

Leave, Injured Worker

Purpose

Workers' compensation insurance protects workers injured on-the-job. It also shields employers from liability lawsuits that might result from work-related injuries or illnesses. By law, all Oregon employers must have workers' compensation insurance. The State of Oregon is self-insured and contracts with the SAIF Corporation to process workers' comp claims.

The worker's compensation laws include several programs for injured workers. A temporarily or permanently disabled worker may:

- Receive payment for medical treatment
- Receive time loss benefits to replace lost wages
- Receive payment for permanent disability
- Qualify for vocational services
- Participate in the Employer-at-Injury Program
- Participate in the Preferred Worker Program

The purpose of this recommended practice is to describe issues for payroll to consider when an employee is unable to work because of an on-the-job injury.

Authority / References

Oregon Revised Statutes, <http://www.leg.state.or.us/ors/>

- Chapter 243, Public Employee Rights and Benefits
- Chapter 656 Workers' Compensation
- Chapter 659A.040 to 659A.069 Unlawful Employment Discrimination Against Injured Workers
- 743.530 Continuation of benefits after injury or illness covered by workers' compensation

Oregon Administrative Rules, <http://www.sos.state.or.us/archives/banners/rules.htm>

- 101-030-0010 Continuation of Group Medical and Dental Insurance Coverage for Injured Workers (CBIW)
- Chapter 436, Workers' Compensation
- Chapter 839, Division 006 (BOLI) Unlawful Employment Discrimination Against Injured Workers and Disability

Collective Bargaining Agreements (CBA), <http://oregon.gov/DAS/HR/CBAs.shtml>

Scope / Applicability

This practice applies to all agencies that use OSPA and have employees with on-the-job injuries.

Responsibilities

Overall, several agencies play a role when an employee has an on-the-job injury. They include:

Entity	Responsibility
Injured Worker	<ul style="list-style-type: none"> • Files claim for job related injury or disease. See http://www.saif.com/worker/workers.htm • Notifies Agency human resources and/or payroll if plans to use accrued leave or self-pay premiums for optional PEBB benefits
Agency SAIF Coordinator	<ul style="list-style-type: none"> • Coordinates claim with employee, agency, Risk Management, and SAIF • Keeps agency payroll and human resources informed
Agency Human Resources	<ul style="list-style-type: none"> • May enter leave of absence in the PPDB. See State HR Policy 60.000.11 Leaves without Pay.
Agency Payroll, Agency Human Resources, or Agency SAIF Coordinator	<ul style="list-style-type: none"> • Maintains record of Continuation of Benefits for Injured Workers (CBIW) hours taken • Monitors eligibility
Agency Payroll	<ul style="list-style-type: none"> • Makes necessary entries in OSPA. See Recommended Practice below. • Submits quarterly reports to SAIF • Provides wage information for Preferred Worker Program Wage Subsidy Reimbursement Requests
Risk Management Section (RM), State Services Division (SSD), Department of Administrative Services (DAS)	<ul style="list-style-type: none"> • Procures services from SAIF • Maintains self-insurance fund and reimburses SAIF • Advises state agencies on their responsibilities for workers' compensation coverage and claims

OSPA Reference Manual

Recommended Practices

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Entity	Responsibility
SAIF Corporation	<ul style="list-style-type: none"> • Processes workers' compensation claims for state employees • Determines compensability of claim • Notifies employee and employer of the status of a claim • Makes payments for claims, including: <ul style="list-style-type: none"> ▪ Wage loss and expense reimbursement payments to employees ▪ Payments to medical providers and other vendors who provide products and services to injured workers
Workers' Compensation Division (WCD), Department of Consumer and Business Services (DCBS)	<ul style="list-style-type: none"> • Administers Oregon's workers' compensation laws • Administers the Employer-at-Injury and Preferred Worker programs (see Notes)
Workers' Compensation Board (WCB), DCBS	<ul style="list-style-type: none"> • Receives and may hear appeals on decisions on compensation claims and benefits
Oregon Bureau of Labor and Industries (BOLI)	<ul style="list-style-type: none"> • Enforces Oregon laws against employer discrimination of injured workers

