annual leave that the employee did not voluntarily elect to use
- any wages paid by the employer as salary supplementation (offsets)
- any moneys paid by the employer which would otherwise be considered PIE, but which the employer attempts or intends to seek reimbursement from the employee or carrier
- any money paid to an employee under an indemnity disability program paid for by the employee separate from workers' compensation

### **Questions?**

If you need assistance with filing the various types of Post Injury Earnings, please contact your adjuster @ 800 482-7276. Please note, the PIE worksheet itself is not a mandatory state form. We have created this for our WC Program Members as a tool to report PIE as the DWC-6 does not allow adequate space. **The DWC-6 is a mandatory state form** and must be completed and submitted as indicated in DWC Rule 120.3. Click on the link below to get started!

<http://tasbrmf.org/wc/dwc-6.aspx>