

IDL Frequently Asked Questions

Contents

IDL Time Calculation and Eligibility Determination	1
IDL Special Pay Provisions	6
IDL Coordination With Other Benefits	8
IDL Discipline, Layoff, and Denial of IDL Benefits	10
IDL and Permanent Intermittent (PI) Employees	12

IDL Time Calculation and Eligibility Determination

1. What is the first day of disability for IDL for the purpose of calculating the 52 weeks or appropriate work hours in the two year period for IDL?

The first day of disability is the first day of lost time, not the date of injury. Since the day of injury is paid as Administrative Time Off, it would not be appropriate to include the date of injury as the beginning of the IDL period. It is important to remember that all days of disability must be confirmed by State Fund and may be partial days of disability.

2. Is time used on the date of injury picked up as Administrative Time Off only after the workers' compensation claim is approved?

No. If the employee missed time from work on the date of injury, this time is Administrative Time Off even if the claim is not approved for workers' compensation benefits. Employees should be directed to seek appropriate medical treatment, and employers should authorize the initial visit and secure transportation if necessary.

3. Is IDL paid for time lost from work to attend medical appointments related to the employee's workers' compensation injury?

No, not after July 1, 2014. IDL is paid for medically substantiated periods of disability that State Fund has confirmed.

The obligation to pay IDL ends when the injured employee returns to work, is deemed able to return to work, or when the employee's medical condition achieves permanent and stationary status. If the employee is able to work, time off solely to attend a medical appointment does not constitute a period of disability. Employees can use available leave credits, or adjust their time (depending on business needs) to attend medical appointments.

4. How is the three calendar day waiting period calculated after July 1, 2014?

IDL is not paid for the first three days after an employee leaves work as a result of the injury unless temporary disability continues for more than 14 days, the injury is the result of a criminal act of violence, or the employee is hospitalized for treatment required by the injury. The three day waiting period shall be identified by State Fund as the first three days of medically substantiated disability. These days of disability do not need to be full days, consecutive days, or days that the employee was scheduled to work.

The waiting period is calculated the same for all employees regardless of work schedules and time bases. Here are two examples:

Emily Employee was injured on Thursday. The doctor reported, and State Fund confirmed, that Emily was disabled and could not return to work until Monday. The waiting period was served (Friday, Saturday, and Sunday).

Emily Employee was injured on Thursday. The doctor reported, and State Fund confirmed, that Emily could only work half time Friday, Saturday, and Sunday, and return to work on her regular schedule on Monday. The employee has served the waiting period (Friday, Saturday, and Sunday).

5. Prior to July 1, 2014, how was the three calendar day waiting period and 14 day period calculated?

The waiting period did not need to be consecutive or full days of absence. Partial days of absence relating to the disability (including medical appointments) were accumulated to 24 hours to fulfill the waiting period.

Partial days of absence were to be counted as full days when determining the 14-day period. However, the aggregate hours over the 14-day period must, at a minimum, exceed the 24 hours needed to meet the three-calendar-day waiting period.

6. How are absences tracked for employees in Work Week Group E and SE who are exempt from the Fair Labor Standards Act (FLSA)?

Under the provisions of the FLSA, E or SE employees are required to track partial day absences for disability leave.

All lost time, including partial days (e.g. reduced work day schedules) must be tracked on the employee's timesheet. Lost time including the delay period needs to be charged to the employee's leave credits. If the claim is accepted and State Fund notifies the agency of the period of disability, you should restore leave credits used for absences or partial days and pay the appropriate hours of IDL. If the time is not confirmed by State Fund, leave credits for partial days need to be restored to the employee. Refer to PML 95-023 for more information regarding employees exempt from FLSA.

7. Must the Agency complete the Industrial Disability Leave – Benefit Option Comparison (STD. 618S) for every employee who is approved for IDL?

