Washington State Department of Labor & Industries

Time-Loss Compensation

Self-Insurance Claims Adjudication Guidelines

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Time-Loss Compensation

Family Status and Dependents

RCW 51.32.010, RCW 51.32.060, RCW 1.16.100

A worker receives a percentage of wages based upon family status and number of dependents at the time of injury. Under RCW 51.32.060, An injured worker's time-loss entitlement is calculated as:

- 60% base compensation for a single worker.
- 5% additional compensation for a spouse or registered domestic partner.
- Additional compensation for each dependent child:
  - For Dates of Injury/Manifestation before 07/01/2026, 2% per child, for up to 5 children.
  - For Dates of Injury/Manifestation on or after 07/01/2026:

Unmarried, no children	60%	n/a
Unmarried +1 child	65%	Married, no children
Unmarried +2 children	67%	Married +1 child
Unmarried +3 children	69%	Married +2 children
Unmarried +4 children	71%	Married +3 children
Unmarried +5 children	73%	Married +4 children
Unmarried +6 or more children	75%	Married +5 or more children

Example:

Erica is married with three dependent children on the date of injury.

She is entitled to:

60% for herself
5% for spouse
6% for children (3 children x 2%)
71% total percent

Registered Domestic Partnership

RCW 1.16.100, RCW 26.60.100, RCW 51.08.900

For claims with dates of injury or occupational disease on or after December 3, 2009, a worker who has a registered domestic partner will have the same rights and benefits as a worker with a spouse. References to spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships.

Same sex marriages became legal in Washington State effective December 6, 2012.

Effective June 30, 2014, domestic partnerships registered in Washington automatically converted to marriages unless:

- At least one partner was 62 years old on or before June 30, 2014. These couples can continue their registered domestic partnership, or they can marry if they wish.
- The couple had already legally married.
- The couple had legally dissolved the domestic partnership or had started a legal proceeding to dissolve the partnership by June 30, 2014.

The status of a domestic partnership can be verified on the Washington Secretary of State website's Domestic Partnership search tool.

Definition of Child

RCW 51.08.030

"Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the worker, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap.

- A child conceived prior to the date of injury but born after the date of injury entitles the worker to include that child in their total compensation percentage effective the date of the child's birth.
- Compensation for dependent children continues until 18 years or until 23 years if enrolled in a full-time accredited school. If the child is 18 years old and is a full time student at an accredited school, the child's portion is paid directly to the child up to the age of 23. (RCW 51.32.025)

  Note: A student enrolled full-time in a school but not attending classes during summer, winter, or spring break **is still entitled** to their portion of time-loss.
- Compensation is continued without regard to age if the child is a "dependent invalid child". The dependent portion in the case of an invalid child is paid directly to the legal guardian. (RCW 51.32.025)

The following is a list of variations in family/dependent status upon which time-loss compensation rates are based:

1. Single on date of injury – pay as single.

2. Married after date of injury – pay as single.

3. Married after date of injury and children conceived and born after injury – pay as single with no dependent.

4. Married prior to date of injury – pay as married

5. Married with dependent children on date of injury – pay as married with 2% for each dependent child up to five children.

6. Legally separated but not divorced on date of injury – pay as married.

7. Divorced prior to date of injury – pay as single.

8. Divorced after date of injury – pay as married.

9. Married and spouse dies after date of injury – pay as married.

10. Married with no dependent children on date of injury, both husband and wife have compensable claims – both are paid as married.

11. Married with dependent children on date of injury, both husband and wife have compensable claims – both are paid as married; only the worker with the higher time-loss rate receives allowance for children's portion.

12. Married at the time of injury, after injury adopts children – pay as married.

13. Married at the time of injury, child conceived prior to the date of injury and born after the date of injury – pay as married. Pay for dependent's portion beginning with date of birth.

14. Married at the time of injury with one child over 18 who is an invalid and dependent on worker – pay as married with one dependent.

15. Married at time of injury with one child of any age who is an invalid who is being cared for in a state institution – married with no dependents if the worker is not contributing to the institution for the child's care. Pay as married with one child if the worker is making payment to the institution.

Time-Loss Compensation Formula

For dates of injury on or after July 1, 1971, the time-loss compensation rate is based on the worker's gross wage, family status and number of dependent children on the date of injury.

Once the worker's gross monthly wage, family status and number of dependent children have been determined, the monthly time-loss compensation rate can be computed. The following formula is used in making this calculation.

Monthly Time-Loss Compensation Rate

Gross Monthly Wage	X	Marital/Dependent Percentage	=	Monthly Time-Loss Compensation Rate

Example:

Fran's gross monthly wage is $4,500.00; she is married with three dependents at the time of injury.

$4,500.00	X	**71%**	=	**$3,195.00**
Gross Monthly Wage		Marital/Dependent Percentage		Monthly Time-Loss Compensation Rate

Determining the Child's Portion

When the identity of the custodial parent is unclear, children should still be assigned to the claim, however the claim manager should withhold the children's portion when making payment. Once the custodial parent has been identified, the payment must be released to the custodial parent. The child's portion is paid to the parent/guardian with legal custody (RCW 51.32.010).

Example:

Jim's date of injury is 10/01/2025. On his SIF-2, Jim lists divorced with two dependents and indicates he does not have custody. His gross monthly wage is $4,000.00. His total time-loss entitlement is $2560.00 ($4,000.00 x 64% as Single with two dependents).

$4,000.00 x 60% = $2400.00 (Jim's portion of time-loss)
$4,000.00 x 4% = $160.00 (children's portion of time-loss paid to the guardian with legal custody)

For claims with a date of injury or manifestation on or after 07/01/2026, RCW 51.32.010 sets the dependent's portion payable to the guardian with legal custody at 2% of the worker's wages.

