



SALARY SUPPLEMENT

- I. TITLE: Salary Supplement– For Merit, Merit Comparable and 12 Month (26 Pay) Educational Employees on approved Workers’ Compensation (WC) and/or State Personal Injury Protection (PIP) claims.
- II. AUTHORITY: 29. Del. C. §5933
& Various Case Laws
- III. POLICY STATEMENT:
- The State of Delaware provides a salary supplement under 29 Del. C. §5933.
 - Employing organizations are responsible for promptly applying (paying) the salary supplement to the qualifying employees (see APPLICABILITY section below). Employing organizations are also responsible for maintaining records of the payment of the salary supplement on each employee. This document provides guidance regarding the application of the salary supplement for employees who are workers’ compensation qualified.
 - In accordance with Rules 8.6 and 8.6.6 of the Disability Insurance Program (DIP) Rules and Regulations posted on the Statewide Benefits Office website [rules-regulations.pdf \(delaware.gov\)](http://rules-regulations.pdf (delaware.gov)), salary supplement amounts paid to employees will be an offset to the employee’s STD benefit payment.
- IV. APPLICABILITY:
- Public Officers and State Agency employees, as well as those exempt from the classified service including all employees of each state school district, charter school, Department of Education, Delaware State University, Delaware Technical Community College, University of Delaware and other exempt employees outlined in 29 Del. C. §5903.
 - Includes “employees” defined in 19 Del.C. §2301 (10) of the Delaware Code.
 - 29 Del. C §5933(c) outlines which employees are entitled to a 12 month supplement period versus a 3 month salary supplement period. Most of these positions are Hazardous Duty paying positions.
 - Employees who sustain injuries while operating a State owned vehicle in the course and scope of their State employment are entitled to both State personal injury protection (PIP) and workers’ compensation benefits. Therefore, the salary supplement will also apply to these employees. The application of the salary supplement is *not* applicable to PIP benefits paid through the employee’s personal automobile insurance.
 - Employees are entitled to one (1) period of salary supplement per work injury, including any recurrence or aggravation of that work injury.
- V. DEFINITIONS:
- *Disability Insurance Program (DIP)* - The Disability Insurance Program as defined in 29 Del. C. §5256 of the Delaware Code.

- *Hazardous Duty*- Uncontrollable circumstances that involve an unusual risk of serious physical injury, impairment to health or death resulting from accidental, negligent or intentional causes. 29 Del.C. §5933 outlines hazardous duty assignments.
- *Injured Worker* –See description of eligible employees as defined in the APPLICABILITY section.
- *Insurance Coverage Office (ICO)* – The state office responsible for providing quality support for the state government’s insurance needs. The office is responsible for managing the insurance program for state vehicles, buildings and property and workers’ compensation, as well as reviewing state facilities for safety issues and providing safety programs to state employees.
- *Personal Injury Protection (PIP)* - Is insurance coverage that is statutorily mandated for Delaware registered vehicles. 21 Del.C. §2118 requires minimum PIP limits of \$15,000 per person; \$30,000 per accident for reasonable and necessary medical expenses, net amount of loss earnings, funeral expenses, and substitute services incurred within 2 years of an accident. PIP benefits for vehicles registered to the State of Delaware for the needs of state government employees are administered by the ICO. PIP benefits for personally owned and/or rented vehicles are administered by the employee’s personal automobile carrier.
- *Regular Pay* – “The amount of wages to which the officer or employee is entitled on the date such compensation begins” means the employee’s usual rate of pay. Regular pay does not include commissions, bonuses, shift differential pay, overtime pay or any other fringe benefit or extra compensation. Employees who are entitled to hazardous duty pay under 29 Del. C. 5916(e) shall have the hazardous duty pay included in regular pay.
- *Salary Supplement* – Pursuant to 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. Temporary disability payments that are paid through the Workers’ Compensation program and administered by the Insurance Coverage Office (ICO) are unrelated to disability benefits paid under the DIP.
- *STD* – Short Term Disability, pursuant to 29 Del.C. §5256 of the Delaware Code.
- *Third Party Administrator (TPA) for Workers’ Compensation* – The vendor company who adjudicates the claims.
- *Workers’ Compensation (WC)* - Is a system, established under Chapter 23 of Title 19 of the Delaware Code, which provides compensation to workers who are injured or who contract an occupational disease while working. The benefits can include medical care, temporary disability payments and compensation for a resulting permanent impairment. In the event of the death of an injured workers, benefits are payable to the family of the worker. Benefits may be paid voluntarily or it may be necessary to petition the Office of Workers’ Compensation for relief. Temporary disability payments that are paid through the Workers’ Compensation program and administered by the Insurance Coverage Office (ICO) are unrelated to disability benefits paid under the DIP.

