

Educational Session: Time Loss

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What is time loss?

- Partial compensation for an injured worker's lost wages while unable to work due to an on-the-job injury
- 66 2/3 percent of the worker's wages,
 - Minimum of 90 percent of wages or \$50/ week (whichever is less)
 - Maximum of 133 percent of the state average weekly wage (currently \$1,389.05)
- Specific calculations for average weekly wages covered by statute and administrative rule

Time loss is a catchall term

You might also hear:

- Wage replacement
- Temporary disability
- TTD - temporary total disability
(ORS 656.210; OAR 436-060-0020)
- TPD - temporary partial disability
(ORS 656.212; OAR 436-060-0030)
- SDB - Supplemental disability benefits - provided to workers who lose time from more than one job
(ORS 656.210; OAR 436-060-0035)

When is a worker entitled to time loss?

- An authorized provider finds the worker unable to perform his or her job at injury
- The worker's inability to perform his or her regular job is due to the compensable injury
- Generally, after a three-day waiting period
(OAR 436-060-0019)

How does an insurer know to pay time loss?

- The insurer receives a work release signed by a qualified provider under OAR 436-010-0210
 - If there is a release to modified work, there must also be lost wages to result in the payment of time loss
- The qualified provider tells the insurer the worker is unable to perform his or her job at injury
- At the time of closure, documents in the insurer's possession reasonably reflect the worker's inability to work
- The director or board orders additional time loss to be paid

When does time loss start?

- First payment due within 14 days of a triggering event; then every 14 days until an ending event occurs
- If a worker is receiving TPD and has earned wages during the period of TPD, the wages are needed to correctly calculate the amount of TPD

When does time loss stop?

The claim is denied

The work release expires

- If the work release does not state an end date time loss will continue unless another ending event occurs

The provider releases the worker back to his or her job at injury (in writing)

When does time loss stop?

The provider *verbally* releases the worker back to work

- Before stopping payment, the insurer must document the facts, communicate the release to the worker by mail within seven days, and advise the worker of his or her reinstatement rights.

The provider cannot verify an inability to work, unless the worker has been unable to receive treatment for reasons beyond the worker's control

- Before stopping payment, the insurer must ask the worker whether a reason beyond the worker's control prevented the worker from receiving treatment. Then, if benefits are stopped, the insurer must send the worker an explanation for stopping the payments in place of the scheduled payment.

When does time loss stop?

- The worker declines modified work that is approved by the attending physician or authorized nurse practitioner, assuming the worker is notified of this employment according to OAR 436-060-0030(3)
- Benefits are suspended (worker fails to cooperate with an investigation or fails to seek treatment, assuming the worker is notified of information per rule)
- The worker withdrew from the workforce
- The worker is incarcerated
- Claim closure

The *payment* of time loss may also stop when the worker returns to work with full wages

Entitlement: procedural and substantive

- While the claim is open, the insurer should be making conditional payments (procedural entitlement)
- When the claim closes, time loss benefits are reviewed and stated in the closure based upon statutory entitlement (substantive entitlement)
 - At the time of closure, a worker is not entitled to any award of temporary disability for any period of time after the date the worker is medically stationary, except as provided under ORS 656.268(10)

What if time loss is over/under paid?

- Claim may be evaluated at closure to review all information and determine if time loss benefits were paid accurately.
- Division audits can also identify inaccurate over/under payments which result in a correction.
- Underpayment - paid to worker upon discovery of the underpayment
- Overpayment - deducted from future benefits
 - When overpayments are recovered from time loss or permanent total disability benefits, the amount recovered from each payment must not exceed 25 percent of the payment without prior authorization from the worker

Pinch Points

Questions and answers