Yes. The STD. 618S must be completed upon receipt of the disability notification from State Fund. The STD. 618S is a key piece of documentation for both the employer and the employee that provides a basic explanation of the benefits and calculation of compensation.

8. If an employee incurred a work-related injury or illness at one state agency and transfers to another agency, which agency is responsible for paying IDL?

Each agency is responsible for paying IDL during the periods of disability that occurred while the employee was working for that agency. The agency losing the employee has a duty to provide any history of IDL paid (calendar, 618S, etc.) to the agency gaining the employee.

IDL Time Calculation continued

9. Whose responsibility is it to track the waiting period and the 52 weeks or appropriate hours of IDL?

It is the agency's responsibility to track the waiting period and the hours of IDL. The agency should notify State Fund 30 days prior to the final hour of IDL, so that State Fund can begin paying TD, if appropriate. It is State Fund's responsibility to notify agencies of medically substantiated periods of disability, including the waiting period.

After July 1, 2014, full-time employees have 2080 hours of IDL available. To determine the eligible hours of IDL, for other time bases, use the following formula:

$2080 \times \text{time base} = \text{total hours available}$ The calculations for some common time bases are shown below:

1/2 time employees: $2080 \times 1/2 = 1040$ hours

3/4 time employees: $2080 \times 3/4 = 1560$ hours

5/6 time employees: $2080 \times 5/6 = 1733$ hours

4/5 time employees: $2080 \times 4/5 = 1664$ hours

7/8 time employees: $2080 \times 7/8 = 1820$ hours

10. How are the appropriate hours of IDL tracked for employees who change time bases during the time they are receiving IDL benefits?

The goal is to provide 52 weeks of IDL benefits within a two year period. If an employee changes time bases during their period of IDL eligibility, you will need to recalculate the available hours to insure the employee receives the benefits they are entitled to.

Convert the hours the employee used to days (may need to approximate). Subtract that number from 260 paid days in a year to determine the number of available days of IDL. Convert the number of available days back to hours at the new time base. Here are two examples:

Emily Employee was a full-time employee and used 360 hours of IDL, then her time base was reduced to $\frac{3}{4}$ time. How many hours of IDL are available?

360 hours at full-time = 45 days (360 divided by 8 hours/day)

$260 - 45 = 215 \times 6$ ($\frac{3}{4}$ time = 6 hours per day) = 1290 hours of IDL available

Emily Employee was a half time employee and used 175 hours of IDL, then her time base was increased to $\frac{7}{8}$ time. How many hours of IDL are available?

175 hours at $\frac{1}{2}$ time = 44 days (175 divided by 4 hours/day = 43.75 round to 44)

$260 - 44 = 216 \times 7$ ($\frac{7}{8}$ time = 7 hours per day) = 1512 hours of IDL available

11. Should employees on alternate work week schedules have their schedules changed to a 5-8-40 schedule?

No. An employee off for the month on IDL can remain on their alternate work schedule and does not earn or use excess hours or holidays. An employee cannot be paid more than the maximum hours in the pay period.

12. How are excess/deficit hours shown for employees on alternate work week schedules who are using IDL intermittently or working while on IDL?

Treat the employee the same as if they were working. The employee receives a credit for months when there is an excess and for months with a deficit they must use leave credits to supplement the number of hours required for the pay period.

13. Does the amount of leave credits used to supplement IDL count toward the hours of IDL the employee is entitled to?

No. Leave credits used for supplementation have a dollar value, but no “time value.” The employee’s time off is already covered by IDL, the supplementation is just a cash out of available leave credits to bridge the gap between the IDL payment and regular salary.

14. Can an employee receiving IDL go on vacation?

Yes. If the employee is totally temporarily disabled and receiving full IDL, continue the IDL payment. If the employee is working while on IDL, continue the IDL payment and post appropriate leave credits for the additional time missed from work. Agencies are encouraged to share information about the employee’s activities with the claims adjuster.

