

Employers should scrutinize L&I's Notice of Decision orders

■ Reducing errors can reduce your L&I premium rates

Medical costs and indemnity or time loss benefits the state Department of Labor & Industries (L&I) pays to injured workers directly impact employers' premium rates. While employers usually have little say on how much L&I pays out to injured workers, there are some things employers can do when time loss benefits are calculated to minimize the costs of the claim and the subsequent affect on premium rates.

Early in a compensable or time loss claim L&I will issue a Notice of Decision ordering the injured worker's time loss benefit rate and outlining how time loss benefits have been determined. The gross monthly wage of the injured worker is listed on the Notice, along with health care benefit contributions the employer paid for the injured worker at the time of injury. The number of dependents supported by the worker is also listed. Injured workers are paid 60 percent of their earnings if they are single. They receive 5 percent additional for a spouse and 2 percent additional for each dependent, up to a maximum benefit rate of 75 percent of earnings.

Often times L&I will issue the Notice before they have received any information from the employer, trusting the information reported by the claimant is correct without bothering to call the employer for verification. The rate setting order is usually made on a determinative basis, which means the information on the order will become final and binding within 60 days.

L&I will send your BIAW Claim Specialist a copy of the Notice, and within a few days your BIAW Claim Specialist will provide you a copy of the Notice, accompanied by a separate bright colored note reiterating what the Notice says. **If the wages, hours, dependent and/or health care benefit information outlined in the Notice is incorrect, the employer must submit a letter of pro-**

test within 60 days. BIAW receives many calls from employers after the 60-day time frame has elapsed complaining that an injured worker is receiving too much in time loss benefits—but after 60 days it is too late to protest.

One of the most confusing and controversial issues surrounding the way L&I pays time loss benefits is averaging of wages. L&I does not average wages for construction workers unless they are paid by the piece rate. As a result, employers will often find an injured worker is earning more money on time loss than they did while they were working.

As an example, if a worker chooses to work (or the weather only allows him/her to

work) eight months out of the year, and the worker works any 8 hour days within that 8 months, L&I will pay benefits as if he/she worked full-time for twelve months. Further, time loss benefits are not taxed. So it is easy to see how time loss benefits calculated in this manner provide a disincentive for injured workers to return to their job.

When your BIAW Claim Specialist or L&I calls your company to obtain wage information, please take the time to collect accurate hourly rates, hours worked per week, health care information and dependent information. If L&I does issue an incorrect benefit Notice of Decision, please call your BIAW Claim Specialist with the correct information before the 60-day time limit has expired. ↩

Employer Checklist for Reviewing L&I's Notice of Decision

- 4 Review the Notice of Decision order to verify that the hourly rate on the day of injury is correct. Some workers earn varying rates of pay depending on the jobs they are assigned. Be sure the worker didn't report a higher rate than what was paid on the date of injury.
- 4 Always check dependent and marital status information and notify your BIAW Claim Specialist if there is a support enforcement lien against the worker's wages or if the worker does not have custody of the dependent(s).
- 4 Check your records carefully to determine how often the worker was working overtime—L&I only uses overtime wages if there is proof of consistent overtime earnings throughout the worker's employment. If they were only working a few hours of overtime every so often, their overtime wages should not be included.
- 4 Remember that health care benefits mean just that—only medical, dental and vision contributions paid for by the employer. Do not include life insurance or any other benefits paid such as union costs, vacation pay etc.