Example:

Jim's date of injury is 07/01/2026. On his SIF-2, Jim lists divorced with two dependents and indicates he does not have custody. His gross monthly wage (GMW) is $4,000.00.

$4000.00 GMW x 67% (single with 2 dependents) = $2680.00 monthly time-loss rate.
$4,000.00 GMW x 4% = $160.00 children's portion paid to the custodial guardian.
$2,680.00 - $160.00 = $2,520 (Jim's portion of time-loss).

Maximum Time-Loss Compensation Rate

RCW 51.32.060(5), RCW 51.32.090(9)

Maximum time-loss compensation rates are based on a percentage of the statewide average monthly wage for the previous calendar year. The Employment Security Department computes the statewide average wage. (See Maximum Time-Loss Rates Chart.)

The percentage of the statewide average monthly wage used to calculate maximum time-loss compensation rates has changed from time to time over the years, so the actual rate depends upon the date of injury.

- For injuries occurring between **7-1-71 and 6-30-88**, the maximum rate a worker can receive per month is **not greater than 75%** of the statewide average monthly wage.

- For injuries occurring between **7-1-88 and 6-30-93**, the maximum rate a worker can receive per month is **not greater than 100%** of the statewide average monthly wage.

- For injuries occurring between **7-1-93 and 6-30-94,** the maximum rate a worker can receive per month is **not greater than 105%** of the statewide average monthly wage.

- For injuries occurring between **7-1-94 and 6-30-95,** the maximum rate a worker can receive per month is **not greater than 110%** of the statewide average monthly wage.

- For injuries occurring between **7-1-95 and 6-30-96**, the maximum rate a worker can receive per month is **not greater than 115%** of the statewide average monthly wage.

- For injuries occurring **on or after 7-1-96**, the maximum rate a worker can receive per month is **not greater than 120%** of the statewide average monthly wage.

Increases in the MaximumTime-Loss Rate

Changes in the maximum time-loss rate are applied July 1 of each year. A worker receiving the maximum time-loss from the chart would continue to receive this increase without regard to the COLA freeze on July 1, 2011, or skipping the first year's COLA for injuries on or after July 1, 2011. (See Court of Appeals decision *Crabb v. DLI*).

Determining the Child's Portion When Worker is at Maximum Time-Loss Rate

If a worker is entitled to time-loss compensation at the maximum rate the following formula is used to determine the dependent's portion:

(children's %) ÷ (total %) x (max. TL rate) = children's portion

Example:

On her SIF-2, Jessica lists single with two dependents and circles she does not have custody. She is at the maximum monthly time-loss rate of $4,472.10.

.04	÷	.64	x	$4,472.10	=	$279.51
(children's %)		(total %)		(max. TL rate)		(children's portion)

$4,472.10 (max. TL rate) - $279.51 (children's portion) = $4,192.59 (worker's portion)

Minimum Time-Loss Compensation Rate

RCW 51.32.060(5), RCW 51.32.090(9)

The Minimum Time-Loss Rates Chart shows the minimum time-loss rate workers are entitled to receive depending on the date of injury.

Minimum Time-Loss Rate for Dates of Injury on or After July 2, 2008

For dates of injury on or after July 2, 2008, the minimum time-loss rate is 15 percent of the state's average monthly wage plus $10 if the worker has a spouse and $10 for each dependent child up to five children, six for single workers with a DOI/DOM on or after 07/01/2026. If the worker's gross monthly wage is less than 15% of the state's average monthly wage, then the worker is entitled to a time-loss rate equal to 100% of their gross monthly wage or the minimum rate in effect prior to July 2, 2008, whichever is higher.

You can use the Minimum Time-Loss Calculation Worksheet to help determine the benefit the worker is entitled to.

Minimum Time-Loss Calculation Worksheet
For use when the standard time-loss calculation❷ is less than SAW❸

Calculate gross monthly wage (GMW)	$_____	❶
Calculate standard time-loss	$_____	❷
Calculate new minimum (SAW) + $10 for spouse and each dependent	$_____	❸
Old minimum from chart	$_____	❹

If standard time-loss calculation❷ is more than SAW❸, pay the standard time-loss calculation❷
If SAW❸ is less than GMW❶, pay SAW❸.
If SAW❸ is more than GMW❶, pay GMW❶ or old minimum❹, whichever is greater.

Example - 15% of the State's Average Monthly Wage:

Allison was injured on September 14, 2018 She was earning $15.50 an hour and worked 3 hours per day, Monday through Friday. She was married with two dependents at the time of injury.

$15.50 x 3 = $46.50/day
$46.50/day x 22 days (per RCW) = $1023.00 (gross monthly wage)

$1023.00 x .69 = $705.87 (standard time-loss formula)

$803.59 ($773.59 state's average wage minimum for date of injury, plus $10.00 for spouse and $20.00 for two dependents.)

Minimum Time-Loss Calculation Worksheet
For use when the standard time-loss calculation❷ is less than SAW❸

Calculate gross monthly wage (GMW)	$_____1023.00_____	❶
Calculate standard time-loss	$_____705.87_____	❷
Calculate new minimum (SAW) + $10 for spouse and each dependent	$_____803.59_____	❸
Old minimum from chart	$_____283.00_____	❹

If standard time-loss calculation❷ is more than SAW❸, pay the standard time-loss calculation❷
If SAW❸ is less than GMW❶, pay SAW❸.
If SAW❸ is more than GMW❶, pay GMW❶ or old minimum❹, whichever is greater.

Answer: $803.59 (minimum time-loss rate)

The standard calculation for time-loss ($705.87) is less than the new minimum SAW of $803.59. Since her gross monthly wage is more than that minimum time-loss rate, she is entitled to the minimum time-loss rate of $803.59.

