



**INSURANCE COVERAGE OFFICE  
STATE OWNED VEHICLE  
PERSONAL INJURY PROTECTION (PIP)  
FREQUENTLY ASKED QUESTIONS (FAQs)**

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**Q 1.0      What is Personal Injury Protection (PIP) coverage?**

A. 1.0      21. Del. C. §2118 outlines the insurance requirements for all vehicles registered in Delaware. Up to two years from the date of the automobile accident, PIP coverage provides payment of:

- Medical, hospital, dental, surgical, medicine, x-ray, ambulance, prosthetic services, professional nursing, and funeral services.
- Net amount of lost earnings.
- Extra expenses for personal services which would have been performed by the injured person had they not been injured (i.e., lawn mowing services).

29 Del. C. §7106 governs the use of a state owned vehicle as well as the Fleet Services handbook <http://gss.omb.delaware.gov/fleet/documents/fs-handbook.pdf?ver=0705>.

For the State to afford PIP coverage to any injured individual driving or occupying a state-owned vehicle, the state-owned vehicle must be used for state business only.

PIP coverage is also often referred to as “no fault” insurance. It provides payment regardless of who was at fault in causing the automobile accident.

The State’s self-insured automobile policy provides PIP limits of \$25,000 per person/\$300,000 per accident. It does not pay for permanency or mileage.

**Q 1.1      Who is the insurance carrier for the State’s PIP coverage?**

A. 1.1      The State of Delaware is self-insured for the automobile PIP coverage. The Insurance Coverage Office (ICO) is responsible for issuing payments for medical services rendered and for payment of lost wages for state employees who were injured because of an automobile accident.

In the event of an automobile accident, a “pink card” located in the glove compartment of the state-owned vehicle serves as the State’s automobile insurance card.

**Q. 1.2 How is the ICO notified of an automobile accident involving a state-owned vehicle?**

A. 1.2 The Auto Accident Report form is submitted to the ICO from Fleet Services or the employing organization electronically via the ICO website, by fax, or email. <http://inscov.delaware.gov/forms/documents/auto-accident.pdf>

**Q. 1.3 When should employees complete the Auto Accident Report form?**

A. 1.3 The Auto Accident form must be submitted to the ICO within 24 to 48 hours. <http://inscov.delaware.gov/forms/documents/auto-accident.pdf>

**Q. 1.4 Are employees who are receiving PIP benefits due to an injury which occurred while occupying a state-owned vehicle and in the course and scope of their employment required to file a Workers' Compensation (WC) claim?**

A. 1.4 Yes. A state employee who is injured while driving or occupying a state-owned vehicle within the course and scope of their state employment is also entitled to receive WC benefits. The PIP claim runs concurrent with the WC claim.

Title 19, Chapter 23 of the Delaware Code provides benefits to workers who are injured or who contract an occupational disease while working. The benefits include medical, disability payments, and compensation for injuries with permanent impairment. Disability benefits (lost wages) are paid based on 66 2/3% of the average weekly wage. The calculation to determine the average weekly wage is determined by taking the average of the 26 weeks wages prior to the date of the incident. The Department of Labor establishes the minimum and maximum weekly WC rate. For more information on WC benefits, please contact the Insurance Coverage Office at (302)739-3651 or by email at [inscov@state.de.us](mailto:inscov@state.de.us)

PIP benefits are primary over WC benefits. Cicchini v. State of Delaware. 640 A.2d 650 (Del. Super. 1993).

**Q. 1.5 Are employees who are receiving PIP benefits due to an injury which occurred while occupying a state-owned vehicle and in the course and scope of their employment required to file a Short Term Disability (STD) claim?**

A. 1.5 Yes. By filing for STD benefits, the employee will receive the minimum STD amount of the greater of \$25 or 10% of the gross STD benefit before deduction of other income benefits. The employee may use available annual leave, sick leave, donated leave, and/or compensatory time to bring them up to 100% of pre-disability base salary if and when the salary supplement has been

exhausted. For more information on State sponsored STD benefits, please contact the Statewide Benefits Office Customer Service Unit by telephone at (302)739-8331 or by email at [benefits@state.de.us](mailto:benefits@state.de.us).