SYSTEMS / APPLICATIONS

System / Application	Functionality
PPDB	<ul style="list-style-type: none"> • Interfaces leave of absence status and return to work to OSPA instantly • Sends job status changes to PEBB.benefits (PDB) nightly • Sends LWOP status to PERS EDX/jClarety monthly
PERS jClarety	<ul style="list-style-type: none"> • Maintains retirement data for PERS participants
PDB	<ul style="list-style-type: none"> • Maintains benefit data for PEBB participants
OSPA	<ul style="list-style-type: none"> • After run 2 final sends: <ul style="list-style-type: none"> ▪ Hours worked and P070 entries to PDB ▪ PEBB premiums and FSA contributions to carriers ▪ Hours worked, salary, and contributions to PERS EDX/jClarety

Prerequisites

Recommended Practice

The agency payroll office plays a role in ensuring that injured employees record their time correctly and that eligible employees continue to receive benefits. For a given injured worker, the agency payroll may do all or some of the following:

Action	More
<p>1. Ensure that the employee has time entered in OSPA.</p> <p>If the employee has an approved or deferred compensable claim, ensure that the time includes a special indicator. See Notes, Pay Types.</p> <p>If the employee receives time loss benefits from SAIF, s/he may elect to use accrued leave or take leave without pay (LWOP). See Notes, Time Loss Benefits.</p> <p>If the employee uses 100% accrued leave prior to receiving time loss benefits, you may need to restore accrued leave. See Notes, Restoration of Accrued Leave, and Net Pay Negative / Overpayment.</p>	<p>See applicable policy or collective bargaining agreement</p>
<p>2. Force PEBB premiums on the P070 Deductions and Deduction Adjustments if the following conditions exist:</p> <ul style="list-style-type: none"> ▪ The employee has less than the required number of paid regular hours in a month to qualify for PEBB benefits ▪ The employee is eligible for the continuation of PEBB benefits through FMLA or CBIW <p>If the employee is eligible for CBIW, use the “W” (on-going, CBIW and military leave) ADJ type on the P070 for agency paid \$5,000 pre-tax basic life, PEBB paid \$20,000 pre-tax basic life, vision, medical, and dental premiums.</p> <p>Use the “A” (one-time) ADJ type for optional insurance when the employee will self-pay. Send the employee a Self-Pay letter to document the costs. [See State HR Policy 60.000.15 Family and Medical Leave Toolkit, http://www.oregon.gov/DAS/HR/fmla.shtml#Toolkit for an example.] Force the premiums after you receive payment.</p>	<p>See ORS 659A.060 to 659A.063, OAR 101-030-0010 for benefits.</p> <p>See Notes, PEBB Benefits, and Entry Guides, PEBB, Protected Leave, Full-time Employees or Protected Leave, Part-time and Job Share.</p> <p>CAUTION: ADJ: W creates an ongoing deduction. You can prevent errors by deleting the forced premium for the pay period after the employee's eligibility will end.</p>

Action	More
3. If the employee returns to work early, see Notes, Employer-at-Injury Program.	
4. When the employee returns to work, ensure that the P070 has ongoing PEBB deductions. Delete any P070 entries you made to force premiums. See State HR Policy 50.020.03 Reinstatement and Reemployment of Injured Workers, collective bargaining agreements, and ORS 659A.043 and 659A.052.	
5. If DCBS has designated an employee as a preferred worker, see Notes, Preferred Worker Program. When entering time for a preferred worker, add “J” to the regular paid hours. OSPA will exclude these hours from the workers’ compensation assessment calculation.	

Notes

Claim Status – SAIF will begin evaluating a claim as soon as they receive it. They will generally notify the employee and employer within 60 days if the claim has been accepted or denied.

