

**California Department of Human Resources
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Workers' Compensation Program – Industrial Disability Leave (IDL), Industrial Disability Leave with Supplementation (IDL/S), and Enhanced Industrial Disability Leave (EIDL)	REFERENCE NUMBER: 2014-025
DATE ISSUED: 09/10/2014	SUPERSEDES:

This memorandum should be forwarded to:

Personnel Officers
Personnel Transaction Supervisors
Return-to-Work Coordinators
Health and Safety Officers

FROM: Department of Human Resources
Benefits and Training Division

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The rules governing Industrial Disability Leave (IDL) changed effective July 1, 2014. This PML provides direction for the administration of IDL, IDL with supplementation (IDL/S), and enhanced IDL (EIDL) for time lost from work on or after July 1, 2014. This information is valid until the next directive from CalHR is issued, or changes in the law or Government Code cause changes to information provided in this PML. Changes made by agencies pursuant to this memorandum 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.

Industrial Disability Leave

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.

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).

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.

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.

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.

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.

Industrial Disability Leave with Supplementation

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.)

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.

Enhanced Industrial Disability Leave

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.

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.

For questions regarding IDL, IDL/S, or EIDL please contact the Workers' Compensation Program, CalHR, Benefits and Training Division at workcomp@calhr.ca.gov.

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For Disability Payroll processing questions, contact the Disability Liaison Unit at the State Controller's Office at (916) 322-7200.

/s/Darlene Schell

Darlene Schell, Chief
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QUESTIONS AND ANSWERS ABOUT IDL, IDL/S, AND EIDL

A. IDL Time Calculation and Eligibility Determination

1. Is the first day of disability for IDL the date of injury or the first day of lost time 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 the 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. How is the three calendar day waiting period calculated?

No IDL is 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).

4. 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.

5. 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.

6. 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.

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

7. 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 3/4 time. How many hours of IDL are available?
360 hours at full-time = 45 days (360 divided by 8 hours/day).
 $260 - 45 = 215 \times 6$ (3/4 time = 6 hours/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 7/8 time. How many hours of IDL are available?
175 hours at 1/2 time = 44 days (175 divided by 4 hours/day = 43.75 round to 44).
 $260 - 44 = 216 \times 7$ (7/8 time = 7 hours/day) = 1512 hours of IDL available.

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.

9. 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 remains on their alternate work schedule and does not earn or use excess hours or holidays. An employee cannot be paid more than 168 or 176 hours.

10. 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.

11. 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.

12. 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.

B. 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.

C. 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 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 overlapping 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. Is an employee who is off work on IDL eligible for a Merit Salary Adjustment (MSA)?

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.

D. 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.

E. 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. 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 9 – "How are the appropriate hours of IDL tracked for employees who change time bases during the time they are receiving IDL benefits?" under "A. 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 going back 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.

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.