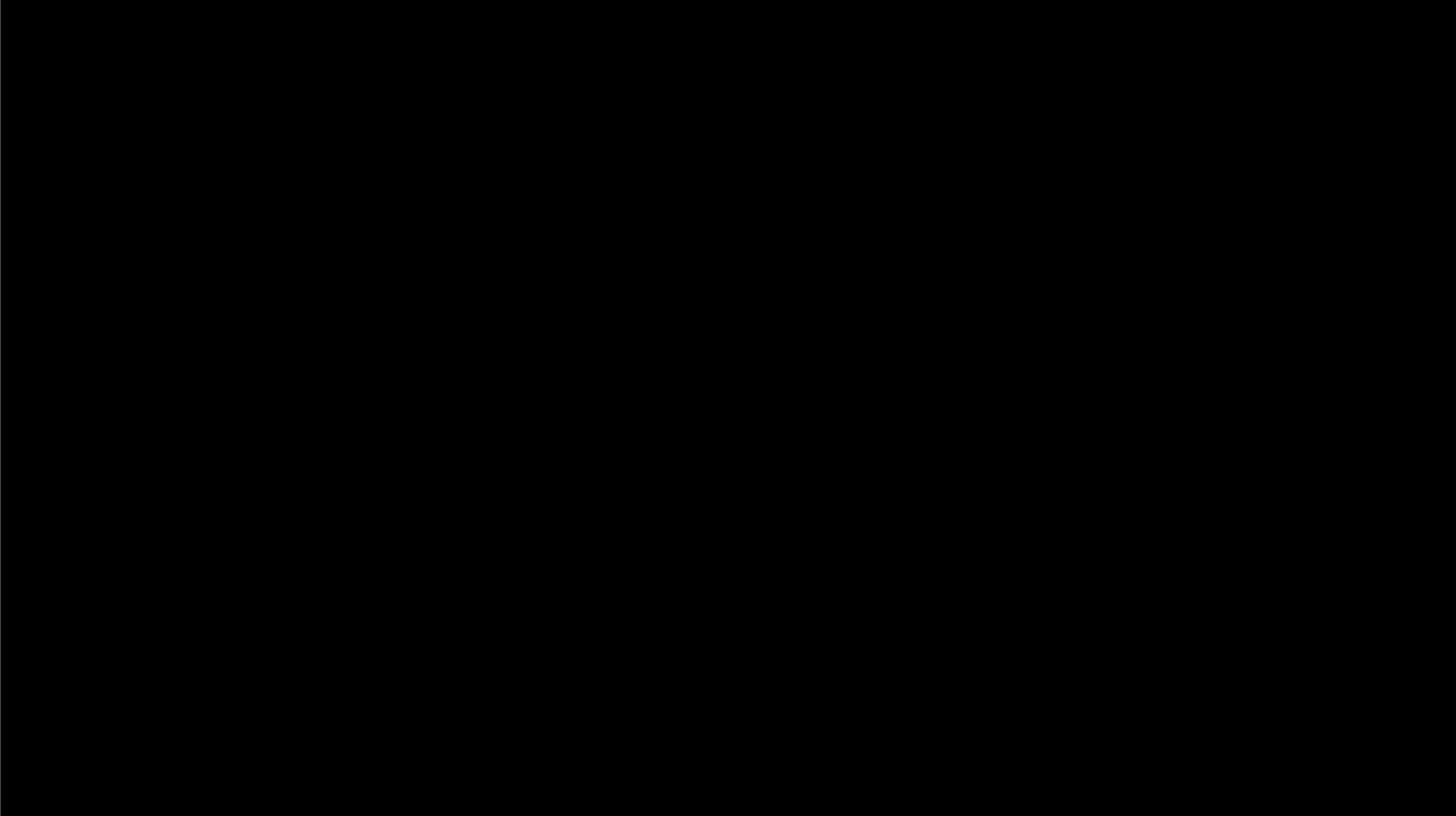


Time-Loss

Safety Video



Sure And Certain Relief

- RCW 51.32.210 is clear: within 14 days after receipt of the claim or first contention/certification of time-loss, a payment must be mailed.
- SIE must issue payments in a timely manner, even if payment is provisional.

