



Department of Consumer
and Business Services

Time Loss Authorization - Summary of Survey Responses

To gather information on what requirements other states have for temporary disability authorization, the Workers' Compensation Division sent four survey questions to contacts in other states. A total of 30 states responded to the survey questions; the responses for each question are summarized below. Full responses are attached to this summary.

Survey respondents by region

West (8)	California, Colorado, Hawaii, Idaho, Montana, Nevada, Utah, Wyoming
Southwest (2)	Arizona, Texas
Midwest (9)	Illinois, Indiana, Michigan, Minnesota, North Dakota, Nebraska, Ohio, South Dakota, Wisconsin,
Northeast (7)	Maine, Maryland, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont,
Southeast (4)	Florida, Georgia, North Carolina, Virginia

Question 1: For workers on time loss, are physicians or other providers required to see or communicate with them on a schedule or in a set timeframe - e.g. once every 30 days, every two weeks, once per month? If so, what is the required schedule?

- Most states do not have a requirement that a provider see the worker on a set timeframe, although 3 states indicated that they had a reporting requirement. Additionally, one state (Georgia) responded that an employer or employee can request a return visit to see the authorized treating physician whenever either desires.

- 4 states reported having a requirement as follows:

Arizona: "At least once every 30 days for an active workers' comp claim."

New York: "When a claimant's disability has not been classified as permanent, there is no presumption or inference of a continuing disability, and the claimant's attending physicians have the burden of submitting up-to-date medical evidence that the disability is continuing ...Pursuant to 12 NYCRR 325-1.3(b)(3), the claimant's attending physician is required to submit progress reports of ongoing medically necessary treatment and "the intervals between [those] follow-up visits shall be no more than 90 days.""

South Dakota: "It is set up by the case management plan or by the claimant and employer/insurer."

Wyoming: "The length of time of the initial certification or recertification of TTD shall be established by the department after considering the recommendation of the health care provider and current medical literature. The employee, employer, or division may request recertification at intervals of not less than sixty (60) days. The division does require the injured worker to see their physician every 60 days while receiving TTD benefits."

Question 2: Do time loss benefits have to be authorized in specific increments, e.g., 14 days at a time? If so, what are the increments?

Many states reported having a timeframe for the payments of time loss, but none reported requiring that authorization be in a specific increment, with the exception of South Dakota. South Dakota stated “It is set up by the case management plan or by the claimant and employer/insurer.”

Question 3: Can a provider authorize time loss without an end date?

- 19 states indicated a provider can authorize time loss without an end date, or did not mention any specific prohibition against doing so.
- 5 states mentioned requirements related to the provider’s release.

Florida: “The injured worker can be placed on a no work status by the authorized treating physician (as deemed necessary) as it relates to the compensable work injury/illness for treatment that is medically necessary, remedial treatment and care. This includes required recovery periods as it relates to the nature of the injury.”

Montana: “Providers are required to fill out the Medical Status Form (39-71-1036). One of the things that is required to be addressed on the form is the anticipated date of release.”

Nevada: “A certification of disability issued by a physician or chiropractic physician must: (a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;”

Texas: “Rule 129.5(d)(2) effective dates and estimated expiration dates of current work status and restrictions (an expected expiration date is not binding and may be adjusted in future Work Status Reports, as appropriate, based on the condition and progress of the injured employee).”

Wyoming: “The division considers certification to be incomplete without an end date. When this occurs, we return the temporary total disability application to the injured worker and the physician to request an end date.”

- 3 states indicated that open ended authorizations are prohibited.
- South Dakota indicated that this is “...set up by the case management plan or by the claimant and employer/insurer”
- New York responded that medical providers have no authority to authorize benefits. Similarly, Maine noted that providers do not authorize payments for time lost from work.
- California noted that there is a cap (104 weeks) on the amount of payable temporary disability. In some cases, up to 240 weeks is allowed.

Question 4: Can a claim be closed if the worker does not follow their treatment plan?

Please note: Based on the content and variation of responses, the meaning of “closure” in the context of workers’ compensation appears to vary from state to state.

- 15 states responded that that benefits can be suspended, terminated, or not payable if the worker is not engaged in medical treatment (for example, not following recommended treatment, not going to a rescheduled exam, failing to go to an exam, refusing treatment). The scenarios and requirements for these actions vary.
- 6 states responded “No” or indicated there is no regulation that establishes noncompliance with the treatment plan as a basis for closing a claim.
- 3 states appear to have a process that has some similarity to Oregon’s “bug” letter process.
- 8 states responded “Yes”, or their response did not appear to fit into any of the groupings above.

Indiana: “Yes. In Indiana we actually have a Suspension of Benefits provision which can be invoked by the payer whenever the worker does not comply with medical care plan or light work restriction. If this goes on long enough, the payer can try to get the claim dismissed. Some workers are just NOT going to comply, such as with a surgical order, so the claim will be dismissed if conservative care does not work. There will be a PPI, but it will take into consideration the fact that surgery was not done.”

Rhode Island: “Yes.”

Vermont: “Yes. Failure to follow a medical treatment plan or failure to cooperate with a voc rehab counselor are grounds for termination of TTD.”

Georgia: “Not without a Georgia State Board of Workers’ Compensation Order, or if a statute of limitation has run, or by agreement of the parties.”

Illinois: “As with all questions, the conclusion is not answered simply. If the claim reaches 3 years, subsequent to the last payment of compensation, without a filing at the IWCC, it is moot. Anytime prior to that, the claim is not simply closed. Employers may terminate benefits for non-compliance.”

Michigan: “Both wage-loss and medical benefits in Michigan are potentially life long. This means that if you meet the definition of disability and it results in wage-loss then you are entitled to weekly benefits. Similarly, if the medical treatment that is provided is reasonable and related to the work injury then it remains the carrier’s responsibility. It is commonplace for carriers to close files, but their liability can only be fully terminated through an Agreement to Redeem that must be approved by a Workers’ Compensation Magistrate.”

Pennsylvania: “Not unilaterally, a petition must be filed.”

Utah: “A claim can be denied in whole, or in part, if an injured worker does not follow a treatment plan that is considered reasonable and necessary.”

Question 5: Does an injured worker have any specific incentives to complete their treatment plan?

- Almost all states reported that there is no specific incentive for workers to complete their treatment plan, aside from ability to return to work, recovery from the injury, or the possibility of losing benefits.
- South Dakota reported that “Once they are at MMI they receive PPD payments according to SDCL 62-4-6.”

Wyoming reported that “Wyoming Statute 27-14-403(k) allows the division to offer a three percent (3%) incentive on temporary total disability benefits if the injured worker receives all of their care in Wyoming. The division does not offer an incentive to complete a treat