Alternate Recipient Calculation

In the above example, if the worker's two dependents were in the custody of an alternate recipient, you would pay the dependent's portion to the alternative recipient. Pay the worker 15% of the state's average monthly wage, plus $10.00 for the spouse. Pay the alternate recipient $20.00 ($10.00 for each dependent).

$803.59	Total time-loss compensation rate
-$20.00	Alternate recipient portion
$783.59	Worker's portion

Increases in the Minimum Time-Loss Rate of 15 Percent of the State's Average Wage

RCW 51.32.060 says "**in no event** shall the monthly payments provided in this section" "…. be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018…." Workers whose compensation rate is set at this minimum must always continue to be paid at no less than 15 percent of the **current** average monthly wage for the state.

These workers aren't entitled to a cost of living adjustment (COLA) for the first July after the date of injury. However, they **are** entitled to an increase in their time-loss rate if there is an increase in the state's average monthly wage on July 1st.

Example 1

Reese was injured on February 15, 2012. He was single with 2 dependents at the time of his injury. His time-loss rate for the date of injury was established to be $622.03 ($602.03 + $20.00 for 2 dependents).

On July 1, 2012 he was not entitled to a COLA on his time-loss rate since it was the 1st July after the date of injury. However, 15 percent of the state's average monthly wage plus dependents had increased to $643.68. Since his minimum monthly payment cannot be less than 15 percent of the average monthly wage, he was entitled to a time-loss rate adjustment based on that amount.

February 15, 2012 (DOI) – June 30, 2012 monthly time-loss rate 15% of the DOI SAW ($602.03) plus $20.00 for dependents **$622.03**	July 1, 2012 monthly time-loss rate 15% of the new SAW ($623.68) plus $20.00 for dependents **$643.68**

On July 1, 2013, the second July 1st after his date of injury, Reese was entitled to a COLA on his time-loss rate.

July 1, 2012 – June 30, 2013 monthly time-loss rate **$643.68**	x	7/1/2013 COLA **1.03409**	=	July 1, 2013 monthly time-loss rate **$665.62**

The July 1, 2013 COLA on his time-loss keeps his time-loss rate above 15 percent of the July 1, 2013 state's average wage (644.94 + $20.00 for 2 dependents = $664.94).

On claims with earlier dates of injury, the annual July 1st COLA kept workers' time-loss rates at or above 15 percent of the state's average wage. On July 1st 2011, there was a COLA freeze on all time-loss. Effective July 1st 2011, workers with rates originally set at 15 percent of the state's average wage were not entitled to a COLA, but their minimum time-loss rate was bumped up to 15 percent of the state's average wage for July 1, 2011.

Example 2

Chloe was injured on August 15, 2008. She was married with 3 dependents at the time of her injury. Her time-loss rate at the date of injury was established to be $599.01 ($559.01 + $40.00 for spouse and 3 dependents).

She was entitled to a COLA on her time-loss rate on every July 1st after her date of injury until July 1, 2011, when there was a freeze on all COLAs. Since RCW 51.32.060 says "**in no event** shall the monthly payments provided in this section" "… be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018," on July 1, 2011, she became entitled to the 15% of the state's average wage minimum time-loss rate in effect on that date, plus $40.00 for her spouse and three dependents ($642.03).

Dates					**TL Rate**
August 15, 2008 (DOI) - June 30, 2009					$599.01
July 1, 2009	$599.01	x	1.03432 (COLA)	=	$619.57
July 1, 2010	$619.57	x	1.01939 (COLA)	=	$631.58
July 1, 2011	COLA Freeze – New Rate = $602.03 + $40.00			=	$642.03
July 1, 2012	$642.03	x	1.03596	=	$665.12
July 1, 2013	$665.12	x	1.03408	=	$687.79
July 1, 2014	$687.79	x	1.02016	=	$701.66
July 1, 2015	$701.66	x	1.0416832906	=	$730.91

Note: Incremental COLAs, not cumulative should always be used to calculate time-loss for workers whose time-loss rate is set at 15 percent of the state's average wage.

100% of Worker's Gross Monthly Wage

If the worker's gross monthly wage is less than 15% of the state's average wage then the worker is entitled to a time-loss rate equal to 100% of their gross monthly wage or the "old" minimum rate (the rate in effect prior to July 2, 2008), whichever is higher.

Example of 100% of the Worker's Gross Monthly Wage:

Amanda was injured on August 4, 2016. She was earning $11.75 an hour and worked six hours per day on Mondays and Tuesdays. She was married with two dependents at the time of injury.

$11.75 x 6 = $70.50
$70.50 x 9 (per RCW) = $634.50 (gross monthly wage)

$634.50 x 69% = $437.81 (standard time-loss formula)

$733.41 ($703.41 – state's average wage minimum for date of injury, plus $10.00 for spouse and $20.00 for two dependents)

$283.00 ("old" minimum time-loss rate, prior to 7/2/08)

Minimum Time-Loss Calculation Worksheet
For use when the standard time-loss calculation❷ is less than SAW❸

Calculate gross monthly wage (GMW)	$ 634.50	❶
Calculate standard time-loss	$ 437.81	❷
Calculate new minimum (SAW) + $10 for spouse and each dependent	$ 733.41	❸
Old minimum from chart	$ 283.00	❹

If standard time-loss calculation❷ is more than SAW❸, pay the standard time-loss calculation❷
If SAW❸ is less than GMW❶, pay SAW❸.
If SAW❸ is more than GMW❶, pay GMW❶ or old minimum❹, whichever is greater.

Answer: $634.50 (gross monthly wage is time-loss rate)

Since Amanda's gross monthly wage, $634.50 is less than $733.41, the minimum time-loss rate for her date of injury, she is entitled to either her gross monthly wage as time-loss or the "old minimum time-loss rate" of $283.00 whichever is higher. Her gross monthly wage is higher so that will be her time-loss rate.