Contention And Certification

- **Contention:** Notification from the worker that their condition prevents them from returning to gainful employment.
- **Certification:** Notification from the AP that the worker's inability to work is medically certified, related to the injury or occupational disease, and objective findings are present to support their inability to work.

Objective Findings vs. Subjective Complaints

- Subjective findings:
 - Cannot be proven
 - Examples: aching, throbbing, hurting (pain complaints)
- Objective findings:
 - Can be felt, heard, measured, or reproduced
 - Examples: MRI, x-ray, lab tests, muscle spasm

Finding The Certification

- Certification can be found in several different places:
 - Providers Initial Report (PIR)
 - Chart Notes/Office Notes
 - Activity Prescription Forms (APF)
 - Medical Reports

Remember, both contention AND certification are needed for a time-loss payment.

The First 3 Days

- Workers are **NEVER** entitled to time-loss for the date of injury.
- The first three days are not payable unless the worker is still disabled on the **14th** day after the injury (RCW 51.32.190).
 - 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, benefits can be paid for all three days if certified.
- If the worker does not seek treatment until the 4th day or later, time-loss does not start until the date of first treatment.

Timely First Payments

- First payment must be made within 14 days of receipt of notice of the claim (RCW 51.32.190).
- Notice of a claim elements (must be in writing):
 - Description of incident or occupational disease
 - Worker's signed application for benefits
 - Diagnosis
 - Treatment or treatment recommendations

Provisional Time-Loss Benefits

- Paid when a determination cannot be made immediately on:
 - Claim allowance
 - Claim reopening
- Each payment should notify the worker that payment may be recovered if claim or reopening is denied.
- Contention and certification are needed for payment.

Communicating to the worker

- Send the Start, Stop or Deny Compensation template within 5 days of starting, stopping or denying compensation per WAC 296-15-425.
 - Send with a copy of the SIF-5A
- WAC 296-15-340(2): Failure to provide a statement of benefits with each time-loss payment, to include the type of benefit paid and the period paid with from and to date.

Knowledge Check

Angela was injured 1/8/17. She saw the provider after work on 1/13/17 and was taken off work for one week.

What is Angela's first payable time-loss date?

1/14/17

How many days of time-loss is Angela entitled to?

7 days

Cassidy injured herself on 7/9/20. She was unable to work from 7/13/20 through 8/1/20. She first received medical treatment and APF on 7/13/20. The SIE received the notice of the claim on 7/17/20.

For what days is time-loss payable?

07/13/2020 through 08/1/2020

By what date must the SIE mail the first payment?

07/31/2020

Walker injured himself on 8/1/19. He did not work from 8/2/19 through 8/29/19. He returned to work on 8/30/19. He first saw the doctor for certification on 8/6/19. The SIE had notice of a claim on 8/8/19.

For what days is time-loss payable?

8/6/19 through 8/29/19. He did not seek treatment within 3 days

By what date must the SIE mail the first payment?

8/22/19

Victoria was injured on 4/2/21. She received medical treatment and certified unable to work from 4/3/21 - 4/13/21. She returned to full work from 4/14/21 - 4/17/21. On 4/18/21 she was certified off again due to the injury and returned on 4/28/21. Notice of the claim was received on 4/7/21.

For what days is time-loss payable?

4/6/21 – 4/13/21 and 4/18/21 – 4/27/21. No first 3 because she was not disabled on 14th day.

By what date must the SIE mail the first payment?

