Salary Continuation

1. **Q:** Do I qualify for salary continuation if my injury occurred in January 2009?

   **Answer:** No. Salary continuation for OCSEA members is effective for dates of injuries occurring on or after September 1, 2009 and dates of injuries occurring on or after November 1, 2009 for members of FOP Unit 2, SEIU/1199, and SCOPE/OEA. Salary continuation for exempt employees will be effective February 1, 2010.

2. **Q:** Why do I have to file a workers’ compensation claim at the same time as my salary continuation or OIL benefits?

   **Answer:** It is necessary to file for workers’ compensation because salary continuation and OIL are based upon the work injury. In order for your healthcare provider/medical expenses to be paid by BWC you need a claim number on file with them.

3. **Q:** Is the employee responsible for paying his/her share of health insurance premium while receiving salary continuation or OIL?

   **Answer:** Yes.

4. **Q:** What happens if an employee exhausts 480 hours of salary continuation? Are they still eligible for worker’s compensation?

   **Answer:** If an employee exhausts 480 hours of salary continuation and is still totally disabled, the employee may be eligible to receive temporary total disability compensation benefits through the BWC.

5. **Q:** Is salary continuation based on the employee’s total rate of pay (including longevity and the supplements?)

   **Answer:** Yes.

6. **Q:** Can the employee get workers’ compensation Temporary Total Disability for the same time they are off on salary continuation?

   **Answer:** No. Salary continuation is a benefit granted in lieu of workers’ compensation temporary total disability benefits.
7. Q: Does an employee accrue leave while off on salary continuation?

Answer: Employees accrue sick and personal leave, but do not accrue vacation leave while on salary continuation. However, personal leave accruals are frozen until 2011.

8. Q: Is there a waiting period for salary continuation?

Answer: No.

9. Q: Who approves salary continuation?

Answer: The state agency’s Third Party Administrator for workers’ compensation will issue a letter providing notice of whether salary continuation is approved or denied.

10. Q: If a workers’ compensation claim is denied vs. disqualified, does the employee have to pay back salary continuation?

Answer: Yes.

11. Q: If the employee is disqualified from receiving workers’ compensation, can they use compensatory time to pay back salary continuation?

Answer: Yes.

12. Q: Does the 480 hours of salary continuation eliminate payment of temporary total disability compensation by the Bureau of Workers’ Compensation?

Answer: Yes. As long as salary continuation is being paid, the employee will not be eligible to receive temporary total disability from BWC.

13. Q: If temporary total compensation is granted retroactively, does the employee have to pay back the salary continuation benefits received?

Answer: If the employee accepts temporary total disability benefits for any portion of the time the employee was receiving salary continuation, the employee will be responsible for paying back that portion of the salary continuation benefit to the employer. The employee cannot be paid from two sources for the same time period.
14. Q: Is the 480 hours of salary continuation a lifetime or per occurrence maximum?

Answer: The 480 hours of salary continuation is available for each new claim number given by BWC.

15. Q: Can I receive salary continuation while my appeal is pending before the Industrial Commission?

Answer: If the appeal relates to the denial of the initial claim, Salary Continuation will not be paid during the pendency. However, Salary Continuation is available if the appeal is related to other administrative issues subsequent to the allowance of the claim. If you choose to appeal and the final administrative decision by the Industrial Commission is reversed, you will receive salary continuation back to your last payment, up to 480 hours.

16. Q: Can I still get salary continuation if I leave state employment?

Answer: No. Salary continuation will end if the employee is no longer in state service or has been voluntarily or involuntarily disability separated.

17. Q: Can I receive salary continuation and OIL?

Answer: No. Employees who receive OIL benefits are not eligible for salary continuation if they arise out of the same incident or injury.

18. Q: Can I use my disability or other leave of absence benefits while I am getting salary continuation?

Answer: No, Salary Continuation is paid at 100% of the employee’s total rate of pay. Employees are not eligible to use vacation, sick leave, personal leave, or compensatory time while receiving salary continuation and cannot use any other paid leaves under the contract.

19. Q: If the approved physicians list will not be in place until February 1, 2010, how can I qualify for salary continuation or OIL?

Answer: You will not be required to use an approved physician until February 1, 2010. The physician must be BWC certified.
20. Q: Who is an approved provider?