IDL Special Pay Provisions

1. Are employees entitled to special pay(s) when they are on IDL?

Refer to Section 14, “Pay Differentials”, in the California State Civil Service Pay Scales Manual to determine if the special pay should be included or excluded from the IDL calculation. If it states that the pay should be included in the calculations and is ongoing, the IDL calculation must include the special pay. If the special pay is task related (e.g., diving pay) and the employee must perform the task to receive the pay, the special pay should only be included if the employee was scheduled to perform the task.

2. Is an employee entitled to shift differential while on IDL?

Yes, if the employee was receiving the shift differential at the time of the injury. However, if there is a regular shift rotation that would place the employee on a shift not entitled to the differential, payments for IDL and supplementation should be recalculated to exclude shift pay.

3. How is an employee compensated for holidays while receiving IDL?

If the holiday falls within the disability period it is compensated in the employee’s IDL payment.

If the holiday falls outside the disability period or is a Saturday Holiday, provide payment or holiday credit as if the employee were not receiving IDL.

If the employee is working reduced hours due to the injury, and receiving IDL for the balance of the hours, the employee would be paid for the holiday and the time would not count against the employee's IDL benefits.

4. Can an employee who is in two state miscellaneous positions qualify for IDL in both positions?

Yes. If both positions are CalPERS/CalSTRS-qualifying positions, the employee may receive IDL if he or she is disabled in both jobs, as long as the total IDL compensation does not exceed the equivalent of one full-time position. The position with the higher time base is used for this calculation; if both positions are equal in time base, the higher salaried position is used. If the employee is in a full-time position and a part-time position, IDL is paid on the full-time position.

5. Can an employee who is in two state safety positions qualify for EIDL in both positions?

Yes. If both jobs qualify for EIDL, the employee is disabled from both jobs, State Fund has notified both agencies, and the appointing powers at both jobs approve the benefits.

6. Does an employee continue to make CalPERS/CalSTRS contributions and earn full retirement credit while receiving IDL?

Yes. An employee's full CalPERS/CalSTRS contribution will be deducted from the IDL payment. The employee will continue to earn full retirement credits. For more information regarding retirement contributions, contact CalPERS or CalSTRS directly.

7. Can an employee work overtime while on IDL?

Yes, however per Government Code section 19844.1, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, compensating time off, or any other leave shall not be considered as time worked by the employee for the purpose of computing cash or compensating time off for overtime. Only actual hours worked count toward the weekly calculation for premium rate overtime pay. Employees who are not eligible for premium rate would earn straight rate pay.

IDL Coordination With Other Benefits

1. Can employees supplement Permanent Disability (PD) advances with leave credits?

No. There is no statutory authority to supplement PD advances with leave credits.

2. Can an employee opt to use their sick leave in lieu of IDL?

No. Government Code section 19871 states that the employee shall receive IDL. However, employees are allowed to use leave credits or dock to cover periods of disability that have not yet been confirmed by State Fund. Once the period of disability has been confirmed by State Fund, the agency will restore those leave credits and pay IDL.

3. If an employee is injured prior to becoming a CalPERS or CalSTRS member and becomes a member while on TD, can he or she elect to go on IDL?

No. The employee must remain on TD for the duration of the disability because they were not eligible for IDL on the date of injury.

4. Can an employee receive IDL after reaching maximum medical improvement or becoming permanent and stationary?

When an employee becomes permanent and stationary, they are no longer eligible for IDL. However, in some cases, an employee will experience a subsequent period of temporary disability. This would entitle the employee to an additional period of IDL if State Fund confirms the subsequent period

of temporary disability and the employee has not exhausted their IDL benefits.

5. Is it possible for an employee to receive IDL and NDI on the same date, assuming that they qualify for both benefits?

Yes. If the NDI benefit is greater than the IDL benefit that the employee is due for the day, the employee gets the IDL and the balance due for NDI.