4/21/21

Basis For The Compensation Rate

- Compensation is based on a “snapshot” of the worker’s status on the date of injury.
- Time-loss compensation rate is based on the worker’s:
 - Gross monthly wage on the DOI
 - Marital status
 - Number of dependent children

Definition Of A Child - RCW 51.08.030

- Natural born child
- Stepchild
- Child legally adopted prior to date of injury
- Child in legal custody and control of the worker
- Child born after injury but conceived prior to the injury
- Posthumous child (born after the IW died but conceived before death)

Marital Status

- Single
 - Common-law marriages
 - Divorced
 - Widowed
- Married
 - Separated
 - Registered domestic partnership

Family Status Percentages

- 60% of gross monthly wage for single worker.
- 5% added for spouse or registered domestic partner.
- 2% added for each dependent, maximum of 10%:
 - Under age 18
 - Over 18 if child is dependent due to physical or mental handicap (invalid child)
 - Under age 23 if enrolled full-time in accredited school

Dependent Benefits

- If a child is 18 or older, benefits must be paid directly to the dependent.
- If a dependent is in the custody of someone other than the worker, the dependent's portion must be paid to the custodial parent.
- If both parents have an open claim, only one parent can claim the dependents.

Health Care Benefits

- Not included in time-loss calculations unless the employer stops or reduces their contribution.
- Cockle v. Dept. of L&I (2001)
 - HCB are included in wage calculations
- Dept. of L&I v. Granger (2007)
 - Benefits are included even if the worker was not eligible to access the benefits on the DOI

Change Of Circumstances

A change of circumstances occurs when:

- An allowable employer-paid benefit is terminated or reinstated.
- There is a reduction in the amount an employer contributes to an allowable employer-paid benefit.
- The worker receives a pay increase retroactive to the date of injury.

Knowledge Check

Jane earns \$22.00 an hour, works 2 days a week for 8 hours, and is divorced.

What is her time-loss entitlement percentage?

60%

What is her total monthly time-loss compensation rate?

\$950.40 ($\$22.00 \times 8 \times 9 = \1584.00 GMW $\times 0.60$)

Fran earns \$13.00 an hour, works 8 hours a day, 3 days a week, is single and has 1 dependent child.

What is her time-loss entitlement percentage?

62%

What is her total monthly time-loss compensation rate?

\$838.24 ($\$13.00 \times 8 \times 13 = \1352.00 GMW $\times 0.62$)

What is the dependent's portion?

\$27.04 ($\1352.00×0.02)

John earns \$11.75 an hour, works 12 hours a day, 3 days a week and is married with 3 children.

What is his time-loss entitlement percentage?

71%

What is his total monthly time-loss compensation rate?

\$1301.43 ($\$11.75 \times 12 \times 13 = \1833.00 GMW $\times 0.71$)

What is the dependents' portion?

109.98 ($\$1833.00 \times 0.06$)

Minimum Time-Loss Rates

- Prior to 7/2/08: minimum time-loss was calculated using the old minimum chart.
- On or After 7/2/08: 3 possible minimum rates.
- Legislature increased the minimum industrial insurance benefits for claims with DOI/DOM on or after July 2, 2008.
- This is outlined in RCW 51.32.060.

SAW Minimum

Date of Injury	15% of State Average Wage
07/01/22-06/30/23	\$1031.35
07/01/21-6/30/22	\$959.26
07/01/20-6/30/21	\$871.25
07/01/19-6/30/20	\$816.26
07/01/18-06/30/19	\$773.59
07/01/17-06/30/18	\$736.96
07/01/16-06/30/17	\$703.41
07/01/15-06/30/16	\$685.37
07/01/14-06/30/15	\$657.94
07/01/13-06/30/14	\$644.94
07/01/12-06/30/13	\$623.68
07/01/11-06/30/12	\$602.03
07/01/10-06/30/11	\$589.41
07/01/09-06/30/10	\$578.20
07/02/08-06/30/09	\$559.01

Old Minimum

Marital and Dependency Status	Monthly Time Loss Rate	Daily Time Loss Rate
Single Plus 0	\$185.00	\$6.17
Single Plus 1	\$222.00	\$7.40
Single Plus 2	\$253.00	\$8.43
Single Plus 3	\$276.00	\$9.20
Single Plus 4	\$299.00	\$9.97
Single Plus 5	\$322.00	\$10.73
Married Plus 0	\$215.00	\$7.17
Married Plus 1	\$252.00	\$8.40
Married Plus 2	\$283.00	\$9.43
Married Plus 3	\$306.00	\$10.20
Married Plus 4	\$329.00	\$10.97
Married Plus 5	\$352.00	\$11.73

Minimum Time-Loss Calculation Worksheet
For use when the standard time-loss calculation is less than SAW ②

Calculate gross monthly wage (GMW) \$ _____ ①

Calculate new minimum (SAW) + \$10 for spouse and each dependent \$ _____ ②

Old minimum from chart \$ _____ ③

If SAW ② is less than GMW ① pay SAW ② .