Claims may have the following status:

- **Deferred** – While SAIF is evaluating the claim, they will assign it a deferred status. The employee may receive time loss benefits (see below) if a qualified attending physician or authorized nurse practitioner states that the employee cannot work and will be unable to work for more than three calendar days. (SAIF will not pay these benefits if they deny the claim within 14 days of reporting.)
- **Accepted** – If SAIF accepts the claim, the employee will receive a letter that lists the accepted medical condition(s) and states whether the claim is disabling (the employee missed time from work and/or has a permanent disability) or non-disabling (the employee requires medical treatment only). If the claim is disabling, the employee may receive time loss benefits (see below).
- **Denied** – If SAIF denies the claim, the employee will receive a telephone call and a follow-up letter. If the employee was receiving benefits while the claim was in deferred status, SAIF will stop the benefits. The employee has 60 days to appeal the decision.

- **Closed** – SAIF closes a claim when they receive notice that an employee has reached maximum medical improvement from the injury. They notify the employee by letter. The employee has 60 days to appeal the decision. If the employee's condition worsens later, the employee can request that SAIF reopen the claim.
- **Appealed** – An injured worker or an insurer may appeal nearly every decision in the life of a workers' compensation claim. The process usually begins with a Request for Hearing filed with the Workers' Compensation Board (WCB). The parties may appeal the WCB administrative law judge's decision to the WCB and then the state appellate court. The director of the Oregon Department of Consumer and Business Services decides appeals on medical and vocational issues. Benefits will continue until the claim is denied or closed.

Employer-at-Injury Program (EAIP) – This program encourages employers to use transitional work programs to reemploy injured employees who have open workers' compensation claims and their doctors have not yet released them to return to their full regular job duties.

When an employee returns to work early under EAIP, the employer may receive:

- Reimbursement for 50% of the employee's gross wages for up to 66 work days within 24 consecutive months
- Money to make work site modifications or purchases necessary for the employee to perform the work

See State HR Policy 50.020.05 Early Return to Work of Injured Workers, your agency's policy, and the applicable CBA.

Federal Family and Medical Leave Act (FMLA) – FMLA is a mandatory entitlement program. It requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees who, among other circumstances, have a serious health condition that makes the employee unable to perform the employee's job.

The employee may use either paid or unpaid leave. For the duration of FMLA leave, the employer must maintain the employee's health coverage under any group health plan. Upon return from FMLA leave, the employer must restore most employees to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

An employee with a job-related injury may fall under the FMLA protections. If so, the entitlements for FMLA and CBIW run concurrently.

See State HR Policy 60.000.15 Family and Medical Leave, any applicable collective bargaining agreement, and Recommended Practice, Family and Medical Leave.

Net Pay Negative / Overpayment – When an employee is out because of an on-the-job injury, you may see a negative NET PAY amount on the P370 Calculation of Current Payoff or a NET PAY NEGATIVE message on the E120-042A, E120-052A, E122-042A, E122-046A, or E122-056A Payroll Exception reports.

The following circumstances may create a negative:

- The employee is salaried. S/he reported LWOP after final payroll run 1. The employee received an overpayment based upon the forecast.
- The employee has optional insurance and does not have enough pay to cover the premiums. See Entry Guides, PEBB, Protected Leave, Full-time Employees, or Protected Leave, Part-time and Job Share.
- The employee may be part-time or job-share and may normally have out-of-pocket costs for required PEBB insurances. See Entry Guides, PEBB, Part-time and Job Share Employees.
- The employee may have medical or dental insurance for a domestic partner and/or the partner's dependent children. The employee has not claimed them as tax dependents. The employee's wages do not cover the tax liability for the imputed value of these premiums. See Entry Guides, PEBB, Domestic Partners, and PEBB, Protected Leave, Full-time Employees, and Protected Leave, Part-time and Job Share.
- The employee may have a fixed ADDL amount for FEDERAL and/or STATE withholding on the P010 Withholding Data / Locator Data and the wages do not cover the additional amount withheld. If possible, request that the employee submit a new W-4 to delete the ADDL amount. See Recommended Practices, Taxes, Withholding.
- The employee's wages from regular paid hours do not cover the employee's voluntary deductions. Work with the employee to delete deductions from the P070. Request that the employee send you an e-mail or resubmit forms to document the changes.

