

## FREQUENTLY ASKED QUESTIONS – EMPLOYER INFORMATION

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### WHY IS MY WORKER STILL ON WORKSAFE PAYMENTS?

Under the Accident Compensation Act 1985 (the Act), a worker who is injured at work is entitled to weekly compensation benefits until they have made a full time return to work in either pre injury or modified duties. If the worker is earning less by doing these duties they may still be entitled to weekly benefits.

The Act does not allow a WorkSafe Agent to simply stop an injured workers weekly payment. If your worker fails to comply with their obligations, Gallagher Bassett must go through a termination process in order to issue and Termination Notice, prior to their payments being stopped. There are several other occasions in which a termination notice could be issued to your injured worker. These occasions are not limited to, but include:

- Employment is no longer materially contributing to their injury
- They have reached 134 weeks of paid compensation and have a capacity for employment
- They resign from suitable duties, removing themselves from suitable employment

In these instances, a formal termination notice will be supplied to all parties detailing the reasons for the termination and appeal rights.

It is vital that we are informed should your worker not comply with their return to work plan, not show up at work or not supply you with their Certificate of Medical Capacity to facilitate this process.

### WHAT IS EMPLOYER LIABILITY?

If the agent has accepted the claim, an insurance excess applies. An employer must pay the first 10 days of weekly payments and must meet the first \$592 of reasonable medical and like costs. This amount is indexed annually. Accounts and receipts for medical and like costs beyond this amount should be forwarded to the Agent.

### WHAT IS 'PIAWE'?

If a worker suffers from a work related injury or disease that results in time lost from work, they may be entitled to weekly payments from WorkSafe. WorkSafe payments are calculated as a percentage of a worker's pre-injury average weekly earnings.

Pre Injury Average Weekly Earnings (PIAWE) is your workers earnings for the 12 months prior to their date of injury. Should your worker have completed less than 12 months of employment, their PIAWE will be calculated based on the amount of time they have been employed.

PIAWE is calculated using the normal hours / rate your worker earns (base PIAWE) with a separate component being added if they are entitled to shift allowance or overtime payments.

Your worker is entitled to 95% of their PIAWE for the first 13 weeks of their claim.

After the 13-week mark of your workers claim, the PIAWE entitlement will drop to 80% of the calculated amount. If shift allowance and overtime payments have been included, these entitlements will cease after 52 weeks, if the claim was lodged with the Agent after 5 April 2010, or

at 26 weeks for claims lodged prior to 5 April 2010. Your worker will then only be entitled to 80% of the base PIAWE that has been calculated.

### HOW DO I SEEK REIMBURSEMENT?

For any period of partial or full incapacity that your worker suffers due to an accepted workplace injury, Gallagher Bassett will require a Certificate of Medical Capacity for each day of time lost.

This certificate outlines the type of capacity the worker has for the specified period. Should the injured worker be totally unfit for all duties, he/she will be entitled to either 95% or 80% depending on how long they have been off work.

However, if your worker is back at work part time, we will require a Partial Reimbursement Form to be completed. This form can be obtained from your Case Manager. The reimbursement form details specifically what hours your worker has worked, and the amount of gross wages you have paid them for the hours worked. We will use this figure to determine the benefit the worker is still entitled to. As mentioned above, the worker will be entitled to weekly compensation for any hours they are not able to work due to their accepted WorkSafe injury.

### HOW OFTEN WILL WE RECEIVE WEEKLY COMPENSATION REIMBURSEMENT?

The frequency of reimbursement will depend on how often you submit the Current Weekly Earnings of your worker, and the Certificate of Medical Capacity.

Gallagher Bassett is not able to reimburse any Weekly Compensation Benefits without a Certificate of Medical Capacity. Further, if your worker has returned to work, we need both documents to enable calculation of the benefit. If an employer does not provide the required documentation within 90 days of the relevant period you may not be entitled to receive a reimbursement.