If SAW ② is more than GMW ① pay GMW ① or old minimum ③ whichever is greater.

Example

Garrett is a substitute school bus driver. His gross monthly wage is \$820. He was injured at work on 7/29/15. He is married with no dependent children. What was Garret's monthly time-loss rate on the date of injury?

Minimum Time-Loss Calculation Worksheet		
For use when the standard time-loss calculation is less than SAW ②		
Calculate gross monthly wage (GMW)	\$ <u>820.00</u>	①
Calculate new minimum (SAW) + \$10 for spouse and each dependent	\$ <u>695.37</u>	②
Old minimum from chart	\$ <u>215.00</u>	③

If SAW ② is less than GMW ① pay SAW ② .

If SAW ② is more than GMW ① pay GMW ① or old minimum ③ whichever is greater.

Maximum Time-Loss Rates

- RCW 51.32.060(5)
- Change effective July 1 each year.
- Based on a percentage of the previous year's SAW.

Effective	Percentage
7/1/1993	105%
7/1/1994	110%
7/1/1995	115%
7/1/1996	120%

Maximum Chart

Date of Injury	Effective Date						
	7-1-17	7-1-18	7-1-19	7-1-20	7-1-21	7-1-22	
7/1/71- 6/30/88 (75% SAW)	3,684.81 (122.82)	3,867.93 (128.93)	4,081.31 (136.04)	4,356.25 (145.20)	4,796.31 (159.87)	5,156.75 (171.89)	
7/1/88- 6/30/93 (100% SAW)	4,913.08 (163.76)	5,157.25 (171.91)	5,441.75 (181.39)	5,808.33 (193.61)	6,395.08 (213.16)	6,875.66 (229.18)	
7/1/93- 6/30/94 (105% SAW)	5,158.73 (171.95)	5,415.11 (180.50)	5,713.83 (190.46)	6,098.75 (203.29)	6,714.83 (223.82)	7,219.45 (240.64)	
7/1/94- 6/30/95 (110% SAW)	5,404.39 (180.14)	5,672.97 (189.10)	5,985.92 (199.53)	6,389.16 (212.97)	7,034.58 (234.48)	7,563.23 (252.10)	
7/1/95- 6/30/96 (115% SAW)	5,650.04 (188.33)	5,930.83 (197.69)	6,258.01 (208.60)	6,679.58 (222.65)	7,354.34 (245.14)	7,907.01 (263.56)	
7/1/96- 6/30/23 (120% SAW)	5,895.70 (196.52)	6,188.70 (206.29)	6,530.10 (217.67)	6,970.00 (232.33)	7,674.09 (255.80)	8,250.80 (275.02)	

SAW – State's average (monthly) wage

Dependent Portion For Maximum TL

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

$$\frac{\text{children's \%}}{\text{total \%}} \quad \times \quad \text{maximum TL rate}$$

Example for married with 4 children:

$$\frac{8\% (4 \text{ dep.})}{73\% (M+4)} \quad \times \quad \text{maximum TL rate}$$

Knowledge Check

Teal works as a receptionist in a hair salon on Saturday afternoons. Her gross monthly wage is \$555.00 per month. She was injured at work on 9/20/16. She is married with 4 dependent children. What was her monthly time-loss rate on the date of injury?

Gross Monthly Wage (1): \$555.00

SAW Minimum (2): \$753.41 (\$703.41 + \$10.00 for spouse + \$40.00 for children)

Old Minimum (3): \$329.00

Answer: \$555.00 – her gross monthly wage

Kassandra works as a lead sales representative and was injured on 12/15/14. She earns \$5,500 per month, \$2,000 a month commission, \$10,000 bonus each December and her employer contributes \$750 per month for HCB. She is married with 3 children.

What is Kassandra's gross monthly wage?