For example, if the IDL benefit is \$10 and the NDI benefit is \$19, the employee receives \$10 in IDL benefits and \$9 in NDI benefits. Refer to Government Code section 19882.

This is uncommon and rarely happens during IDL.

6. Can an employee receive State Disability Insurance (SDI) benefits for an industrial injury?

Employees can apply for and receive SDI during the period of disability while their workers' compensation claim is pending or denied. If the claim is approved at a later date, and IDL benefits are confirmed by State Fund, there may be over lapping IDL and SDI benefits, and a potential overpayment of SDI. The employee is responsible for resolving any SDI overpayment with the Employment Development Department.

7. Can an employee take a bereavement leave while on IDL?

Yes. The employee is entitled to bereavement leave when on IDL. The agency should interrupt IDL and put the employee on bereavement leave (regular pay status) for the appropriate period of time and then resume IDL. The regular pay days/hours do not count toward the IDL limit.

8. Can an employee attend jury duty while on IDL?

Yes, if the work restrictions placed on the employee do not conflict with jury service. The employee is bound by the same rules regarding jury duty as if they were working, and should provide substantiation of jury service. The agency should interrupt IDL for the period of time the employee is on jury duty and place them on regular pay status. Once jury duty is completed,

the employee should be placed back on IDL. The regular pay days/hours do not count toward the IDL limit.

9. Is an employee eligible for catastrophic leave while waiting for IDL to be approved or for supplementation of IDL?

Yes. An employee may be eligible for an agency's catastrophic leave program if the nature of the illness or injury otherwise meets the criteria established by the agency for catastrophic leave. Please check the appropriate bargaining unit contract.

10. If an employee is off work on IDL and is eligible for a Merit Salary Adjustment (MSA), should the supervisor approve the pay increase?

Yes. You cannot deny a MSA because the employee filed a workers' compensation claim.

11. Can an employee who is on IDL change their marital status and dependents?

Adding or deleting family members can be done whenever appropriate. However, changes may not be made to exemptions for the purpose of tax withholding during the first 22 working days or 176 hours of approved IDL (which are paid at full net salary), because Government Code section 19871 requires that IDL payments be based on the net salary at the date of injury. Marital status and dependents may be changed after the first 22 working days or 176 hours of IDL have been paid.

IDL Discipline, Layoff, and Denial of IDL Benefits

1. Can an employee on IDL who subsequently demotes during the disability period retain their salary rate, or is the salary rate adjusted to reflect the demotion?

IDL should be adjusted to reflect the salary an employee would receive if the disability had not occurred. If the employee receives an increase in pay while on IDL, the benefit payments increase; if the employee receives a demotion or pay cut, the IDL payment should be reduced accordingly.

2. Is an employee who is suspended because of an adverse action while on a workers' compensation claim entitled to IDL during the suspension?

No. An employee who is suspended and taken off pay status while on IDL may be eligible for TD without supplementation during the period of the suspension. State Fund must be notified that the employee has been suspended so they can begin TD if appropriate. However, if possible, it is best to postpone any disciplinary action until the employee has returned to work from disability leave.

3. Does the time off on suspension count towards the 52-week limit on IDL?

No. If State Fund confirms that the employee is still temporarily disabled, the IDL will resume without any loss in benefit levels after the suspension has ended.

4. Can the employer deny IDL benefits if they have knowledge that the injured worker is working at another job while on IDL?

No. IDL payments cannot be withheld simply because the injured worker has another job. However, if the injured worker is working, it should be brought to the attention of State Fund immediately so they can investigate if necessary.

5. Is an employee who is terminated because of an adverse action entitled to IDL after the effective date of the termination?

No. IDL is a disability leave benefit which provides for salary continuation. It is based on the assumption that the employee is a current employee and will eventually return to work. Termination is not a temporary absence and there is no expectation the employee will return to work, so there is no legal basis to provide salary continuation benefits. However, State Fund must be promptly notified by the agency when the employee is terminated, because they may be eligible for TD benefits.