Employers have the option to take out EFT for weekly compensation reimbursements to be received quickly. Should you wish to take up this option, please contact your Case Manager who will be able to provide the relevant forms for completion.

### DOES WORKSAFE HAVE ANY IMPACT ON INDUSTRIAL RELATION LAWS?

Whilst an injured worker is on WorkSafe benefits, industrial relation laws are applicable. The application of The Act, whilst a worker is on WorkSafe benefits, does not negate industrial relation laws. The injured worker is subject to the same policies and procedures they would normally be expected to adhere to if they were not on WorkSafe benefits.

### CURRENT WEEKLY EARNINGS – WHAT ARE THEY AND HOW DO I CALCULATE THEM CORRECTLY?

Current Weekly Earnings are the actual wages the worker receives for the number of hours they worked each week. You are responsible for the payment of these earnings to the injured worker. For reimbursement to your company, it is important that you provide us with your workers weekly earnings on a regular basis to ensure correct calculation of your reimbursements.

It is imperative that Gallagher Bassett receives notification as soon as your worker has made a return to work. This notification will assist in us issuing correct weekly compensation payments, and reduce overpayment. Overpayment will result in us seeking recovery for monies overpaid.

## WHAT IMPACT DOES ANNUAL LEAVE / REDUNDANCY / ANNUAL SHUT DOWN / OR TERMINATION HAVE ON WEEKLY COMPENSATION ENTITLEMENTS?

Effective 1 January 2010 if a worker accesses annual leave or long service then any payments they receive for that leave will not affect the calculation of their weekly payments.

A worker can receive both weekly payments and payments for annual leave or long service leave for the same period. A payment received for either taking the leave or being paid out the leave is not classed as current weekly earnings.

If a worker is working modified duties and claiming WorkSafe reimbursement they can also access annual or long service leave entitlements. Their partial WorkSafe weekly payments will not increase because their current weekly earnings have decreased due to taking annual or long service leave.

They are entitled to receive the amount of WorkSafe weekly payments they were receiving immediately prior to going on leave as well as their leave payment.

For example, if they were working 20 hours per week the week prior to taking leave, at \$20.00 per hour, current weekly earnings in this case would be \$400.00. For the weeks the worker was on annual or long service leave you apply \$400 as their current weekly earning for the period of leave until they return to work.

If a worker has returned to work on modified duties and takes sick leave for a reason unrelated to their compensable injury, the sick leave is included as part of their current weekly earnings. This is because the period for which they receive sick leave is the same period that they would have worked and received current weekly earnings.

If a worker sustained an injury prior to 5 April 2010 and takes a redundancy, their entitlement will continue in accordance with the Act. However, a period of non-entitlement may be calculated, as the injured worker will not be entitled to a lump sum payout and weekly compensation at the same time. The duration of their non-entitlement period would be calculated upon Gallagher Bassett receiving advise of the lump sum payment.

A worker who is injured from 5 April 2010 will be able to take a redundancy or severance payment without their weekly payments being affected.

Annual shut down is treated the same as annual leave – if an injured worker was working up until the shut down, the same current weekly earnings would be applied to the annual leave period. They are entitled to receive the amount of WorkSafe weekly payments they were receiving immediately prior to going on leave as well as their leave payment. If they were unfit for all duties they would be entitled to their full weekly compensation amount regardless of the shutdown period.

## IS ANNUAL LEAVE ACCRUED WHILE MY WORKER IS ON WORKSAFE?

A workers entitlement to accrue annual leave is an industrial relations issue between the worker and their employer. Workers can only accrue annual leave if it is stipulated within your Enterprise Bargaining Agreement (EBA) or company policies. Please refer to your EBA or company policies to determine whether this applies for your workers.

Upon resumption of either partial or full time duties, their annual leave entitlements will resume in accordance with your company policies.

If you have any queries or require clarification regarding the above information, please do not hesitate to contact your case manager or our office toll free 1800 77 377.