Alternate Recipient Calculation

In the above example if the worker's two dependents were in the custody of an alternate recipient, you would pay the dependent's portion to the alternative recipient. The calculation for the alternate recipient is to subtract 2% for each dependent's portion of the worker's rate. The worker's time-loss is 100% of their gross monthly wage of $634.50. The alternate recipient is entitled to 4% of the $634.50.

$634.50 x 4% = $25.38	Alternate recipient portion
$634.50 – $25.38 = $609.12	Worker's portion of time-loss

Minimum Time-Loss Rate in Effect Prior to July 2, 2008

If the worker's gross monthly wage is less than 15% of the state's average wage then the worker is entitled to a time-loss rate equal to 100% of their gross monthly wage or the "old" minimum time-loss rate, whichever is higher.

Example of Minimum Time-loss Rate in Effect Prior to July 2, 2008:

Aaron was injured on February 12, 2014. He was earning $9.32 per hour and worked 2 hours every Saturday. He was single with 2 dependents at the time of injury.

$9.32 x 2 = $18.64
$18.64 x 5 (per RCW) = $93.20 (gross monthly wage)

$93.20 x 64% = $59.65 (standard time-loss formula)

$664.94(minimum time-loss rate for single with 2 dependents)

$253.00 ("old" or minimum time-loss rate prior to 7/2/08)

Minimum Time-Loss Calculation Worksheet
For use when the standard time-loss calculation❷ is less than SAW❸

Calculate gross monthly wage (GMW)	$ 93.20	❶
Calculate standard time-loss	$ 59.65	❷
Calculate new minimum (SAW) + $10 for spouse and each dependent	$ 664.94	❸
Old minimum from chart	$ 253.00	❹

If standard time-loss calculation❷ is more than SAW❸, pay the standard time-loss calculation❷
If SAW❸ is less than GMW❶, pay SAW❸.
If SAW❸ is more than GMW❶, pay GMW❶ or old minimum❹, whichever is greater.

Answer: $253.00 ("old" or minimum time-loss rate prior to 7/2/08)

Since Aaron's gross monthly wage, $93.20 is less than $664.94, the minimum time-loss rate for his date of injury, he is entitled to either his gross monthly wage as time-loss or the "old minimum time-loss rate" of $253.00 whichever is higher. The "old" minimum time-loss rate is higher so that will be his time-loss rate.

Alternate Recipient Calculation

The alternate recipient portion is the difference between the rate the worker is entitled to with all the dependents and the rate the worker is entitled to without the dependents in the custody of the alternate recipient, based on the old minimum chart

$253.00 – $185.00 = $68.00 Rate at single with two dependents minus rate at single with no dependents from the old minimum chart.

$68.00 Alternate recipient portion.
$185.00 Worker's portion of time-loss

Increases in the Minimum Time-Loss Rate: 100% Gross Monthly Wage or Old Minimum

The yearly COLA increase does apply to workers whose time-loss is set at their Gross Monthly Wage or by the Old Minimum chart. These workers will get their first COLA adjustment on the second July 1st after the date of injury, consistent with RCW 51.32.075(4).

Reporting and Communication Requirements

WAC 296-15-340, WAC 296-15-420, WAC 296-15-425

Within five days of starting time-loss compensation, the self-insurer must send the Starting Compensation Benefits template (form F207-225-000) to the worker. If claim allowance has not yet been decided, send the Provisional Compensation Benefits template (form F207-224-000) instead. A copy of the template must be sent to the department, along with the SIF-2. If it has not already been done, the self-insurer must also send the Calculation of Monthly Wage as a Basis for Time-Loss Compensation template (form F207-227-000) to the worker with a copy of the SIF-5A.

If the worker is kept on salary (KOS), report this to the department when claim allowance is requested. On the Claim Allowance Request form, indicate that the worker is KOS, and include an attachment which documents the amount of time-loss the worker would have been paid. Send this form to the department with the SIF-5A within five working days of the date the first time-loss payment would have been due (WAC 296-15-425).

Statement of Benefits

Effective July 1, 2019, WAC 296-15-340(2) requires self-insurers to send a statement of benefits to the worker with each payment, including the type of benefit being paid and the date span. This statement may be provided electronically if authorized by the worker.

Underpayments and Overpayments

If benefits are determined to be underpaid and an adjustment is payable, the self-insurer must send the Notice of Underpayment template (form F207-223-000) to the worker within five days of knowledge of the underpayment.

Alternatively, if benefits have been overpaid, the self-insurer must send the Assessment of Overpayment template (form F207-222-000) to the worker with five days of knowledge. More information about Overpayments is available in the Miscellaneous Claims Issues chapter.

Cost of Living Adjustments

RCW 51.32.075

Between July 1, 1971 and June 30, 2011, all workers receiving time-loss benefits were entitled to automatic cost of living adjustments (COLAs) effective each July 1st. Workers receiving the minimum and maximum time-loss compensation rates are also entitled to COLA adjustments.

Effective July 1, 2011, there was a freeze on all COLAs through June 30, 2012.

Example:

Kari was injured on February 21, 2011. Her time-loss rate at the time of injury was $2,400.00. Since there was no COLA on July 1, 2011, her time-loss rate remains $2,400.00 until the July 1, 2012 COLA.

For workers with dates of injury or manifestation on or after July 1, 2011, no COLA adjustments shall be made until the second July 1st following the date of injury or manifestation.

Example:

Karlee was injured on August 12, 2011. She will not be entitled to a COLA until July 1, 2013.

See the Maximum Time-Loss Compensation Rate and Minimum Time-Loss Compensation Rate sections of this chapter for more information on COLAs regarding the July 1, 2011 freeze or skipping the first COLA after a July 1, 2011 date of injury.

There are two methods to calculate COLAs.