6. How are employees on IDL to be treated if they are subject to layoff based on seniority?

Employees on IDL are subject to the same procedures as other employees during a layoff.

An employee on IDL should be notified at the same time as other employees and advised of their employment options. IDL continues up until the actual date of layoff, but terminates when the layoff is effective. After the layoff, the employee may be entitled to receive TD without supplementation. The agency must notify State Fund promptly when an employee with a workers' compensation claim is laid off, so State Fund can begin TD benefits if appropriate.

7. If IDL is retroactively rescinded, does the agency have to collect the overpayment?

Yes. Agencies are obligated to set up an accounts receivable to collect the overpayment. However, pursuant to Government Code section 19838, agencies cannot take action to recoup an overpayment unless the action is initiated within three years from the date of overpayment.

IDL and Permanent Intermittent (PI) Employees

1. How many hours of IDL is a PI employee entitled to per claim?

If the PI employee is a CalPERS or CalSTRS member, the PI employee is entitled to a maximum of 52 weeks of IDL within a two year period from the first approved date of disability for each claim.

Prior to July 1, 2014, a PI employee is entitled 365 calendar days of IDL within a two-year period from the first day of disability for each claim.

After July 1, 2014, the number of hours that constitute 52 weeks of IDL may vary depending on the employee's work schedule, but will never exceed 2080 hours.

If the employee's work hours over the next 12 months can be anticipated, simply take the number of hours that the employee would be expected to work and divide by the number of months that the employee would have worked, excluding any furlough (non-work status) months, to get the average number of work hours in a month. Multiply that number by 12 months to get the maximum number of IDL hours.

Here is an example:

Emily Employee is expected to work 1500 hours over the next 9 months. Then she will be furloughed for 3 months.

1500 divided by 9 months is 167 hours per month.

167 hours times 12 months is 2000 hours.

Emily Employee would be eligible for up to 2000 hours of IDL for her injury.

If the employee's work hours over the next 12 months cannot be anticipated, the agency should use the average number of hours worked each month for the last 12 months. Include all paid leave time such as sick leave, vacation, holiday pay etc. when determining the average number of hours worked. Divide the number of hours worked by the number of months that the employee worked, excluding any furlough months or any months that predate the PI employee's employment period. This will give you the average number of work hours each month. Multiply that number by 12 to get the maximum number of IDL hours.

Here is an example:

Eric Employee started working for the state as a PI employee 9 months ago. He was furloughed for 3 months and worked for 6 months, logging a total of 810 hours.

810 hours divided by 6 months is 135 hours per month.

135 hours times 12 months is 1620 hours.

Eric Employee would be eligible for up to 1620 hours of IDL for his injury.

2. Is a PI employee entitled to IDL while they are furloughed (non-work status)?

No. PI employees are entitled to IDL during periods in which they would have been scheduled to work if they had not been injured. During periods when the employee would have been furloughed due to lack of work, having reached the maximum number of hours, or other reasons, the PI employee would not receive IDL, but may be entitled to TD.

Be sure to notify your State Fund adjuster at least 30 days before IDL is scheduled to end either because the PI employee has exhausted the IDL benefit available or because the PI employee is being placed on furlough status.

If the furlough period ends and the employee is still unable to return to work, the employee should be placed back on IDL if they remain temporarily disabled and have not exhausted the IDL benefit.

If the employee's current time base is intermittent but the previous pay periods worked were on a full- or part-time basis, convert the full- or part-time pay periods to hours on the basis of 173.33 hours for full-time or the part-time fraction of 173.33 hours for each pay period. Add these numbers to determine hours worked, and divide by the applicable number of pay periods to arrive at the average hours of pay each month.

Once a PI employee's hours are calculated (either by averaging or using their projected schedule) this average number of hours will be used to pay IDL for the life of the claim.

