

- d) the day following the injury if the employee is absent from work because of the injury for more than 14 calendar days.

Each new, independent disability must be recorded separately with its own 52-week period. Recurrence of old disabilities does not entitle the disabled employee to a new 52-week IDL eligibility period.

1.2 ELIGIBILITY – Delay in Determination

Under certain circumstances, it may take some time before a determination can be made by the third party administrator as to whether an employee's disability is or is not work-related. During this period, the employee should be allowed to use sick leave, vacation, and/or CTO leave credits as long as they are available. The employee should also be encouraged to apply for NDI, if eligible. After all leave credits have been exhausted, the individual will be placed on leave without pay status until a determination is reached. If it is determined the disability is job-related and the employee is eligible for IDL or Workers' Compensation Temporary Disability, appropriate adjustments will be made to the employee's leave account balance in accordance with the procedures of the particular program selected by the employee.

1.3 ELIGIBILITY – Medical Determination

The third party administrator shall make all temporary disability determinations based on medical evidence. Eligibility for IDL benefits shall be contingent upon the certification of disability by the third party administrator. Upon expiration of IDL benefits, the third party administrator shall determine whether disability continues to exist and shall further determine the disabled employee's eligibility to receive Workers' Compensation Temporary Disability (TD) benefits.

1.4 INITIAL MEDICAL APPOINTMENT

An injured employee shall be compensated for any time lost to attend an initial medical evaluation for an industrial injury, whether this occurs on the date of injury or a later date. The employee is required to complete and file a *Workers' Compensation Claim Form (DWC1)* to the appropriate campus office in order to receive the compensation to cover the medical evaluation.

1.5 ELIGIBILITY – Waiting Period

The disabled employee must serve a three calendar-day waiting period after the date of injury before becoming eligible for Industrial Disability Leave benefit payments unless:

- 1.) The employee is disabled as a result of an injury growing out of a criminal act of violence against the employee, in which case the employee is eligible for IDL benefit payments from the first day of disability.
- 2.) The employee is hospitalized on the date of injury, in which case the employee is eligible for IDL benefit payments from the first calendar day following the date of injury.
- 3.) The employee is hospitalized later because of the disability, in which case the employee is eligible for IDL benefit payments from the first day of the three calendar-day waiting period.
- 4.) The employee is disabled for more than 14 calendar days, in which case the employee is eligible for IDL benefit payments from the first day of the three calendar-day waiting period.

The three calendar-day waiting period need not be consecutive. Partial days of absence relating to the disability shall be accumulated to full days toward the waiting period. On the date of injury, the disabled employee shall be compensated for the full amount of time s/he would have worked had the injury not occurred. The waiting period may begin on the day following the injury, or at a later date. The disabled employee shall be eligible for IDL benefit payments when the accumulation of time off completes the three calendar-day waiting period. The waiting period may include weekend days. This can occur at any time during the day. The three calendar-day waiting period is equivalent to 24 hours of scheduled work for an employee on an eight-hour work day schedule, 30 hours of scheduled work for an employee on a ten-hour work day schedule, and 36 hours of scheduled work for an employee on a twelve-hour work day schedule. Absences from scheduled work during the three-day waiting period shall not be charged to IDL. Absences are to be charged against the employee's sick leave balance or other paid leave credits. If a non-exempt employee is out of leave credits, the salary must be docked. Exempt employees are charged leave credits for absences only on a full day basis based on the normal hours worked.

SECTION 2 - BENEFITS

2.1 BENEFITS - Choice

A disabled employee shall have 15 calendar days from the mailing of the notice of benefit eligibility to notify his/her campus that s/he elects Workers' Compensation Temporary Disability (TD) benefits with or without supplementation, rather than IDL benefits. The employee's choice shall be retroactive to the first day of eligibility for disability benefits. Upon failure to respond within the time limit, the employee shall be placed on IDL unless TD benefits are greater. In such a case, the employee shall be determined to have rejected IDL in accordance with Education Code Section 89529.05, and all provisions of Workers' Compensation Temporary Disability shall apply.

If a disabled employee is incapable of making decisions for himself/herself, the campus or the disabled employee's spouse or representative shall request through the third party administrator that the Workers' Compensation Appeals Board appoint a guardian or trustee in accordance with Section 5307.05 of the Labor Code. In such cases, the 15 calendar-day time limitation on the benefit choice provisions shall be waived.

Appendix B is an example of a benefits summary form that the campus may wish to reproduce and use as a guide while counseling an employee on choice of benefits.

2.2 BENEFITS - Employee Waiver of Selection

If a disabled employee waives his/her right to make his/her benefit selection, Education Code Section 89529.05 provides that s/he will receive IDL benefits unless Workers' Compensation Temporary Disability payments are greater, in which case all provisions of Workers' Compensation Temporary Disability shall apply.

2.3 BENEFITS - Change

Employees will be given a one-time opportunity to change benefits. At any time during the first 90 calendar days of absence, the disabled employee may notify his/her campus to change benefits from IDL to Workers' Compensation Temporary Disability benefits or vice versa. Such change shall be a one-time opportunity and shall be effective on the 90th calendar day of absence. The amount of benefit shall be that which the employee would have received on the 90th calendar day had the benefit been initially elected.