V. PROCEDURE:

Please note:

- Employees are entitled to one (1) period of salary supplement per work injury, including any recurrence or aggravation of that work injury.
- For tracking the Salary Supplement for Worker's Compensation/State PIP, after entering the Leave of Absence Job Data Row in PHRST, be sure to Add a New Note to the Notepad. Enter Subject and Note Text including the dates for the Salary Supplement period.
- If the employee's initial work injury occurred while employed with a prior state agency, school district, charter school or institution of higher education, please contact the prior employing organization's human resources department for confirmation of the payment of the salary supplement during the employee's initial absence from work a result of the work related injury.
- If the employee's initial work injury occurred prior to being employed with the State of Delaware and the employee is experiencing a recurrence or aggravation of the work injury this claim will be handled by the previous employer and not the State of Delaware.
- In accordance with Rule 5.2 of the Disability Insurance Program Rules and Regulations, employing organizations are required to provide the DIP insurance carrier and/or Administrator with the names of hazardous duty employees who are injured while performing a hazardous duty, who are entitled to be paid the 12 month salary supplement.

PHRST Organizations

Workers' Compensation Only

The following information will be needed to complete the worksheets to determine the recoup, hours to be charged for sick, annual leave accruals, donated leave and/or compensatory time and the amount the salary supplement will be: Agreements to compensation, bi-weekly indemnity register from the TPA and the Salary Supplement worksheet.

- Step 1. Complete the third party administrator's wage & salary verification.
- Step 2. Using the bi-weekly WC register received from Third Party Administrator, subtract the employees WC amount paid without overtime or extra pay (this amount should be entered into PHRST using the -AWC code) from Regular Pay.
- Step 3. Use the Salary Supplement Worksheet (WC Only) to track your calculations.
- Step 4. Follow PHRST flowchart for data entry instructions.

Worksheet, Job Aid and PHRST Data Entry Flowchart are available through this link:

<https://reps.dhr.delaware.gov/wbprc/index.shtml>

State Owned Vehicle - Personal Injury Protection (PIP)

The following information will be needed to complete the worksheets to determine the recoup, hours to be charge for sick, annual leave accruals, donated leave and/or compensatory time and

the amount the salary supplement will be: PIP wage calculation worksheet from the Insurance Coverage Office and the Salary Supplement worksheet.

- Step 1. Determine the employee's regular pay by taking the employee's Del. Annual Rate from the Compensation panel in PHRST and dividing that number by 26 (pay periods).
- Step 2. Using the PIP amounts provided by the ICO, subtract the employees PIP amount paid (this amount should be entered into PHRST using the –AWC code) from Regular Pay.
- Step 3. Use the Salary Supplement Worksheet (PIP Only) to track your calculations.
- Step 4. Follow PHRST flowchart for data entry instructions.

Worksheet, Job Aid and PHRST Data Entry Instructions are available through this link:

<https://reps.dhr.delaware.gov/wbprc/index.shtml>

Workers' Compensation and State Owned Vehicle - Personal Injury Protection (PIP)

The following information will be needed to complete the worksheets to determine the recoup, hours to be charge for sick, annual leave accruals, donated leave and/or compensatory time and the amount the salary supplement will be: PIP wage calculation worksheet from the Insurance Coverage Office, agreements to compensation, bi-weekly indemnity register from the TPA and the Salary Supplement worksheet.

- Step 1. Determine the employee's regular pay be taking the employee's Del. Annual Rate from the Compensation panel in PHRST and dividing that number by 26 (pay periods).
- Step 2. Using the bi-weekly WC register received from Third Party Administrator, subtract the employees WC amount paid without overtime or extra pay (this amount should be entered into PHRST using the –AWC code) from Regular Pay.
- Step 3. Using the PIP amounts provided by the ICO, subtract the employees PIP amount paid (this amount should be entered into PHRST using the –AWC code) from Regular Pay.
- Step 4. Use the Salary Supplement Worksheet (WC/PIP Only) to track your calculations.
- Step 5. Follow PHRST flowchart for data entry instructions.