Yearly increment (inc) factors:

To use the Cost of Living Adjustment (COLA) Chart, 5-decimal increments or Cost of Living Adjustment (COLA) Chart, 10 decimal increments to compute the July 1 COLA on a year to year basis:

- Compute the monthly time-loss rate as of the date of injury.
- Multiply the time-loss rate by the increment (inc) factor for the July 1 after the date of injury.

  Exception: Skip the first COLA for claims with dates of injury or manifestation on or after July 1, 2011.
- Multiply that figure by the increment (inc) factor of the next July 1st to compute the time-loss rate after the second COLA and so on until all the COLA's have been computed.

Example:

Brenda was injured on May 2, 2007. Her time-loss rate at the time of injury was $930.00. To compute her time-loss rate through July 1, 2012 using incremental calculation:

$930.00 x 1.05445 (7/1/07 COLA) = $980.64
$980.64 x 1.05018 (7/1/08 COLA) = $1,029.85
$1029.85 x 1.03432 (7/1/09 COLA) = $1,065.19
$1065.19 x 1.01939 (7/1/10 COLA) = $1,085.85
$1085.85 x 1.00000 (7/1/11 no COLA) = $1,085.85
$1085.85 x 1.03596 (7/1/12 COLA) = $1,124.89

Cumulative factors:

To use the Cost of Living Adjustment (COLA) Chart to compute the July 1 COLA from the date of injury to several years after without having to compute it year by year:

- Compute the monthly time-loss rate as of the date of injury.
- Multiply the date of injury time-loss rate by the cumulative (cum.) COLA factor of the July 1 year you are updating to.

Example:

Kay was injured on December 6, 2018. Her claim was closed on April 16, 2020. She applied for reopening of her claim and it was granted effective September 1, 2022. She was unable to work and was entitled to time-loss benefits from September 1, 2022. Her time-loss rate as of the date of injury (DOI) was $900.00 per month.

To compute the time-loss rate as of September 1, 2022:

$900.00 (DOI time-loss rate)	x	**1.26347** (7/1/22 cum. factor for 12/6/18 DOI)	=	**$1,137.12**

$1,137.12 would be the September 1, 2022 monthly time-loss rate for Kay's date of injury.

Date of Injury and the First Three Days after the Date of Injury

RCW 51.32.090

Injured workers are never entitled to time-loss for the date of injury.

For claims with a date of injury on or after 6/6/2024, workers are not entitled to time-loss compensation or loss of earning power (LEP) for the first three days following the date of injury unless the worker remains disabled on the 7th day following the date of injury. If the worker

remains disabled on the 7th day, either on time-loss or LEP, they are entitled to compensation for the first three days. Attempts to return to work do not break the continuity.

Workers with a date of injury prior to 6/6/2024 will only qualify for time loss or LEP benefits for the first three days following the date of injury if they remain disabled on the 14th Day. Attempts to return to work do not break the continuity.

Date of First Treatment

If a worker seeks treatment within the first 3 days following the injury and would otherwise be entitled to time-loss benefits prior to the date of first treatment, benefits must be paid. If the worker delays seeking treatment until the 4th day or more following an injury, begin payment of time-loss compensation on the date of first treatment.

For example, Tiffany was injured on 04/13/2024. She first sought medical attention on 04/19/2024 and was medically certified for time-loss back to her date of injury. She did not return to work until 05/01/2024. Since Tiffany's date of injury is before the 06/06/2024 change, her disability on the 14th day after the date of injury will determine her eligibility for the first 3 days. She was still disabled on 04/27/2024 (the 14th day). However, because she did not seek treatment until the 6th day after her injury, she is only owed time-loss starting on the date of first treatment, which is 04/19/2024.

Timely Payment of Time-Loss Benefits

RCW 51.32.190, WAC 296-15-266

Time-loss compensation resulting from an injury or occupational disease must be paid within 14 calendar days of receipt of notice of a claim when contention is indicated.

Notice is when a worker notifies their employer by written communication that a work injury occurred or they believe they have an occupationally related illness and are seeking, or intend to seek, compensation benefits. Examples include but are not limited to: medical report provided by a medical professional indicating that they saw a worker and the worker reported the cause of the condition is work related, a completed SIF-2, provider initial report, employer incident report and/or any written communication from the worker that they had an injury and want to apply for worker's compensation benefits. This is one of the reasons why date stamping documents by employers is required per WAC 296-15-350(8).

Note: Failure to receive written notice from a worker does not relieve the employer from their duties of administering a claim. If verbal notice is given, the employer must still take appropriate action, such as providing an SIF-2 to the worker for completion per WAC 296-15-320.

In other words, the first payment must be mailed 14 days from the date certification of disability is received.

When computing whether or not the first payment of time-loss was paid within fourteen days, day one would be the date following the date the notice of a claim is received.

Example 1:

Notice of a claim received: January 16, 2013
First time-loss paid: January 30, 2013

In the scenario, time-loss was paid on the fourteenth day.

Example 2:

Notice of a claim received: January 16, 2013
First time-loss paid: January 31, 2013

In this scenario, time-loss was paid on the fifteenth day.

Continuing benefits will be based on certification from the attending provider. They are to be paid at regular semi-monthly or biweekly intervals to ensure speedy financial relief during the worker's disability. (Biweekly: Paying on a schedule of every 14 days. With this schedule, pay the daily time-loss rate. Semi-monthly: Paying on a schedule of twice a month. With this schedule, divide the monthly rate in half and pay twice a month.)

Sometimes a condition will not be disabling until surgery is performed (a hernia, for example). In these instances, time-loss compensation becomes payable effective the date of surgery unless otherwise medically justified. Payment of time-loss must be made within 14 days of the date of surgery or the date of receipt of other medical certification.