If the employee's time base is indeterminate, the payment is based on the appointment agreement or the estimated intermittent time base.

3. If the PI employee is appointed to a limited term position, or a permanent full- or part-time position, will it affect the employee's IDL benefits?

Yes. If the PI employee is appointed to a limited term position, or a permanent full- or part-time position, any IDL payments that are made after the appointment date will be based on the new full- or part-time basis.

The agency will determine how much of the employee's IDL entitlement has been used and convert the remaining IDL entitlement to the new time base. Use the same process that is described in the answer to Question 10 – “How are the appropriate hours of IDL tracked for employees who change time bases during the time they are receiving IDL benefits?” under “IDL Time Calculation and Eligibility Determination.”

4. How many hours should be applied towards a PI's various benefits if they are on IDL?

Once an employee's method of compensation has been determined (either average hours or set schedule method), the employee will be credited with no more than 160 hours per month toward their state service, vacation/sick leave/annual leave accruals, MSA, SISA, Alternate Range Change, and personal holiday and vacation waiting periods. All hours paid (with no cap) will be applied toward eligibility for retirement and/or health and dental benefits. For additional clarification, consult section E409 of the Payroll Procedures Manual.

5. If an agency calculated average hours for IDL by using the preceding 12 months, and the employee worked some hours in the current month, can the combined regular pay and IDL pay exceed the average?

Yes. Time worked in the current month does not affect the average past hours calculated for the IDL payment.

In this example, the employee normally works an average of 125 hours a month. The first five days of the month, the employee works 40 hours. The employee is temporarily disabled and receives IDL the last 17 days of the month.

Average hours per day are 6 hours, 6 hours times 17 days = 102 hours.

The 102 hours of IDL plus the 40 hours physically worked exceeds the 125 hour average.

The total hours can only exceed the average if an employee is working and on IDL during the same pay period.

IDL and Permanent Intermittent Continued

6. Do you include the hours of paid IDL when calculating the maximum cap hours for a PI employee?

Yes. Hours paid as IDL count toward the employee's maximum cap of 1500 hours. (Some agencies have different maximum cap hours, so be sure to check your bargaining unit contracts.)

If the employee would have been furloughed upon reaching the maximum hour cap, the employee will not be eligible for IDL during the furlough period. Notify State Fund 30 days before the furlough date so they may begin TD without supplementation if appropriate. Once the employee becomes eligible for their new maximum cap hours, they should be placed back on IDL if State Fund confirms that they are temporarily disabled and they have not exhausted their IDL benefit.

7. If a PI employee has been off on IDL, then comes back to work and suffers a new injury, should the time on IDL be included when calculating the 12 month average for the new claim?

Yes. Both regular time paid and IDL should be used to calculate the average.

8. If a PI employee is injured prior to becoming a CalPERS/CalSTRS member and becomes a member while on TD, can the employee elect to go on IDL?

No. The employee must remain on TD for the duration of the disability because they were not eligible for IDL on the date of injury.

9. When a PI employee is approved for IDL and has received NDI or SDI during some of the preceding 12 months being used to calculate the average hours, how do you calculate the average hours?

You only add the hours paid, and divide the total by the number of months in which the employee worked. Disregard the months the employee was on NDI or SDI.

10. An injured PI employee is given a release to return to modified work for four hours a day. Should the employee be scheduled to work their regular shift or only a four hour shift?

The employee should be scheduled to work the amount of hours they would be expected to work had there not been a work-related injury. The employee should only work the number of hours approved by the doctor. The employee will receive the appropriate workers' compensation benefits for the remainder of hours.

11. How is a PI employee compensated for holidays when on IDL?

If the holiday falls within the disability period, it is compensated in the employee's IDL payment.

If the holiday falls outside the disability period or is a Saturday Holiday, provide payment or holiday credit as if the employee were not receiving IDL.