Answer: An approved provider/physician is a physician selected from the BWC certified list by the Labor Management Committee as meeting our mutually developed criteria to treat state agency employees for their work injury.

21. Q: If I began treating with a doctor before February 1, 2010 for my work injury will I be required to change to an approved physician in order to continue receiving salary continuation or OIL?

Answer: If you are an OCSEA, FOP, OEA, or SEIU/District 1199 bargaining unit employee with a new claim after the effective date of salary continuation but before February 1, 2010, you may continue treating with your doctor until your injury resolves. However, any new claim with a date of injury February 1, 2010 or after, must be treated by an approved physician in order for you to receive salary continuation or OIL.

22. Q: How many times do I have to visit with the approved physician? Can I see them for an initial visit then follow up with my doctor?

Answer: In order to receive OIL or salary continuation, you must continue to be treated by the approved physician until you are approved to return to work or the benefits have been exhausted.

23. Q: Will I be disqualified from salary continuation if I go to the emergency room immediately following my injury?

Answer: No. If your injury requires emergency room care, you can be initially diagnosed and evaluated by an emergency room doctor. Thereafter if additional treatment is required, you must then consult with an approved physician.

24. Q: Does salary continuation come into play if the injured worker is only off for a short period of time? For example, the employee is injured on a Tuesday and their doctor wants the employee to stay home for the rest of the week and return to work on the following Monday. How is their salary paid?

Answer: Provided there is medical documentation supporting the employee’s absence for the remainder of the employee’s shift on Tuesday and the rest of the week, the employee will be paid salary continuation for those days. After February 1, 2010, the medical documentation must be from an approved physician.
25. Q: Will roll call be paid when an employee is receiving salary continuation?

Answer: No, roll call is not included in an employee’s total rate of pay for salary continuation. The employee must stand for roll call in order to receive roll call pay.

26. Q: If an employee is injured during a shift and leaves before the end of that shift, does the employee receive salary continuation for the balance of that shift?

Answer: If the employee’s physician provides documentation that the employee cannot return to work, and the employee otherwise qualifies, the employee may receive salary continuation for the balance of the employee’s shift. If the employee’s injury is minor and the employee is able to continue working, but elects to go to a physician, the employee must use his/her own time to cover the absence. Beginning February 1, 2010, the documentation must be from an approved physician.

27. Q: Is there an appeal process for salary continuation?

Answer: No, but a bargaining unit employee may use the grievance procedure.

28. Q: Is a temporary working level adjustment considered a pay supplement for purposes of salary continuation payment?

Answer: A temporary working level pay adjustment is paid to an employee who is assigned to work in a classification with a higher pay range. If an employee is receiving salary continuation, he/she would no longer be performing the work and would not be eligible for the temporary working level pay adjustment.

29. Q: Is the employer’s payment of the 1st 7 days of lost work days eliminated by salary continuation?

Answer: For OCSEA the first 7 days are eliminated on September 1, 2009. For OEA and 1199, the first 7 days are eliminated on November 1, 2009.

30. Q: If an injury occurred prior to September 1 for an OCSEA employee or November 1 for other bargaining unit employees, but the injured worker did not miss time until after the implementation date, does he/she still get paid the first 7 days by the agency?
Answer: The first 7 days may still be paid on claims that originated before salary continuation went into effect because the injured worker would not have had a choice other than temporary total compensation. As an example: A knee injury occurs 8/1, with no lost time. The knee continues to bother the employee and he finds out that he needs an operation and schedules it for 9/2. Based on the date of injury, he wasn’t eligible for salary continuation, so when he does miss time, he gets the first 7 days.

31. Q: Will OAKS allow an agency to pay salary continuation for a partial day?

Answer: Yes. Please refer to the job aid for specific information on how to enter salary continuation in OAKS.

32. Q: Are exempt employees permitted to pay their portion of insurance by using leave?

Answer: If an exempt employee is receiving salary continuation, he/she will be receiving his/her total rate of pay. Therefore, the employee’s portion of insurance will be deducted as if the employee was working. The employee would not need to use leave to pay the employee’s portion of insurance.

33. Q: Part-time employees are not receiving holiday pay until June 30, 2011, in place of cost savings days. If a part-time employee is receiving salary continuation or OIL, should payment of the benefit be approved for a holiday?