Worksheet, Job Aid and PHRST Data Entry Instructions are available through this link:

<https://reps.dhr.delaware.gov/wbprc/index.shtml>

Non-PHRST Organizations

All contents and instructions in this procedure are applicable with the exception to the data entry instructions which will be based on the organizations payroll entry system. Worksheets and Job Aids are available through this link: <https://nebsreps.omb.delaware.gov/>.

Below you will find several scenarios based on the application of the code.

3 Month Salary Supplement

First scenario

Date of loss: 4-1-XX. Employee is out of work for 14 days. Returns back to work for 2 weeks and goes out again for 20 days. The first period of time (14 days) is covered by the salary supplement. The second period (20 days) is also covered because it is within the 3 month period established by the date compensation began. In other words, any lost time from work that is covered by workers' compensation within that 3 month period (April 2 to July 2) would qualify that employee to receive the salary supplement.

Second scenario

Date of loss: 4-1-XX. Employee is out of work for 14 days and then returns to work. The employee then goes out for surgery on July 2. In this scenario the first period of time (14 days) is covered by the salary supplement. The second period of time which begins on July 2 would not be covered since it is beyond the 3 month period (April 2 to July 2) established by the first date compensation began.

Third scenario

Date of Loss: 4-1-XX. Employee is out of work for 14 days. Returns to work for 2 weeks and goes out again for 20 days. Returns to work and then goes out again on June 15 and remains out until September 1. First period (14 days) covered by salary supplement. Second period (20 days) is also covered by salary supplement. Third period the salary supplement would end on July 2.

Fourth scenario

Date of Loss: 4-1-XX. The employee did not initially miss time from work and does not go out for surgery until 7-15-XX. The 3 month salary supplement period is from July 15, XXXX to October 15, XXXX

Fifth scenario

Date of Loss: 4-1-XX. Employee is out of work for 14 days. This period of time (14 days) is covered by the salary supplement. The employee returns to work but then claims a re-occurrence of the original injury a year later & misses time from work. If the claim is handled by the WC carrier under the same claim, then the employee is **not** entitled to the 3 month salary supplement because they already received it prior.

12 Month Salary Supplement

First scenario

Date of loss: 4-1-XX. Employee is out of work for 14 days. Returns back to work for 2 weeks and goes out again for 20 days. The first period of time (14 days) is covered by the salary supplement. The second period (20 days) is also covered because it is within the 12 month period established by the date compensation began. In other words, any lost time from work that is covered by workers' compensation

within that 12 month period (April 2, XXXX to April 2, XXXX) would qualify that employee to receive the salary supplement.

Second scenario

Date of loss: 4-1-XX. Employee is out of work for 14 days and then returns to work. The employee then goes out for surgery on July 2. In this scenario the first period of time (14 days) is covered by the salary supplement. The second period of time which begins on July 2 would be covered since it is within the 12 month period (April 2 to April 2) established by the first date compensation began.

Third scenario

Date of Loss: 4-1-XX. Employee is out of work for 14 days. Returns to work for 2 weeks and goes out again for 20 days. Returns to work and then goes out again on June 15 and remains out until September 1. First period (14 days) covered by salary supplement. Second period (20 days) is also covered by salary supplement. Third period the salary supplement would be covered.

Fourth scenario

Date of Loss: 4-1-XX. The employee did not initially miss time from work and does not go out for surgery until 7-15-XXXX. The 12 month salary supplement period is from July 15, XXXX to July 15, XXXX.

Fifth scenario

Date of Loss: 4-1-XX. Employee is out of work for 14 days. This period of time (14 days) is covered by the salary supplement. The employee returns to work but then claims a re-occurrence of the original injury on 6-30-XX and the employee misses time from work. If the claim is handled by the TPA for WC under the same claim, and 12 months have passed since the original date of disability, then the employee is **not** entitled to the 12 month salary supplement because they already received it prior.

Have Questions?

Questions about the salary supplement application, WC and PIP should be directed to the Insurance Coverage Office. The Insurance Coverage Office hours of operation are Monday through Friday, 8:00 am to 4:30 pm and can be reached at (302) 739-3651 or by email at inscov@delaware.gov.

Questions about the Disability Insurance Program (DIP) should be directed to the Statewide Benefits Office Customer Service Team. They can be reached by phone at (302) 739-8331 or (800) 489-8933, or by email at benefits@delaware.gov.