Especially look at the following:

- Deferred compensation (OSGP)
- Fixed amount direct deposits
- Charitable contributions
- Savings bonds
- Flexible spending accounts

If the employee has fixed amount direct deposits that create a net pay negative, reduce the amount of the deposit to \$1.00, rather than deleting them, if possible. If you delete the deduction, OSPA will pre-note when you re-enter it.

- You restored accrued leave (see Restoration of Accrued Leave below). This reflects an overpayment that the employee is required to repay. See OAM 45.50.00.PO and PR Collection of Overpayment and any applicable CBA.

Oregon Family Leave Act (OFLA) – OFLA requires employers of 25 or more employees to provide their workers with job-protected leave to care for themselves or family members in cases of illness, injury, childbirth, and adoption. For a serious health condition, the employee is generally entitled to a maximum of 12 weeks of protected leave within a 12-month leave year.

The employee may use either paid or unpaid leave. Under OFLA, the employer is not required to maintain the employee’s health coverage for employees who have less than the required number of paid regular hours. Upon return from OFLA leave, the employer must restore most employees to their original or equivalent positions.

An employee is not eligible for OFLA leave as long as the employee has an open compensable workers’ compensation claim. If the employee is unable to return to work after the CBIW period, the employee may then be eligible for OFLA leave.

See State HR Policy 60.000.15 Family and Medical Leave, any applicable collective bargaining agreement, and Recommended Practice, Family and Medical Leave.

Pay Types -- Some OSPA pay and leave codes may accept an additional digit to indicate that the employee is on a special leave status. Pay codes that may have special designators have an asterisk (*) beside them in OSPA Reference Manual Appendix B. The indicators that apply to an injured worker include:

Code	Used for	Eg.
F	Hours taken under FMLA when the employee does not have a compensable workers’ compensation claim	VAF GLF
G	Hours recorded where an employee has a compensable workers’ compensation claim (CBIW) and is not eligible for FMLA or OFLA	SLG LG
J	Hours worked in "Preferred Worker" status. OSPA does not report these hours as SAIF subject.	RGJ VAJ
1	Hours taken under OFLA. Employees are not eligible for OFLA and CBIW at the same time.	LO1 VA1
2	Hours taken under both FMLA and OFLA, not CBIW	SL2 GL2
3	Hours taken under both FMLA and CBIW	RG3 VA3

PEBB Benefits – ORS 659A.060-069 and OAR 101-030-0010 define the Continuation of Benefits for Injured Workers (CBIW) Program for PEBB.

If the employee has less than the required number of paid regular hours and is eligible for the continuation of PEBB benefits, you will need to force the premiums. See Entry Guides, PEBB, Protected Leave, Full-time Employees, or Protected Leave, Part-time and Job Share.

Closely monitor deductions with ADJ: W on the P070 Deductions and Deduction Adjustments for basic life, vision, medical, and dental insurance. This ADJ creates ongoing deductions, which may create duplicate payments if the employee has enough paid regular hours to qualify for PEBB benefits.

If the employee normally pays a portion of the medical, dental, or vision premiums, the employee must continue to pay the same portion (See Entry Guides, PEBB, Part-time and Job Share Employees.). If the employee does not have wages to cover his/her portion of the insurance premiums and does not make the payment within 30 days, the employee loses the right to coverage. This becomes a COBRA event for required PEBB insurances.

If the employee opts out of medical coverage, the dental premium will continue for an employee on protected leave. The employee does not receive the insurance return dollars (IR on the P050) while the employee is on LWOP or works reduced hours that make the employee ineligible for PEBB benefits. See Entry Guides, PEBB, Opt Out, and PEBB, Protected Leave, Full-time Employees, and Protected Leave, Part-time and Job Share.

