

Department of Employee Trust Funds
Income Continuation Insurance Administration Manual-State

Chapter 7—Benefits

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700 Introduction

Insured employees qualify for ICI benefits on the day after they cease working and have been continuously and totally disabled for 30 calendar days or, in the case of UW faculty and academic staff, for their selected elimination period. (UW faculty are required to select an elimination period of 30, 90, 125 or 180 calendar days that, in the event of disability, must elapse before ICI benefits begin.) No ICI benefit payments can be made while earnings are payable for accumulated sick leave hours and/or earnings paid for vacation, holiday and comp time.

ICI benefits are based on 75% of the claimant's pre-disability earnings, less any other income or benefits from other sources. Notify ICI's third-party administrator immediately upon becoming aware that an employee receiving ICI benefits is also receiving income from other sources. (Refer to subchapter 708 for additional information on benefit offsets.)

701 Eligibility for ICI Benefits

ICI benefit eligibility requires that ICI coverage be in effect on the "first date of disability" as defined in the ICI plan. ICI benefit payments do not begin until a claimant has been totally and continuously disabled through the entire elimination period. No benefit payments can be paid while sick leave is payable or for days falling within the elimination period.

ICI benefits are payable beginning the first calendar day *following* the last day of the elimination period or the last day of sick leave (maximum 130 days), whichever is later, and for each succeeding calendar day until the disability ceases, as defined by ICI plan provisions. ICI benefits are paid only for full days of disability, not partial days. No ICI benefit payments can be made while earnings are still being paid for vacation, holiday pay, etc.

Totally Disabled means the claimant is under the regular care and attendance of a physician, and:

During the first 12 months of disability (Short-term disability)—is unable, by reason of any medically determinable physical or mental impairment as supported by objective medical evidence, to perform the duties of their position.

Following the first 12 months of disability (Long-term disability)—is unable, by reason of any medically determinable physical or mental impairment as supported by objective medical evidence, to engage in any substantial gainful activity for which the claimant is reasonably qualified, with due regard to their education, training and experience.

Claimants shall be considered engaged in substantial gainful activity when earnings from that activity are equal to or greater than the gross ICI benefit for the same period of time.

702 Determining Dates of the Elimination Period

The ICI third-party administrator determines the beginning date of the elimination period. Vacation, holiday and compensatory time need NOT be exhausted before ICI benefit payments can begin. Subject to employer personnel policies and rules, claimants may use such time at their own discretion. However, no ICI benefits are payable for any day for which the claimant is paid for vacation, holiday or compensatory time after the elimination period is satisfied. Any vacation or compensatory time used after the selected elimination period must be reported to ETF on *Income Continuation Insurance Transaction Report* (ET-5901).

A. The First Date of Disability

The first date of disability is the first date certified by a physician that the claimant is no longer able to perform the duties of their position due to a medical condition. This date may not be earlier than the last date on which the claimant performed any work. If the claimant did not see a physician on the last day worked and has not been receiving treatment for the medical condition prior to ceasing work, the first date of treatment is the first possible date the elimination period can begin. Claimants must have ICI coverage in effect on the first date of treatment. ICI premiums must be continued in full until the employer receives notification of the claim's approval and subsequent waiver of premiums.

B. The First Date of the Elimination Period

The first day of the elimination period will be no earlier than the day after the last day worked or, if the claimant did not see a physician on the last day worked, the day the claimant is first seen for medical treatment following the last day worked. The claimant must be treated by a physician after they cease working to determine whether the medical condition meets the plan's disability definition. However, if the claimant is involved in a treatment plan with a physician for a medical condition prior to ceasing employment, and the physician indicates the disability definition has been met, the elimination period may begin the day following the last day worked. In no event can the elimination period begin prior to the date the claimant is completely off work and satisfies the above definitions of total disability (and **only** if the claimant is still insured under the ICI plan).

C. The First Date of ICI Benefits

The employee qualifies for ICI benefits after serving the elimination period or exhausting the maximum of 130 days of sick leave, whichever occurs first. To determine the elimination period, the third-party administrator will begin with the first date of disability and count consecutive calendar days to the end of the elimination period.

D. Effect of Sick Leave on the Elimination Period

If the employee's sick leave is greater than the elimination period, report the sick leave as of the end of the employee's last day worked plus sick leave earned while continuing in pay status. The third-party administrator will use Monday through Friday as the standard workweek to calculate the date the sick leave is exhausted. For employees with a non-standard workweek send a copy of the work schedule with the *Income Continuation Insurance Employer Statement* (ET-5351).

Employees entitled to receive pay for a particular Legal Holiday, the designated calendar date of that holiday will not be counted as a day of sick leave usage. The following Legal Holidays extend the date sick leave is exhausted:

New Year's Eve	Labor Day
New Year's Day	Thanksgiving
Martin Luther King Jr. Day	Christmas Eve
Memorial Day	Christmas Day
Independence Day	

Each workday will consist of 8 hours of sick leave unless the claimant is less than a 100% time employee. Part-time employees will have sick leave considered used in proportion to the number of hours worked in a day in their position appointment. For example, an employee appointed to a 60% position will have sick leave considered used at a rate of 4.8 hours per day (8 hours normal workday x 60% = 4.8 hours sick leave).

