



Washington State Department of  
**Labor & Industries**

Self-Insurance



# Advanced Wages

*June 2023*

# Safety Message



# RCW 51.08.178

- Intent is to ensure that wages are computed in a fair and equitable manner.
- Contains instructions for how to calculate wages.
  - Outlines when and how to include overtime in calculations.
  - Defines other types of compensation included in wages (housing/board, tips, etc.)
- Employer's contribution to health care benefits is also considered wages.

# Subsection 1

- Also known as “regular and continuous” employment.
- Most workers fit under subsection (1).
- Applies to workers who:
  - Are paid a monthly salary, or
  - Have a regular and continuous work schedule.

# Methods for Calculating Sub 1

- Monthly Salary
- Regularly Scheduled
- Average hours per day
- Average hours per month

# Sick/Vacation Hours

- Hours paid for vacation, sick leave, holidays etc. should be included in total hours
- If the worker is paid out by a union documentation is needed.

# Averaging Hours Per Day

- Use if the worker has one rate of pay and is working a set number of days per week, but daily hours vary.

<u>528</u>	$\div$	<u>52</u>	$=$	<u>10.15</u>	
<i>Total hours worked in the period</i>		<i># of days worked in the period</i>		<i>Average hours per day</i>	<i>Use two decimal points when calculating average hours per day.</i>
					<i>Rounding: Numbers ending in 0-4 should be rounded down. Numbers ending in 5-9 should be rounded up.</i>
<u>\$20.00</u>	$\times$	<u>10.15</u>	$\times$	<u>18</u>	$=$ <u>\$3,654.00</u>
<i>Hourly Rate</i>		<i>Average hours per</i>		<i>*Days per month</i>	<i>Monthly Wage</i>
		<i>day</i>			

# Averaging Hours Per Month

- Use when the worker doesn't work a set number of days **OR** hours.

$$\frac{511}{\text{Total hours worked in the period}} \div \frac{3}{\text{\# of months in period}} = \frac{170.33}{\text{Average hours per month}} \times \frac{\$20.00}{\text{Hourly Rate}} = \frac{\$3,406.60}{\text{Monthly Wage}}$$



# Multiple Rate of Pay

- Calculate each rate of pay separately by averaging the hours per month, then multiply by the applicable hourly rate.
- Add totals from each rate of pay to find total gross monthly wage.
- Include overtime in each rate separately, not combined.

# Overtime

- Overtime hours are only included if there is a pattern of overtime worked.
- Overtime hours are included at the base rate of pay.

# Fred Meyer Inc. v. Shearer (2000)

- Shift differential is **not** overtime, even if paid at the same rate.
  - Considered additional compensation for working undesirable hours.
  - May still be listed as overtime (OT) on payroll records.
- Hours should be calculated at the full rate of pay.

# Bundling

- If any rate of pay does not equal at least 8 average hours per month, the hours can be rolled (bundled) into the next highest rate.
  - Rates are considered “minimally worked hours.”
- If you choose to bundle one rate, you **must** bundle them all.

# Minor Variation Worksheet

Calculation of Minor Variation for a Regularly Scheduled Employee - One Rate of Pay		
<p><i>If the variation is less than 10%, use regularly scheduled with a minor variation to calculate the monthly wage.</i></p> <p><i>Paid Vacation and Sick Leave should be included in the Actual Hours worked.</i></p> <p><i>Do not include overtime hours in the "Actual hours worked."</i></p> <p><i>If the variation is greater than 10%, use averaging to calculate the monthly wage.</i></p>	Scheduled Hours:	0.01
	Actual Hours Worked:	
	$\frac{0.00}{\text{Actual Hours}} \div \frac{0.01}{\text{Scheduled Hours}} = \frac{0}{\text{Variation}}$	
	$\frac{1.00}{\text{Actual Hours}} - \frac{0}{\text{Variation}} \times \frac{100}{\text{Variation}} = \frac{100.00}{\% \text{ Variation}}$	

# Multiple Employers

- If worker has another job, the SIE **must** attempt to obtain wage info for other employers.
  - Letter to worker is sufficient.
- Each job must be calculated separately on SIF-5A.

# Cockle v. Dept. of L&I (2001)

- Actual cost of employer-provided health care benefits must be included in wages.
  - Includes medical, dental, and vision
- Do not have to address whether the worker was “eligible” to access benefits at that time.