Payment of Ongoing Time-Loss

RCW 51.36.060, RCW 51.32.190, WAC 296-20-06101, WAC 296-15-340

When an industrial injury or occupational disease prevents a worker from returning to gainful employment on an ongoing basis, time-loss compensation must be paid at regular biweekly or semi-monthly intervals. In order to be eligible for continuing time-loss compensation, the injured worker must be receiving regular curative treatment.

The attending medical provider must certify that the worker's ongoing inability to work is the result of the accepted medical condition(s). If an insurer is aware that a worker is off work and that it may be related to an industrial injury or occupational disease, they should ask the provider whether the worker's inability to work is related to their injury.

The attending medical provider must submit medical reports at approximately 60 day intervals to support ongoing time-loss. The certification must include the objective medical findings which support time-loss from work. A treatment plan must also indicate prognosis for recovery and the treatment plan should be curative not palliative.

If a worker is participating in formal vocational rehabilitation services they are eligible for continuing time-loss benefits. When the approved plan involves on-the-job training and earnings, the worker is eligible for loss of earning power benefits.

Dual Claim Benefits

Policy 4.71

Workers may receive time-loss compensation under 2 or more claims, State Fund and/or self-insured. They are entitled to benefits equal to the amount entitled under the claim with the highest compensation rate.

The payments should be divided between the claims. If the claims have different compensation rates, the payment is prorated between all the claims.

Example 1:

Betty has 2 claims and is eligible for time-loss compensation under both claims. The compensation rate is equal on both claims.

Pay 50% of the benefits under each claim.

Example 2:

James has 2 claims and is eligible for time-loss compensation under both claims. His compensation rate on the first claim is $1,000.00 per month. The compensation rate on his second claim is $1,300.00 per month. His total entitlement is $1,300.00.

First claim: pay 50% of the entitlement on this claim.	$500.00
Second claim: pay the balance of the total entitlement on this claim.	$800.00
Total paid:	$1,300.00

If the worker has a self-insured claim as well as a State Fund claim, the self-insurer should contact the State Fund adjudicator to determine which claim has the highest benefit and the proportioning of benefits between the claims.

The payment of loss of earning power (LEP) benefits would be handled the same.

Example 3:

Lucy has 2 claims and is eligible for LEP on both claims. Her LEP entitlement is $300.00 on the first claim and $450.00 on the second claim. Her total entitlement is $450.00.

First claim: pay 50% of the entitlement on this claim	$150.00
Second claim: pay the balance of the total entitlement on this claim	$300.00
Total paid:	$450.00

Terminating Time-Loss Compensation

WAC 296-15-425

Once the payment of time-loss benefits has begun, the benefits must be continued until one of the following occurs:

- **Released for Full Duty** – When a worker is given a full release to the job of injury, time-loss benefits may be terminated.
  Note: If a worker is released for work on the same day they see their provider, time-loss is payable through the end of that day (i.e. worker has an appointment with their provider on January 17th, at the appointment the provider signs a release for work as of January 17th, the same day as their appointment, the worker is eligible for time-loss through the 17th).

- **Found Employable** – When a vocational assessment is conducted and a worker is determined to be employable, time-loss may be terminated after the determination of employability is made.

- **Returns to Work** – When a worker returns to work, they are not eligible for time-loss benefits. If the worker's earning capacity has decreased as a result of the injury or occupational disease they may be entitled to loss of earning power benefits.

Within five days of stopping time-loss benefits, the worker must be notified using the Stop or Deny Compensation Benefits template (form F207-225-000) as required by WAC 296-15-425.

Vacation, Sick Leave, Etcetera While on Time-Loss

Receipt of holiday pay, vacation pay, sick leave, or other similar benefits does not take away from a worker's entitlement to time-loss benefits. A worker who is unable to work due to an industrial injury or occupational disease and is not being kept on salary is entitled to time-loss compensation even if they are also being paid vacation, sick leave, or other similar benefits.

Workers who are entitled to paid sick leave cannot be required to use accrued leave while waiting for time-loss benefits. This includes leave programs that combine paid sick leave accruals under the state's requirements with other forms of leave, such as a paid time off (PTO) program. Accrued paid sick leave is a worker's right and the worker can choose to use it. Some employers offer other forms of leave (for example, vacation) or other sick leave accruals as an additional benefit that is separate from accrued paid sick leave. Employers who provide these types of leave may require workers to use the leave while waiting for time-loss benefits. Employer and/or union contracts may mandate whether an employee can use earned benefits such as vacation and sick leave while a worker is on time-loss.

The department will direct payment of time-loss when a worker is entitled, regardless of any earned benefits that may be paid.

Kept on Salary

RCW 51.32.090, RCW 51.32.190, WAC 296-15-420, RCW 49.46.210

The self-insured employer will not pay time-loss if a worker is kept on salary (KOS).

KOS means:

- The worker must receive 100% of the wages he or she was receiving from all employment on the date of injury. This includes outside employment is documented by the worker. Payment of anything less does not qualify as KOS and the insurer must pay time-loss benefits.

- The wages must include any compensation the worker would have received if he or she had continued to work including but not limited to:

    - Board, housing, fuel and contributions to health care benefits.

    - Compensation for multiple rates of pay, such as shift differentials.

    - Compensation for any established pattern of overtime hours.

    - Tips and bonuses.

    Exception: If the worker doesn't normally receive wages for an employer's established holiday, for example, July 4th, the employer is not required to pay the worker for that date.

- The employer may not reduce the worker's gross pay through deductions except for those required by state or federal law, or for other deductions at the request of the worker.

- The employer must pay the worker's wages on regularly established paydays at no longer than monthly payment intervals, including the first 3 days of disability following the date injury.

If an employer requires a worker to use earned benefits such as vacation, sick leave or paid time off (PTO), the worker is not considered KOS and is due time-loss. RCW 51.32.090(8) precludes employers from mandating that workers use their sick leave to keep from paying time-loss compensation.

