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| <b>HUMAN RESOURCES MEMORANDUM 14-017</b>  |  | DATE ISSUED:<br>September 24, 2014           |
| SUBJECT:<br><b>Workers' Compensation Program – Industrial Disability Leave (IDL), Industrial Disability Leave with Supplementation (IDL/S), and Enhanced Industrial Disability Leave (EIDL)</b> |  | REFERENCE:<br>PML 2014-025<br>HR Memo 14-009 |
| TO:<br>Managers, Supervisors, Personnel Liaisons and Attendance Clerks  |  | SUPERSEDES:                                  |

**PLEASE ENSURE THAT THIS INFORMATION IS SHARED WITH YOUR EMPLOYEES**

**Purpose** This memorandum provides direction to HR Memo 2014-009 for the administration of Industrial Disability Leave (IDL), IDL with Supplementation (IDL/S), and enhanced IDL (EIDL) for time lost from work on or after the changes to IDL effective July 1, 2014.

Changes made pursuant to this memo should be done on a prospective basis. Directions for time lost from work before July 1, 2014, are found in PML 2002-060.

Following this PML is a section of commonly asked questions and answers.

**IDL** IDL is a salary continuation program established by the Berryhill Total Compensation Act of 1975. IDL is a replacement benefit program paid to eligible employees in lieu of Workers' Compensation Temporary Disability Benefits (TD). Government Code sections 19869-19877.1 provide the legal authority for the IDL program.

**ELIGIBILITY**

To qualify for IDL benefits, an employee must be eligible for workers' compensation benefits and be an active member of the California Public Employees' Retirement System (CalPERS) or the California State Teachers' Retirement System (CalSTRS).

**DURATION**

The Workers' Compensation Appeals Board has jurisdiction over disability benefit timeframes, amounts and penalties. The other rules and limitations governing IDL are not subject to the Board's jurisdiction but may be subject to the grievance process.

IDL benefits are payable for a maximum of 52 weeks, or 2080 work hours (40 hours/week x 52 weeks = 2080 hours for a full-time employee), within a two year period from the first date of disability. The number of eligible work hours must be prorated for employees on a different time base.

## **IDL (Cont'd)**     WAITING PERIOD

Prior to the start of IDL, the employee must serve a waiting period of three calendar days. The three calendar days do not need to be consecutive days or scheduled work days. The waiting period begins with the first day of disability confirmed by State Compensation Insurance Fund (State Fund). The date of injury is never part of the waiting period because any time lost on that day is paid as Administrative Time Off. The waiting period is waived if the employee is hospitalized at any time as a result of the injury or illness, temporary disability continues for more than 14 calendar days, or the injury is the result of a criminal act of violence. To track the waiting period and 14 calendar days, any day on which the employee is temporarily disabled, whether for one hour or eight hours, counts as one day of disability.

## BENEFIT PAYMENTS

IDL payments are based on the employee's current wages. For the first 22 work days or maximum of 176 hours (22 days x 8 hours/day = 176 work hours for full-time employees and prorated for different time bases), an employee receives their full net salary. Thereafter, IDL payments are based on two-thirds of the employee's normal gross salary. Although IDL is not taxable and IDL benefits are not reported as taxable wages or other compensation on the employee's W-2 form, the amount of IDL paid for the first 22 work days (maximum of 176 hours for full-time employees and prorated for other time bases) is reduced by the amounts that would have been withheld for taxes (federal, state, Social Security/Medicare, SDI). This is called the "reduced gross" and it is the amount reflected on the warrant register and the earnings statement. The reduced gross is calculated because the statutory intent of the IDL benefit is to provide continuation of the employee's net compensation for the period of time they are disabled and unable to work. IDL was not designed to provide the employee with more money on disability than they would otherwise make while working.

The only mandatory deduction taken from IDL payments is the full retirement contribution, which is based on the employee's actual gross income. In addition, IDL payments may be subject to the following deductions: survivor's benefits, accounts receivable, child support, spousal support, conservatee support, CalPERS arrears contributions, etc. (Refer to Payroll Procedures Manual section E 009 for additional information on deductions.)

All voluntary deductions continue unless the employee cancels them. Since IDL is not taxable, all pre-tax deductions (e.g. health/dental premiums, co-pays, etc.) revert to regular deductions. Tax deferred deductions (e.g. deferred compensation, tax-sheltered annuities, flex reimbursement accounts, State Disability Insurance, etc.) stop during the IDL period.

## TERMINATION OF BENEFITS

An employee's eligibility for IDL ends if any of the following occur:

- The employee is no longer an active member of CalPERS or CalSTRS, due to separation or retirement.
- The available hours of IDL benefits are exhausted or the two year time limit is exceeded.
- The employee is no longer temporarily disabled due to the work-related injury or illness.
- The employee's condition has become permanent and stationary, which means that their condition has reached a point of maximum medical improvement.

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## **IDL/S**

Employees in all Bargaining Units (except Bargaining Unit 5) who meet the eligibility requirements for IDL are eligible for IDL/S.