# Knowledge Check





What RCW governs wages?

**RCW 51.08.178**

Jenny was injured while working as a roofer working 5 days a week (M-F), though her hours varied. In the three months prior to her injury she worked 495 hours and earned \$19 per an hour.

What method would you use to calculate Jenny's wages?  
**Average hours per day**

What is Jenny's GMW?

**5 days x 13 weeks = 65 day worked in the rep period**

**495 hours ÷ 65 days = 7.62 average hours per day**

**7.62 hours x \$19 = \$144.78 x 22 days = \$3,185.16**

Daniel is a waiter. In the 3 months prior to his injury he worked 264 hours, as well as 66 hours which were worked after 6 pm. His base rate of pay is \$16.50 per hour. A \$0.50 shift differential is applied to all hours worked after 6:00 PM. His employer reports monthly tips in the amount of \$275.00.

What method would you use to calculate Daniel's wages?

**Average hours per month**

What is Daniel's gross monthly wage?

**$264 \text{ total hrs} \div 3 \text{ m} = 88 \text{ hrs/m} \times \$16.50 = \$1,452.00$**

**$66 \text{ hrs after 6pm} \div 3 \text{ m} = 22 \text{ hrs/m} \times \$17.00 = \$374.00$**

**$\$1,452.00 + \$374.00 + \$275 = \$2,101.00$**

Mary injured herself while working as a CNA at a nursing home. She had worked there for one year, earning \$21.85 per hour, working 8 hours a day Saturday through Wednesday. She worked 60 hours of overtime in the last 3 months. Her employer contributes \$220.00 per month for HCB.

What method would you use to calculate Mary's wages?

**Regularly Scheduled + Overtime (average per month)**

What is the GMW?

$$\text{\$21.85} \times 8 \text{ hrs} \times 22 = \text{\$3,845.60}$$

$$\text{OT: } 60 \text{ hrs} \div 3 \text{ m} = 20 \text{ hrs/m}$$

$$\text{\$21.85} \times 20 \text{ hrs} = \text{\$437.00}$$

$$\text{\$3,845.60} + \text{\$437.00 (OT)} + \text{\$220.00 (HCB)} = \text{\$4,502.60}$$

Maggie works 3 days a week, 12 hours a day. She makes \$25.00 per hour during the first 8 hours of her shift and \$36.00 per hour for the remaining 4 hours. During the 3 months prior to the date of injury, she worked 328 hours at \$25.00 per hour and 180 hours at \$36.00 per hour. Her company contributes \$400.00 a month toward her health care benefits.

What is the GMW?

Rate 1:  $328\text{hr}/3\text{m} = 109.33\text{hr}/\text{m} \times \$25.00 = \$2,733.25$

Rate 2:  $180\text{hr}/3\text{m} = 60\text{hr}/\text{m} \times \$36.00 = \$2,160.00$

$\$2,733.25 + \$2,160.00 + \$400.00 \text{ (HCB)} = \$5,293.25$

# Subsection 2

## Part-Time, Seasonal, and Intermittent workers

- Part-time: No set schedule or discernable pattern, and hours spent at employment are significantly less than the number of hours typically worked by employees in that industry.
- Seasonal: Work activities performed during a particular time of year.
- Intermittent: Pattern is sporadic with definite start and stop points and significant gaps in between.

# Method for Calculating Sub 2

- Total wages from all employment in any 12 consecutive months prior to the date of injury, then divide by 12.
- SIE/TPA must review payroll records for all worker's employment for at least 1 year prior to DOI.
  - If unable to get records, must provide documentation of attempt (letter to worker).

$$\frac{\text{Total Wages}}{\text{Months}} \div 12 = \frac{\$0.00}{\text{Monthly Wage}}$$

# Subsection 3 – Bonuses

- Always applies, regardless of whether worker is Sub (1) or (2).
- Add all bonuses paid in 12 months immediately preceding DOI, then divide by 12.
- Only applies to employer of injury.

$$\frac{\$1,200.00}{\text{Total bonus amount in last 12 months}} \div \frac{12}{\text{Months}} = \frac{\$100.00}{\text{Monthly Value of Bonuses}}$$



# Subsection 4 – Like Wages

- Use when the wage is not fixed or cannot be fairly determined. (no contract of hire)
- Typically used when worker has worked less than one month and was not hired with a regular schedule.
- SIE should review payroll documents for 3 “like” employees, choose one, and explain why.