ORS 659A.063(2) allows the agency to collect the state-paid premiums from the employee through a payroll deduction under the following conditions.

- You have forced PEBB benefits
- SAIF denied the employee's workers' compensation claim
- The employee did not appeal or the WCB denied the appeal
- The employee was not eligible for FMLA protected leave

If there is an overpayment because of the state-paid premiums, see the applicable collective bargaining agreement or OAM 45.50.00.PO and PR Collection of Overpayment for guidelines.

Preferred Worker Program – The state of Oregon preferred worker program encourages the reemployment of qualified Oregon workers who have permanent disabilities from on-the-job injuries and who are not able to return to their regular employment because of those injuries.

For a preferred worker, the employer may receive:

- An exemption from paying workers' compensation premiums for the employee for up to three years

- Reimbursement for 50% of the employee's gross wages for up to six months
- Money to make work site modifications or purchases necessary for the employee to perform the work
- Reimbursement for any workers' compensation claims that result within three years of employment

If your agency has a preferred worker, the agency will receive a letter from the Oregon Department of Consumer and Business Services (DCBS), Workers' Compensation Division (WCD), that explains the agreed upon terms and duration.

When entering time for a preferred worker who is exempt from workers' compensation premiums, add "J" to the regular paid hours. OSPA will exclude these hours from the assessment calculation and the hours reported to Risk Management.

Restoration of Accrued Leave – Adjust the employee's reported time and restore accrued leave if the following conditions exist:

- Employee was off work and used 100% accrued leave
- You have received notice that the employee received time loss benefits from SAIF for the same time period

Once you restore the leave, it is available for use. These entries are likely to create an overpayment.

See Time Loss Benefits below and Net Pay Negative / Overpayment above.

Taxes – Replacement wages (time loss benefits) from workers' compensation are not taxable. If the employee elects to use accrued leave or compensatory time, the state-paid wages are taxable. See IRS Publication 15-A Employer's Supplemental Tax Guide, <http://www.irs.gov/pub/irs-pdf/p15a.pdf> .

Time Loss Benefits – Workers whose injuries require them to miss work are eligible for wage compensation (time loss benefits) if the attending physician authorizes them to be away from work.

Benefits paid for time loss include:

- Temporary total disability or time loss
- Temporary partial disability
- Permanent partial disability
- Permanent total disability

While the claim is in deferred status, the employee may receive time loss or wage replacement payments if the following conditions exist:

- An attending physician or authorized nurse practitioner states that the employee cannot work, and
- That the employee will not be able work for more than three calendar days

If SAIF denies the deferred claim, the time loss benefits will end.

The time loss benefits do not cover the first three days of the employee's time off work, unless:

- The worker is totally disabled after the injury and the total disability continues for a period of 14 consecutive days or
- The worker becomes a hospital inpatient within 14 days of the first onset of total disability.

The state legislature establishes the amount for time loss benefits. The benefits for temporary total disability are based on the average weekly wage in Oregon and are adjusted each July 1. Generally, for time loss benefits for a temporary disability, an employee with a deferred or accepted claim will receive 66 2/3 of the employee's normal wages.

Under State HR Policy 60.000.01 Sick Leave with Pay and most collective bargaining agreements, the employee may use accrued leave, up to the difference between the workers' compensation and the employee's regular salary. When the employee is on leave because of a worker's comp claim, the employee will designate whether s/he wants to use accrued leave to supplement the time loss benefits.

If the employee does use accrued leave, enter 66 2/3% LWOP and 33 1/3% paid accrued leave. Some examples follow:

Hours per Day	LWOP (.667)	Leave (.333)
4	2.67	1.33
6	4.00	2.00
8	5.34	2.66
9	6.00	3.00
10	6.67	3.33

As long as the employee has regular paid hours, the employee may continue to receive accrued leave. See Interfaces, LARS, for application edits for employees who have less than 32 regular paid hours in a pay period.