\$9,083.33 ($\$5,500 + \$2,000$ (commission) = $\$7,500 + \833.33 [$\$10,000 \div 12$](bonus) + 750 (HCB))

What is her time-loss entitlement from 1/2/15 - 1/15/15?

$\$8,333.33 \times .71 = \$5,916.66 \div 30 = \$197.22$ (daily rate)

Max daily TL rate $\$175.45 \times 14 = \mathbf{\$2,456.30}$

Cost Of Living Adjustments (COLAs)

- RCW 51.32.075: compensation amounts adjusted based on a percentage of the SAW. (Effective 7/1/82)
- COLA memo issued toward end of June each year.
- Effective July 1 each year.

Cost Of Living Adjustments (COLAs)

- For DOI/DOM on or before 7/1/10, COLA added on first July 1 after injury.
- For DOI/DOM on or after 7/1/11, COLA added on second July 1 after injury.
- No COLA in 2011 per RCW.

Crabb v. Dept. of L&I (2014)

- 2011 COLA freeze delayed COLA to the second July 1
- The COLA freeze does not apply to workers entitled to the statutory maximum.
- This was extended to those at statutory minimum.
- Applies to TL and pension benefits for:
 - Open or pensioned claim as of 6/5/14
 - Claims reopened after 6/5/14 (effective date claim is reopened)

Terminating Time-Loss

- Once benefits have been paid, they must continue until the worker is:
 - Released for full duty, or
 - Return to work, or
 - Found employable
- SIE/TPA must notify worker **in writing** of the reason(s) for time-loss termination within 5 days WAC 296-15-425.

Other Considerations

- Social Security Offset
- Unemployment benefits
- Liens
- Dual claims
- Overpayments

Knowledge Check

For the last 2 years, Sarah worked intermittently for a Party Store from June through August. She was injured on 6/30/10 making \$15/hour, 5 hours per day and works weekends. She also works as a teacher's aid from September through June earning \$1,750 per month. Her 3 year work history shows that her average annual earning was \$19,350.00. She was single with 2 children.

What is her gross monthly wage?

$$\text{\$19,350.00 (annual wages)} \div 12 \text{ (months)} = \text{\$1,612.50}$$

What is her monthly time-loss rate for the date of injury?

$$\text{\$1,612.50 (GMW)} \times .64 = \text{\$1,032.00}$$

What is her monthly time-loss rate for July 2013?

$$\text{\$1,032.00} \times 1.09204 \text{ (cola)} = \text{\$1,126.99}$$

Donna was injured on 11/15/12. She is married with 6 children and was earning \$13.25 per hour working 10 hours per day, 4 days per week. She received a quarterly bonus based on profits. In the 12 months prior to the date of injury, her bonuses were:

1 st quarter	\$683.52
2 nd quarter	\$521.16
3 rd quarter	\$0.00
4 th quarter	\$338.07

Donna went to the doctor on 11/18/12. She was unable to work due to the injury from 11/17/12 through 12/5/12. You received notice of a claim on 11/29/12.

What was Donna's monthly time-loss rate on the date of injury?

$$\text{\$13.25} \times 10 \times 18 = \text{\$2,385.00}$$

$$\text{\$683.52} + \text{\$521.16} + \text{\$338.07} = \text{\$1,542.75} \div 12 = \text{\$128.56}$$

$$\text{\$2,385.00} + \text{\$128.56} = \text{\$2,513.56} \times 75\% = \text{\$1,885.17}$$

What is the first date for which time-loss is payable?

11/17/12

By what date must the SIE mail the first payment of time-loss?

12/13/12

What is Donna's time-loss rate as of 7/1/13?

\\$1,885.17 (no COLA 1st year after DOI)

What is Donna's time-loss rate as of 7/1/14?

$$\text{\$1,885.17} \times 1.02016 = \text{\$1,923.18}$$

Online Resources

- [Claim Adjudication Guidelines](#)
- [Claims Management Tools](#)
 - [Forms & Templates](#)
 - COLA chart
 - Minimum and Maximum Time-loss charts
- [Time and Date Calculator](#)



Washington State Department of
Labor & Industries

Questions?