Q. 1.6 What does the ICO require for payment of PIP benefits to be issued?

A. 1.6 If the employee sustains injury due to an automobile accident, the ICO will mail a PIP Application form to the employee's address of record.

Before any medical or PIP wage payments are made under the PIP claim, the completed PIP Application form must be received by the ICO. It is imperative that the employee completes, signs, and returns the form promptly to the ICO.

**Q. 1.7 What is the weekly PIP benefit, how is it calculated, and who pays it?**

A. 1.7 Net lost earnings are calculated using 80% of the employee's weekly base pay at the time the automobile accident occurred.

The ICO handles the claim and requires disability notes for the absence before PIP wage benefits are paid.

The State's pay is on a lag schedule. When the ICO issues a PIP wage check, it is for the actual time during which the disability occurred. PIP checks are issued on a prospective versus a lag basis. PIP wage benefits are paid directly to the employee or the employee's legal representative via state check.

**Q. 1.8 Is the employee entitled to receive overtime pay in addition to the base PIP wage benefit?**

A. 1.8 Yes. Lost overtime is recoverable if proper evidence is presented. Stevens v. The Pennsylvania Manufacturers' Ass'n Inc. Co., Del. Super., C.A. No. 85C-SE-64, Stiffel, P.J. (Aug 10, 1987)

**Q. 1.9 Is there a minimum or maximum weekly PIP rate?**

A. 1.9 No. There is no minimum or maximum allowable weekly rate for a PIP wage benefit claim.

**Q. 1.10 Are PIP benefits affected by increases or reductions in salary?**

A. 1.10 No. The PIP wage benefit owed is based on the salary the employee was making at the time the automobile accident occurred.

**Q. 1.11 Can the weekly PIP benefit payment be supplemented?**

A. 1.11 Yes. A state employee who is injured while driving or occupying a state-owned vehicle within the course and scope of their state employment is also entitled to receive WC wage benefits.

29 Del C. §5933 outlines that whenever an officer as defined in 29 Del.C. §5812 (n)(1), (<http://delcode.delaware.gov/title29/c058/sc02/index.shtml>) or employee of the State qualifies for workers' compensation disability benefits, the officer or employee is not charged sick or annual leave and shall receive from the State the difference, if any, between the total of:

- (1) The amount of such compensation,
- (2) any disability benefits received under the Federal Social Security Act, and
- (3) any other employer supported disability program, and the amount of wages to which the officer or employee is entitled on the date such compensation begins.

No more than 1 period of supplemental pay shall be made under this subsection for any work injury, including any recurrence or aggravation of that work injury.

Upon exhaustion of the three-month salary supplement period, employees enrolled in the Disability Insurance Program (DIP) are entitled to payment of the minimum STD benefit which is the greater of 10% of the gross weekly STD amount or \$25.00. Pursuant to Rule 9.1.2 and 9.2.2 of the DIP Rules & Regulations posted on the Statewide Benefits Office (SBO) website at <http://ben.omb.delaware.gov/disability/index.shtml>, employees may utilize annual, sick, compensatory, or donated leave (if applicable) to supplement STD benefits to equal 100% of pre-disability base pay for a maximum STD benefit paying period of 182 calendar days.

For employees who are *not* enrolled in the DIP, upon the exhaustion of the three-month salary supplement and based on Merit Rule 5.3.6.4, employees approved for Workers' Compensation (a PIP claim is a WC eligible claim) may request sick leave when they are less than fully paid under WC (PIP). Such leave shall be charged at the difference between WC pay (PIP pay) and their regular pay.