Answer: Neither salary continuation nor OIL benefits should be approved for part-time employees on a holiday through June 30, 2011.

**Occupational Injury Leave**

1. Q: What is the effective date of the new OIL provisions?

Answer: The new OIL provisions are effective for eligible employees upon the ratification date of their union contract: April 16, 2009 for OCSEA members; June 1, 2009, for SEIU/District 1199 members; July 1, 2009 for OEA and FOP members.

2. Q: Who approves OIL benefits?

Answer: The state agency’s Third Party Administrator for workers’ compensation will issue a letter providing notice of whether OIL is approved or denied.
3. Q: Are psychological conditions covered under OIL?

Answer: Yes, if the psychological condition is found to be related to an allowed physical condition by the BWC/IC, then time off work due to the allowed psychological condition may be compensable under OIL.

4. Q: If an employee breaks up a physical fight between co-workers, and the individual does not work in a security or youth facility, will he/she qualify for OIL?

Answer: No. To qualify for OIL, the employee must work for the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, the Department of Veterans Services, the Schools for the Deaf and Blind, the Department of Rehabilitation and Correction, or the Department of Youth Services and incur an injury inflicted by a ward of the State. FOP employees are covered under OIL if the injury occurred while they are performing their law enforcement duties.

5. Q: Define “pursuit.” At DRC or DYS, does responding to a “man down” alarm qualify? What if it’s a false alarm?

Answer: If the employee is responding to a mandown and the injury occurs before arrival to the disturbance then it is not OIL but could be salary continuation. It is not OIL if it is a false alarm but could be salary continuation. While pursuit is not specifically defined in Appendix K it gives the example of the employee pursuing a ward when he attempts to flee following a display of inappropriate behavior.

6. Q: A correction officer is responding to a man down alarm and slips and falls in wet grass and is injured. Is this OIL or salary continuation?

Answer: It is salary continuation.

7. Q: Is salary continuation and OIL paid in hourly increments only if someone is in an approved transitional work program?

Answer: Yes. The employee must be in need of ongoing treatment related to his/her OIL or salary continuation claim. The employee must first, attempt to schedule the appointment during non-working hours. If the employee is unable to schedule the appointment during non-working hours, the employee must work with the employer to flex his/her schedule to accommodate the appointment. Only after the first two (2) options have been exhausted, may the employee use any remaining OIL or salary continuation hours to attend the appointment, not to exceed one (1) hour per appointment, with a maximum of three (3) appointments per week.
8. Q: Is an employee eligible for OIL/salary continuation on the date of injury?

Answer: Yes. If the lost time is supported by medical documentation.

9. Q: If an employee is scheduled for a cost savings day during a period of workers’ compensation disability, does that employee receive salary continuation or OIL benefits for that day?

Answer: The employee would receive OIL or salary continuation. The cost savings day would have to be rescheduled when the employee returns to work.

10. Q: What happens when OIL expires and the employee still cannot return to work? Is there anyway to extend the 960 hours?

Answer: There are no extensions permitted for OIL once the 960 hours have been exhausted. However the employee could qualify for worker’s compensation temporary total disability benefits.

11. Q: Is an employee eligible for OIL if the employee is injured by a ward of the State while the employee is working outside his/her agency or if the ward is outside the agency? For example: An inmate of DRC is on day release at a State park. An employee of the Department of Natural Resources who works at the State park and is an OCSEA employee is injured by the inmate.

Answer: In order to be eligible for OIL, the employee must work for one of the designated agencies according to the language of the applicable collective bargaining agreement or the Ohio Revised Code. So, in the example given, the employee would not be eligible for OIL because DNR is not one of the specified agencies in the OCSEA collective bargaining agreement.

Forms

1. Q: Who sends out notification concerning salary continuation?

Answer: Just like OIL, the Third Party Administrator, Comp Management Inc. will provide written notice to all parties of the status of the employee’s request for salary continuation.

2. Q: Do social security numbers have to be on the DAS 4303? Can the employee ID be used instead?

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Answer: No, the employee ID alone is not sufficient. The BWC must have the employee’s social security number in order to create an injury claim for the employee. BWC covers all employers throughout the state of Ohio and the social security number is used as the single identifier to legitimize the claim. The BWC system does not recognize employee ID numbers.