# Gross Monthly Wage

Total Monthly Wage - (this is the basis for worker's compensation payment; it is not the benefit amount.)												
<u>\$0.00</u>	+	<u>\$0.00</u>	+	<u>\$0.00</u>	+	<u>\$0.00</u>	=	<u>\$0.00</u>	+	<u>\$0.00</u>	=	<u>\$0.00</u>
Monthly Wage for Job of Injury		Monthly Value of Bonuses		Monthly Value of Other Compensation		Monthly Wage for All Additional Jobs		Sub - Total of Monthly Wage		Monthly Value of Health Care Benefits		TOTAL MONTHLY WAGE

# Wage Disputes

- WAC 296-15-425: If no dispute is received the department will not issue a wage order.
- If a dispute is received the department will need:
  - SIF-5A
  - Payroll documentation
  - Employer's contribution to HCB
  - Marital/dependent status

# Marital and Dependent Status

- Wage orders establish worker's marital status and number of dependents as of the date of injury.
  - Married = married, separated, registered domestic partnership,
  - Single = divorced, widowed, common law marriage
- Marital status on date of injury = status for life of the claim.

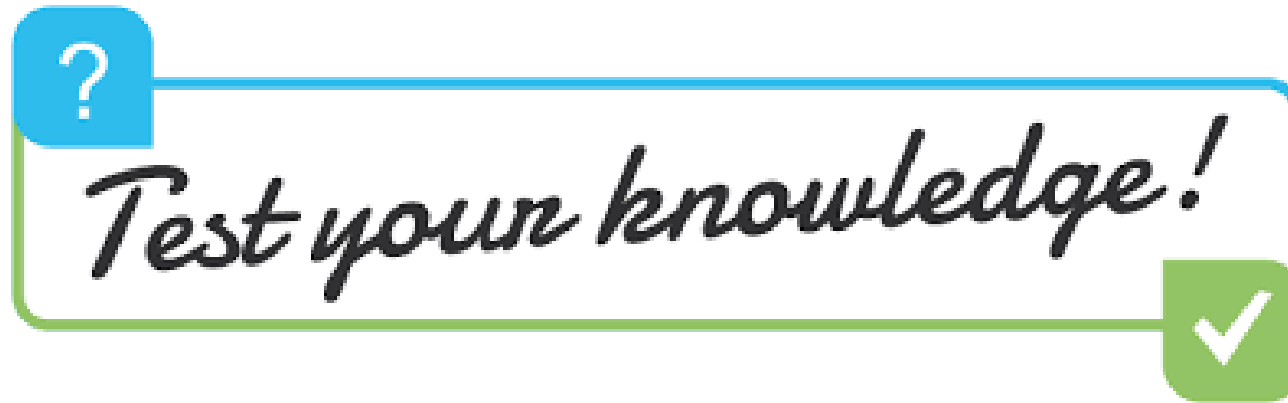
# Definition of a Child – RCW 51.08.030

- Natural born child
- Stepchild
- Legally adopted
- In legal custody
- Child conceived prior to DOI but born after
  - Compensation paid effective date of child's birth

# Dependent Eligibility

- Dependent status maintained until child turns 18, or 23 if enrolled full time in an accredited school.
- Dependents with physical, mental, or sensory handicaps will remain eligible regardless of age (“invalid” child).

# Knowledge Check



Jon works a varying number of days per week and has a pattern of overtime. In 3 months prior to the injury, he worked a total of 628 regular hours at \$28.00 an hour and 87 hours of overtime paid at \$42.00 an hour. At the time of injury, his employer contributed \$250.00 per month towards his HCB's. The 12 months preceding the injury, Jon received \$500.00 performance bonus.

What is the GMW?

$$628(\text{reg hrs}) + 87(\text{OT hrs}) = 715(\text{total hrs})/3\text{m} = 238.33\text{hr/m}$$

$$238.33\text{hr/m} \times \$28.00 = \$6,673.24$$

$$\text{Bonus: } \$500.00/12\text{m} = \$41.67$$

$$\$6,673.24 + \$41.67(\text{bonus}) + \$250.00 (\text{HCB}) = \mathbf{\$6,964.91}$$



On the date of injury Billy was married with 2 kids (ages 13 and 15). Additionally, the worker has 2 kids (ages 19 and 24) from a prior marriage, who live with their mom. They both attend college full time.

How many Dependents does Billy have?