Exceptions

Troubleshooting

Supporting Documentation / Forms

SAIF forms: http://www.saif.com/saif_forms.htm

Sample Self-Pay Letter, State HR Policy 60.000.15 Family and Medical Leave Toolkit,
<http://www.oregon.gov/DAS/HR/fmla.shtml#Toolkit>

Workers' Compensation Board, Department of Consumer and Business Services,
forms: http://www.cbs.state.or.us/external/wcb/pdf_file/eform.htm

Resources

Bureau of Labor and Industries (BOLI), Civil Rights Division web site,
<http://www.oregon.gov/BOLI/CRD/index.shtml>

IRS Publication 15-A Employer's Supplemental Tax Guide, <http://www.irs.gov/pub/irs-pdf/p15a.pdf>

Oregon Administrative Rules, <http://arcweb.sos.state.or.us/banners/rules.htm>

- 105-050-0020 Return to Work of Injured Workers
- Chapter 436, Division 105 Employer-at-Injury Program
- Chapter 436, Division 110 Preferred Worker Program

State HR Policies, <http://oregon.gov/DAS/HR/rules.shtml>

- 50.020.03 Reinstatement and Reemployment of Injured Workers
- 50.020.05 Early Return to Work of Injured Workers
- 60.000.01 Sick Leave with Pay
- 60.000.11 Leaves without Pay

Oregon Accounting Manual,

http://www.oregon.gov/DAS/SCD/SARS/oam_toc.shtml#Chapter_45_Payroll

- 45.20.00.PO Cash Insurance Payments
- 45.50.00.PO and PR Collection of Overpayment

OSPA Reference Manual, <http://oregon.gov/DAS/SCD/OSPS/referencemanual.shtml>

- Entry Guides
 - Leave, Adjust Balances
 - PEBB, Domestic Partners
 - PEBB, Opt Out
 - PEBB, Part-time and Job Share Employees
 - PEBB, Protected Leave, Full-time Employees
 - PEBB, Protected Leave, Part-time and Job Share
- Interfaces, LARS
- Report Descriptions
- Screen Descriptions

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- Appendix B, Pay and Leave Codes

PEBB Resources:

- PEBB Administrative Manual
- PEBB Benefits, <http://oregon.gov/DAS/PEBB/index.shtml>
- Public Employees' Benefit Board FMLA-OFLA Benefit Matrix, http://oregon.gov/DAS/HR/docs/advice/fmla/FMLA_OFLLA_BenefitMatrix.pdf

SAIF web site, <http://www.saif.com/>

Workers Compensation Division, Department of Consumer and Business Services web site, http://egov.oregon.gov/DCBS/wcd_info.shtml

Reports

E315-009A Employees Unqualified for State Pay Benefits – Distributed after each final payroll run, this report lists employees who do not qualify for PEBB mandatory benefits and have deductions on the P070 Deductions and Deduction Adjustments.

XREF51 Insurance Analysis Exceptions – Distributed after each final payroll run 2, the report lists employees who are missing or have exceptions for required PEBB insurances.

E315-009C Payroll Deduction Adjustment (F) – The report, distributed after every final payroll run, lists employees who have entries on the P070 with ADJ = F (OFLA and FMLA). See Entry Guides, PEBB, Protected Leave, Full-time Employees and Protected Leave, Part-time and Job Share.

E315-009B Payroll Deduction Adjustment (W) – Distributed after every final payroll run, this report lists employees who have entries on the P070 with ADJ = W (CBIW and Military Leave).

E120-042A, E120-052A, E122-042A, E122-046A, E122-056A Payroll Exception – Each of these reports, distributed after each preliminary and final payroll run, lists employees who have payroll exceptions for current or corrective pay periods.

Attachments

Revision History

Date	Rev. No.	Modification
08/08/08	1.0	Original

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Date	Rev. No.	Modification
01/27/09	1.1	PEBB Protected Leave Entry Guides