When requesting claim allowance from the department, self-insurers must report if the worker is KOS. On the Claim Allowance Request form, check the KOS box, and attach documentation of the time-loss that would have been due if the worker had not been KOS.

Buy-Back Policies

Buy back policies are voluntary. The insurer must pay time-loss when the worker is entitled regardless of any employer buy back agreement. Employers and entitled workers may enter into buy-back agreements if there is a written agreement in advance. These agreements are completely voluntary for workers.

Accrued paid sick leave under RCW 49.46.210 is a worker's right, and it is ultimately the choice of the worker to use their accrued paid sick leave. An employer may include a buy-back agreement in a CBA or contract of hire, as long as the language provides workers with the option to accept or decline participation in the buy-back agreement. Employers who offer other forms of leave (for example, vacation) or additional sick leave as a benefit separate from the accrued paid sick leave may require workers to use such leave for the purposes described.

Example:

Jeff chooses the option of sick leave buy-back. His normal gross monthly wage is $5,000.00 per month. While on time-loss, he also uses his sick leave so he receives his full $5,000.00 per month salary. In turn, he signs his time-loss check over to his employer to buy back part of the sick leave benefit he used for that month.

Payment to Minor Workers

RCW 51.04.070

The law requires that any disability payments becoming due to a worker under the age of 18 years "…shall be paid to his or her parent, guardian, or other person having legal custody." The parent or guardian can, with written authorization, allow payments to be made directly to the minor worker.

Volunteers

RCW 51.12.035, RCW 51.12.170, WAC 296-17-930

A volunteer is defined as a person who performs any assigned or authorized duties for an employer by choice, receives no wages and is registered and accepted as a volunteer. A worker could still be considered a volunteer even if they receive maintenance and reimbursement for actual expenses necessarily incurred in performing their authorized duties. In most cases, volunteers injured in the course of employment are only entitled to medical aid benefits.

Under RCW 51.12.140, volunteer law enforcement officers may be covered for all applicable death, disability and medical aid benefits under this title if the municipal corporation maintaining and operating the law enforcement department elects to cover all of its volunteer law enforcement officers and files written notice of coverage to the director.

Retired Workers

WAC 296-14-100

If a worker has removed themselves from the labor market by voluntarily retiring, time-loss benefits are not payable. This is true even if the worker becomes temporarily unable to work as a result of the industrial injury or occupational disease after voluntarily retiring. However, it must be documented that the retirement was voluntary, as a worker is entitled to time-loss benefits when the retirement is caused by the effects of the industrial injury or occupational disease.

Voluntary retirement is most commonly encountered in reopened claims and in new claims filed for occupational diseases which have a prolonged incubation period (such as asbestosis). A worker will be considered retired and no longer attached to the work force if all the following conditions are met:

- The worker is not receiving income, salary, or wages from any gainful employment,
- The worker has provided no evidence to show a bona fide attempt to return to work after retirement, and
- The injury or occupational disease was not a proximate cause of the decision to retire.

Once it is determined that a worker has voluntarily retired from the work force, the self-insurer cannot reinstate benefits.

Exception: If, following the voluntary retirement, the worker was re-employed at bona fide continuous employment, the department will no longer consider the worker voluntarily retired. If the worker then becomes unable to work due to the industrial injury, the worker would be entitled to time-loss.

Incarceration

RCW 51.32.040

Worker Incarcerated After Date of Injury

No time-loss is payable directly to workers incarcerated and under sentence while:

- Confined in an institution.
- On a home monitoring program and sentenced to remain at home.

Beneficiaries of workers who were incarcerated after the date of injury should receive the workers time-loss compensation benefits while the worker is confined. If no beneficiary exists, no time-loss compensation benefits are paid.

Workers may again become eligible for time-loss compensation benefits under the following circumstances, once:

- No longer confined.

- Released or paroled.
- Released to a half-way house.
- On work release unless both:
    - Their participation is canceled, and
    - The worker is returned to full confinement.

Workers Injured While Performing Community Service or Restitution

RCW 51.12.045

Workers who are injured while performing community service or restitution may be eligible for time-loss.

Registered Apprentices or Trainees

RCW 51.12.130

All persons registered as apprentices or trainees with the state apprenticeship council and participating in supplemental and related instruction classes conducted by a school district, a community college, a vocational school, or a local joint apprenticeship committee, shall be considered as workers of the state apprenticeship council and subject to the provisions of Title 51 RCW for the time spent in actual attendance at such supplemental and related instruction classes.

For computing time-loss compensation payments, the actual wage rate during employment should be used.

Disability Benefits From Other Jurisdictions

RCW 51.12.120

It is possible for a claim to be filed for the same injury in two different jurisdictions. This is most common in cases when a worker is temporarily working in a different state. Some jurisdictions allow workers to file an industrial injury claim in their state regardless of where the injury occurred. The Washington State Industrial Insurance Laws do not preclude this. However, it is appropriate under these circumstances to reduce any benefits received in Washington State by the benefits received from another jurisdiction.

Provisional Time-Loss Payments

RCW 51.32.190, RCW 51.32.210, WAC 296-15-420(2)(3)

When a determination regarding claim allowance cannot be made immediately, usually because the employer is still investigating validity, or when a decision cannot be made immediately

regarding reopening a claim, the self-insured employer is required to make provisional payments of time-loss compensation when it is otherwise appropriate. The payment of provisional time-loss is not considered a binding determination on the self-insurer, department or worker. Provisional payments must be made as long as appropriate until a determinative order is issued.

The self-insured employer has the right to recover provisional time-loss paid if the claim is denied or the reopening application is denied. All provisional time-loss payments should contain notification to the worker that the self-insurer will recover any monies paid if the claim is denied or the reopening is denied.