When an injury or illness is determined to be work-related and workers' compensation benefits are approved, the employee's Personnel Office is required to send the employee an "Industrial Disability with Supplementation Information and Selection" form (STD 618S). The employee has 15 calendar days in which to choose to supplement their IDL payments. The 15 calendar day "election period" commences on the day the agency informs the employee that they are eligible for workers' compensation benefits by providing the employee with the STD 618S. Employees who fail to respond within 15 calendar days after notification shall be placed on IDL without supplementation, and forfeit the right to supplement IDL at any future time.

An employee may choose to supplement up to their reduced gross pay (100 percent supplementation), or to an amount that is less than full supplementation. Once the supplementation level is selected, the employee may decrease the amount at any point in the future, but they may not increase the supplementation amount. Any subsequent reduction in the supplementation will be made on a prospective basis only. Supplementation levels can not include fractions of hours. The employee may terminate the supplementation at any point. The effective date of any change will be the first day of the following pay period.

Leave credits needed for supplementation are drawn in the following order unless the employee requests a different order:

- Sick Leave
- Compensating Time Off (CTO)
- Vacation/Annual Leave
- Other leave credits (Personal Leave, Holiday Credit, etc.)

**IDL/S  
(Cont'd)**

When an employee's leave credits fall below the selected supplementation amount, the supplementation will be reduced to the amount of available leave credits (whole numbers only).

When an employee is on IDL for a portion of the month, and the amount of supplementation selected exceeds the amount necessary to obtain their reduced gross pay, the Personnel Office must adjust the supplementation amount to ensure the employee's disability payment does not exceed full net pay. Supplementation income is taxed at the current flat tax rates and will be reported on the employee's W-2 form at the end of the year.

Accounts receivables that the state has not already deducted from IDL pay, or any other pay that period, will be taken from the supplementation pay, if there is a sufficient amount to do so. All established mandatory and voluntary deductions will be withheld from supplementation pay, if not already taken from another payment in the pay period. For example, an employee who has a deferred compensation deduction would not have the deduction taken from the two-thirds IDL payment, because you cannot defer taxes on tax-exempt income. However, if the supplementation gross is sufficient, the deferred compensation can be deducted from the supplementation payment. Partial deductions cannot be taken from supplementation. Employees must cancel any voluntary deductions that they do not wish to have withheld from supplementation pay.

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**EIDL**

Enhanced IDL (EIDL) was established in 1984 through memoranda of understanding between the state and exclusive representatives for rank-and-file employees in specific bargaining units. Government Code section 19871.2 provides the authority for excluded employees to also receive this benefit. Eligible excluded employees are those in a classification responsible for the supervision of represented employees who are eligible for enhanced benefits.

To qualify for EIDL benefits, there must be a provision in the employee's memorandum of understanding (MOU) and the employee must be temporarily disabled as a result of a physical injury incurred in the official performance of their duties. See the appropriate MOU for information on qualifying physical injuries.

EIDL benefits only apply to physical injuries and medical complications directly related to one of the circumstances outlined in the MOU. EIDL does not apply to presumptive, stress-related disabilities or physical disabilities of mental origin. Each appointing power or their designee has the final decision regarding an employee's eligibility for EIDL. If specifically allowed in the MOU, employees can appeal the denial of EIDL to CalHR. Eligibility determinations are based on the specific circumstances of each case.

EIDL is an extension of IDL and has most of the same requirements. However, permanent intermittent employees in Bargaining Unit 6 may be entitled to EIDL even if they are not active CalPERS members.

Since full IDL is paid for the first 22 work days or maximum of 176 hours of disability (22 days x 8 hours/day = 176 maximum work hours for full-time employees and prorated for other time bases), EIDL begins on the 23rd working day of disability and continues payment as full IDL for the remaining period of eligibility up to 52 weeks total (2080 hours for full-time employees and prorated for other time bases). EIDL can be received for one year or longer, depending on specific provisions in each MOU.

The Government Code limits EIDL eligibility for excluded employees to the two year period after the date of occurrence of the injury. The MOUs specify the eligibility period for rank-and-file employees. Refer to the appropriate MOU for the eligibility period that applies.

If the appointing power determines that an injured employee is no longer eligible for EIDL because the physical injury has healed, the employee may still be eligible to receive IDL for psychiatric disabilities associated with the qualifying event.

An employee can return to work part time and still receive EIDL for the remaining period of time off work, provided that this period is confirmed by State Fund.

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**FlexElect  
Enrollment**

If an employee goes on IDL while enrolled in the Cash Option, the Cash Option will remain in effect. The employee will receive a separate check for the Cash Option.

If the employee is enrolled in a FlexElect reimbursement account, the account deductions will cease for as long as the employee is on IDL. If the employee returns to regular pay within the FlexElect plan year, their reimbursement account deductions will resume. However, if the employee is on IDL/S, these account deductions will be taken from the supplementation income if that amount is sufficient to cover them.

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**Questions**

Questions regarding IDL benefits may be directed to your [assigned disability specialist](#) in the OHR Personnel Transactions Unit.

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**ANGIE BOLDRINI**, Personnel Officer

Office of Human Resources

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