**Three dependents**

Tim works for an amusement park. He earns \$14.75 an hour and works 7 hours per day, 4 days a week. The park is open year round. His employer contributes \$250.00 per month for HCB. For the prior 12 months, he earned \$27,258.00 gross wages.

What is Tim's GMW?

$$\text{\$}14.75 \times 7 \times 18 = \text{\$}1,858.50$$

$$\text{\$}1,858.50 + \text{\$}250.00 = \text{\$}2,108.50$$

Tim also began working for a local pool on May 1, 2016. His job was scheduled to end September 30, 2016. The pool is only open from May through September each year. Tim earns \$14.00 per hour, 8 hours a day, 3 days per week. Tim received a \$100.00 bonus in the 12 months preceding the date of injury. For 4 months prior to the date of injury, Tim earned a total of \$5,824.00. Tim was injured on September 30th while working for the amusement park.

What is the GMW?

Amusement park – Sub 1 GMW: **\$2,108.50**

Pool – Sub 2:  $\$5,824.00 / 12m = \$485.33$

Total GMW:  $\$2,108.50 + \$485.33 = \$2,593.83$

Chris worked 575 hours M-F in the 3 month prior to his injury earning \$20.45 per hour. He reports that he occasionally picks up extra hours on weekends and receives a Saturday premium of \$1.20 per hour and Sunday premium of \$1.50 per hour. In the 3 months prior to his injury Chris worked 21 hours on Saturdays and 12 hours on Sundays.

Could you bundle any rates? **Yes**

If you bundle, what is the GMW?

**Reg:  $575\text{hrs}/3\text{m} = 191.67\text{hrs} \times \$20.45 = \$3,919.65$**

**Sat:  $21\text{ hrs}/3\text{m} = 7\text{ hr}/\text{m} \times \$20.45 = \$143.15$**

**Sun:  $12\text{ hrs}/3\text{mo} = 4\text{ hrs}/\text{m} \times \$20.45 = \$81.80$**

**Total GMW:  $\$3,919.65 + \$143.15 + \$81.80 = \$4,144.60$**

James was hired as a mechanic and contracted to work 8 hours a day 5 days a week earning \$22 an hour, with no overtime. He fell during his 3rd day during orientation. During his first week of work, he was only scheduled to work 4 days 10 hours a day. The wages of 3 like employees were as follows for the 3 months immediately prior to the injury:

Mechanic 1 : 515 hours @ \$22/hr

Mechanic 2: 600 hours @ \$22/hr

Mechanic 3: 422 hours @ \$22/hr

What is James' GMW?       $8\text{hr} \times \$22.00 \times 22\text{days} = \$3,872$

Kyle was a stay-at-home dad who was hired to work as a grocery stocker working 5 hour shifts on a variety of days throughout the week earning \$20 per hour. He injured his back lifting a box of apples after one week. The wages of 3 like employees were as follows for the 3 months immediately prior to the injury:

Grocery stocker 1: 298 hours @ \$20/hr

Grocery stocker 2: 330 hours @ \$20/hr

Grocery stocker 3: 317 hours @ \$20/hr

What is Kyle's GMW?

**$317 \text{ hrs} / 3 \text{ m} = 105.67 \text{ hrs/m} \times \$20 = \$2,113.40$**

# Top 5 *Method* Errors Found In Audit

1. Multiple Rates of Pay
2. Health Care Benefits
3. Bonuses
4. Other Compensation
5. Representative Period



# Documentation

- SIF-5A
- Payroll records
  - These should include explanations of any pay codes
- Calculation of Monthly Wage as a Basis for Time-Loss Compensation (F207-227-000)



# Resources

- L&I self-insured section – self-insured main-page  
<https://lni.wa.gov/insurance/self-insurance/about-self-insurance/>
- Claims Adjudication Guidelines (CAG) – Wages  
[https://lni.wa.gov/insurance/\\_docs/CAGWages.pdf](https://lni.wa.gov/insurance/_docs/CAGWages.pdf)
- Forms and Templates – SIF 5A  
<https://www.lni.wa.gov/insurance/self-insurance/about-self-insurance/forms-publications>

# Questions?

- Claim-specific questions: Call 360-902-6901 and ask for the claim adjudicator assigned to the claim.
- General claim questions: email us at [SITrainerquestions@lni.wa.gov](mailto:SITrainerquestions@lni.wa.gov)