**Q. 1.12 When will PIP benefits stop?**

A. 1.12 PIP benefits will stop when:

- The medical bills and/or dates of disability are incurred beyond two years from the date of the automobile accident.
- The PIP limits of \$25,000 is exhausted.
- Based on the medical expenses submitted to the ICO, it is probable that the ICO will request an employee attend a Defense Medical Examination (DME) to determine if the treatment rendered to the employee is reasonable and necessary. If the DME physicians render an opinion that the employee has reached maximum medical improvement and no longer require additional treatment at a certain point before the two years ends, the ICO will discontinue PIP benefits. The ICO will issue a letter to the employee and/or the employee's legal representative providing a date when the PIP benefits will be discontinued.

**Q. 1.13 What happens if the ICO denies the PIP claim?**

Q. 1.13 If the ICO denies the PIP claim, the ICO will notify the employee or the employee's legal representative the basis for the denial as well as the statute of limitations information.

The employee has the following options:

- Within two years from the date of the automobile accident, file arbitration against the State through the Delaware Department of Insurance <http://www.delawareinsurance.gov/services/arbitration.shtml>
- Present the claim to the WC vendor for payment consideration under the WC claim.
- Present the claim to the healthcare carrier for payment consideration.

**Q. 1.14 What happens if the ICO denies further PIP wage benefits because of a DME and before the employee has returned to work?**

A. 1.14 If the ICO denies further payment of PIP benefits because of a DME, the employee has the following options:

- Within two years from the date of the automobile accident, file arbitration against the State through the Delaware Department of Insurance. <http://www.delawareinsurance.gov/services/arbitration.shtml>
- Present the claim to the WC vendor for payment consideration under the WC claim.
- Present the claim to the healthcare carrier for payment consideration.

**Q. 1.15 What happens after an employee exhausts the State's PIP limits?**

A. 1.15 The ICO will notify the employee in writing once the PIP policy limit of \$25,000 is exhausted and will provide the employee or the employee's legal representative with the PIP Payment Log.

Since a PIP claim is a WC eligible claim, the ICO will refer the claim to the WC vendor for further handling and payment consideration.

**Q. 1.16 While an employee is receiving PIP wage benefits, are these benefits subject to income tax?**

A. 1.16 No. PIP wage benefits are non-taxable.

**Q. 1.17 While receiving PIP wage benefits, are employees required to stay in contact with their supervisor and/or Human Resources representative?**

A. 1.17 Yes. Employees are required to stay in contact with their supervisor and/or Human Resources office throughout all absences and provide all documentation requested.

**Q. 1.18 Is the employee charged any leave for the date of the automobile accident?**

A. 1.18 No.

Merit employees:

Merit Rule 5.3.8 states that employees who are injured on the job and approved for WC (a PIP claim is a WC eligible claim) will not be charged with sick leave for any portion of the day of injury.

Education employees:

Check your organization's leave policy and procedure.

**Q. 1.19 Is the employee entitled to receive PIP wage benefits for doctor's, physical therapy, or chiropractic appointments for injuries sustained due to an automobile accident?**

A. 1.19 No. The lost wages must be due to an inability to work and cannot be wages lost during periods necessary to attend medical treatment. If the employee is physically able to work, 21 Del. C. §2118 does not require Delaware automobile policies to cover payment of lost wages for time lost from work when required to go for medical treatment.

Ramsey v. State Farm Mut. Auto.Ins.Co., Del. Super., C.A. No. 04C-03-14, Bradley, J. (July 9, 2004).

Merit employees:

The employee must be charged sick leave pursuant to Merit Rule 5.3.6.2 which reads: Employee appointments with doctors, dentists, or other similar practitioners or to accompany the following individuals when their personal attendance is required: employees' spouse or domestic partner; and parent, stepparent or child of the employee, spouse, or domestic partner. In exceptional circumstances, agencies may approve the use of sick leave for someone not specifically listed.

Whenever possible, such appointments should be scheduled outside of employee's normal working hours.

Education employees:

Check your organization's leave policy and procedure.

Questions?

Please contact the Insurance Coverage Office by telephone at (302) 739-3651 or (877) 277-4185 or by email at [inscov@delaware.gov](mailto:inscov@delaware.gov).