Occasionally a claim will be received from a worker for an injury or occupational disease which occurred months prior to filing of the claim. In many of these instances, more information will be needed prior to a determination regarding claim allowance. If the worker is contending temporary total disability from the time of injury, consider payment of provisional time-loss compensation from the date notice of the claim is received. This action should only be taken on claims which a significant delay has transpired in the filing of the claim and a decision regarding allowance cannot be made immediately. If the claim is later allowed, the claim manager must then consider time-loss benefits for the previous periods.
Provisional time-loss cannot be paid on open, allowed claims.

Unemployment Compensation

The receipt of unemployment compensation does not necessarily mean that a worker is not entitled to time-loss compensation. Although effective June 11, 1986, an individual is not entitled to both time-loss and unemployment compensation, there are times an injured worker may have collected unemployment benefits when they should actually have been collecting time-loss benefits due to an industrial injury. If a worker who has collected unemployment benefits will now be receiving time-loss benefits, it is important that Employment Security is notified so they can decide whether to issue an overpayment.

Paid Family and Medical Leave (PFML)

RCW 50A.15.100

Effective January 2020, Washington workers can take up to 18 weeks of Paid Family and Medical Leave (PFML) per year. A worker applies for PFML through the Washington state Employment Security Department. If approved, they could receive up to 90 percent of their weekly pay from the state.

A worker is not eligible to collect PFML for any week in which they are also receiving time-loss or LEP payments. If a worker is entitled to time-loss benefits, they would be paid regardless of any PFML entitlement or payment for the same period. However, like the unemployment example above, if a worker has collected both PFML and time-loss benefits at the same time, Employment Security should be notified so they can decide to issue an overpayment of PFML benefits.

DSHS – Division of Child Support Liens

RCW 74.20A.030, RCW 74.20A.100, RCW 74.20A.260

When a lien is received from Division of Child Support (DCS; formerly Office of Support Enforcement), it must be acted upon immediately. DCS liens are payable after the claim manager makes the following deductions: Social Security offset, overpayments and alternate recipient payments. DCS liens apply to time-loss, loss of earning power and permanent partial disability awards. A DCS lien filed against a worker's benefits requires self-insurers or the department to withhold a monthly dollar amount or up to 50 percent of time-loss or loss of earning power benefits and up to 50 percent of a permanent partial disability award.

When the Office of Financial Recovery (OFR) also makes a lien, the lien for DCS is honored first.

Any lien received after claim closure still applies to any remaining permanent partial disability payments.

Out of State Liens

The department does not recognize out of state liens. If an out of state lien request is received, notify the requesting party out of state liens are not honored and refer the requester to:

Division of Child Support
PO Box 11520
Tacoma, WA 98411
(360) 664-5321
(800) 922-4306
https://www.dshs.wa.gov/child-support

DSHS – Office of Financial Recovery Liens

RCW 43.20B.720, RCW 43.20B.730, RCW 43.20B.735, RCW 43.20B.745

When the Office of Financial Recovery (OFR) is advised by the department or by the worker that they are or may be receiving time-loss benefits during a period where they were also receiving public assistance benefits, OFR may file a lien.

OFR liens are payable after the claim manager makes the following deductions: Social Security offset, overpayments, alternate recipient payments and Division of Child Support liens.

OFR liens apply to time-loss, loss of earning power, and permanent partial disability benefits awards.

Deductions from Time-Loss Compensation Payments

Except as provided in RCW 43.20B.720, RCW 72.09.111, RCW 74.20A.260, RCW 51.32.240 and RCW 51.32.380, no other deductions may be made from time-loss or LEP compensation.

RCW 51.32.040 prohibits any other creditors from garnishing workers' disability benefits and prohibits workers from voluntarily assigning their benefits to any other creditors.

Deductions cannot be taken from time-loss or LEP compensation benefits for car payments, disability insurance, healthcare insurance, etc.

Social Security Offset

RCW 51.32.220, RCW 51.32.225, RCW 51.32.230

If a worker receiving monthly compensation benefits also begins receiving Social Security Benefits, the worker or self-insurer should immediately notify the Social Security Offset Section. Future benefits may be reduced depending on the effective date of the offset. The total amount from both agencies will not be less than the worker would be entitled to receive from time-loss alone.

Social Security Offset Benefit Specialists determine the amount of any reduction, correlating state industrial insurance laws with federal laws. Then, they apply the reduction to the workers monthly compensation benefits and monitor state and federal rates for any necessary adjustments.

Self-insurers are to provide the following in their request for a Social Security offset review:

- We received acknowledgment of the worker's application for and/or receipt of Social Security benefits, on __/__/__ (include the referenced documentation).

- The current ongoing monthly compensation benefits began __/__/__ and continue. Submit printout of the claims benefit payment history, e.g., time-loss, LEP and permanent partial disability. Include the beginning and ending dates of each payment, the date of the payment, and the payment amount.

- The self-insured employer intends to instate monthly compensation benefits for the period beginning __/__/__ through __/__/__, and continue payments.

- This claim is currently in litigation, with a possibility of payment of compensation benefits. The self-insured employer has been advised of the worker's application and/or receipt of Social Security benefits. Please verify the worker's approval of Social Security benefits.

- A wage order was issued on __/__/__. The self-insured employer's monthly contribution to health care benefits continues. (Or) The self-insured employer's monthly contribution to health care benefits has been terminated.

Note: List the date the self-employer's contribution to health care benefits ended and the end date of each coverage type (medical, dental, vision).

- No wage order has been issued.

  Note: Provide completed SIF-5A wage forms for worker's work pattern and earnings, along with documentation required in accordance with the SIF-5A wage forms submitted. List the date the employer's contribution to health care benefits ended and the end date of each coverage type (medical, dental, vision).