

ICI Elimination Period During Summer Breaks When Sick Leave is Not Accessible to Employee

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Issue:

Many education employees are 9-month employees, and are not on payroll over the summer, which means that they do not have access to their sick leave over the summer.

Applicable Law and ICI Plan Language:

Wis. Stat. 40.62(1): Employees shall be eligible for benefits upon exhaustion of accumulated sick leave and completion of the elimination period.

Section 2.13(4) of the ICI plan language: The elimination period or use of sick leave or both shall begin on the first date of disability and continue without a break even if the claimant has a summer, seasonal or semester break.

Section 2.13(2) of the ICI plan language: The first day of the elimination period shall be the day after the last day worked or the day the claimant becomes continuously and totally disabled, whichever is later. . . .

Wis Stat. 40.62(1m): ... no employee may be required to use more than 130 days of accumulated sick leave unless required to exhaust accumulated sick leave under s. 40.63(1)(c)

Policy:

ICI coverage still exists for employees over the period that they are not working.

Employees are eligible for benefits once the elimination period has been completed regardless of eligibility to use accumulated sick leave (may have to serve elimination period without pay if employer policy does not allow for sick leave use while employee is not in working contract period).

The employee's sick leave exhaustion date would be calculated by tacking on the sick leave hours to the last day worked (LDW) as if the individual were working their normal schedule. The ICI benefit begin date would be based on the latter of the elimination period end date or the sick leave exhaustion date.

Example 1:

Jane Doe works for UW-Eau Claire. Her LDW is May 22 and her date of disability is June 22. She has 130 days of sick leave and a 125-day elimination period. The school year contract starts again on August 22. In this case, the employee's sick leave (130 days) exceeds her elected elimination period (125 days) so she will need to serve a 130

day elimination period before ICI benefits will begin. This will start on the day after her disability (June 23) and end in 130 days (12/28/2011). Her ICI benefit would begin on 12/29/2011.

The school year starts again on August 22. From June 23 to August 22, she will not receive any income because she does not have access to her sick leave (this is part of employment contract she has with her employer). During this period, her accumulated sick leave balance does not change. Once her contract starts again on August 22, she will begin using sick leave to fulfill the remainder of her elimination period (85 days) until her ICI benefit begins.

Example 2:

John Doe works for UW-Stevens Point. His LDW was 5/29/12. He had 48 hours of sick leave. His sick leave exhaustion date would be 6/6/12. He has a 30 day elimination period (last day of elimination period: 6/28/12). Therefore, his benefit begin date would be 6/29/12.

He could not use sick leave during summer break. Once the new contract period started (September) and he had access to sick leave again, we would still continue to pay ICI benefits because we would have already taken into consideration his sick leave when determining his benefit begin date. So, unless he decides to use it for some reason, his sick leave would just remain on the books for future use.

Rationale:

- ETF does not have access to, control over, or ability to monitor an employee's accumulated sick leave account. Actual use of that accumulated sick leave is controlled by the employer/employee employment agreement.
- The intent of Wis. Stat. 40.62 was to reduce the financial liability of the ICI program if sick leave was available to the participant. This policy achieves that as the elimination period is still served, regardless if the participant chooses to use his/her sick leave to cover that time period.
- Ease of administration. It would be difficult for the employers, administrator, and ETF to stop and start elimination period and ICI benefits based on individual employee/employer employment agreements.
- Equity. All state ICI participants serve the required elimination period based on their accumulated sick leave.