Sick leave usage is calculated commencing with the first workday following the last day worked. Take into consideration sick leave used if the employee did not complete a full workday on their last day worked.

703 Earnings for Benefit Payment Purposes

The amount of "earnings" used for ICI claim computation purposes is the claimant's previous year's WRS-reportable earnings, rounded to the next higher thousand and divided by 12. Exception: If the employee was newly hired and does not have a full year of earnings in the previous calendar year, or the employee had a permanent change in percentage of appointment that is not accurately reflected in the previous calendar year's earnings, the estimated base salary that was used to determine the most recent premiums will be rounded to the next higher thousand and divided by 12. The ICI benefit is based on those projected earnings. (Refer to subchapter 400.)

704 Benefit Payments

Following completion of the claimant's elimination period, ICI benefits are paid for every day of continuing disability, including weekends. The monthly salary (as determined in subchapter 703) is multiplied by 75% to obtain the monthly benefit amount. Benefits are paid monthly, with a check dated the first of the month for benefits covering the previous month. For each day of the benefit period less than one month, partial monthly payments are determined at one-thirtieth (1/30) of the monthly benefit.

- Example illustrating the monthly ICI benefit calculation:

Monthly Earnings x 75% = Monthly ICI Benefit

$$\$5,837.53 \times 75\% = \$4,378.15$$

- Example illustrating a prorated monthly ICI benefit calculation:

**Monthly ICI Benefit ÷ 30 = Daily ICI Benefit x days paid in partial month
= prorated Monthly ICI Benefit**

$$\$4,378.15 \div 30 = \$145.94 \times 20 \text{ (days in partial month)} = \$2,918.80$$

Note: The maximum monthly benefit payable with standard ICI coverage is \$4,000; with supplemental ICI coverage, the maximum monthly benefit is \$7,500. In the example above, the employee had standard ICI and supplemental ICI coverage. Had the employee been enrolled in standard ICI only, the maximum monthly benefit would equal \$4,000 with a daily ICI benefit amount of \$133.33.

ICI pays disabled employees a monthly amount that, together with income from other sources listed in subchapter 708, maintains a specified percentage of the employee's pre-disability earnings. The specified percentage remains the same for the entire disability period, although the benefit income from various sources may change due to cost of living adjustments.

705 Dates of Benefit Payment Checks

ICI payments are made at the beginning of the month for the preceding benefit month. For example, January benefits are paid by a check dated February 1. The third-party administrator is required to have paper checks to the post office at least 2 days prior to the date of the check.

Claimants have the option of receiving benefits through electronic deposit; electronic deposit is the suggested form of payment for claimants receiving long-term disability ICI benefits. The claimant must complete the *Automated Clearing House* (ACH) authorization form provided by the third-party administrator. ACH ensures that benefits are received timely and prevents checks from being delayed, lost, stolen or fraudulently cashed.

Claimants failing to receive an expected benefit check after allowing reasonable time for mail delivery should contact the third-party administrator. (Refer to subchapter 104 for contact information.) The third-party administrator must allow the post office 12 days to deliver a check before a stop payment is issued and a new check mailed.

706 Continuation of Benefit

The third-party administrator estimates the anticipated length of all ICI disability periods. Depending on the cause and severity of the disability, as indicated in the original physician statement, the third-party administrator periodically requests supplemental medical information to determine whether the insured is still disabled. The frequency of these requests depends on the nature and duration of the disability.

707 Maximum Duration of Benefits

ICI benefits are payable through the end of the month in which a claimant reaches age 65, as long as the claimant meets all of the ICI plan requirements. However, benefits may extend beyond age 65 if the claimant was 62 or older on the first date of the disability. The age on the first date of the disability determines the maximum length of time ICI benefits may be payable. ICI benefits are not paid beyond the end of the month in which the employee turns age 70.

The maximum duration of benefits for disabled insured employees is:

<u>Age at Date of Disability</u>	<u>Maximum Duration of Benefits in Years</u>
61 or younger	To age 65
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69	To age 70

Example: An employee is age 67 when they first become disabled. Assuming all plan requirements are met, the employee will receive ICI benefits for 1.50 years (18 months). The ICI benefit will cease the end of the 18th month.

708 Offsets from Other Benefit Sources

ICI benefits are reduced by the gross amount of benefits paid or payable from the following sources:

- Any Social Security, disability or retirement benefits based on the employee's work record.
- Worker's Compensation – temporary total disability, temporary partial disability and compromise/settlement agreements. Note that permanent partial disability, permanent total disability, medical expenses, penalties assessed against employer and attorney fees are **not** offset from the ICI benefit.
- Any employer liability law benefits.
- Any occupational disease law (i.e., Duty disability benefits approved under §40.65, Wis. Stat.).
- Any Wisconsin Retirement System (WRS) retirement, disability retirement and separation benefits.
- Any employer sponsored or sanctioned salary continuation plan, including any plan whose premiums are paid or collected via payroll deduction.
- Earnings (including vacation, comp time and holiday pay) and earned sick leave.
- Unemployment compensation.

The ICI third-party administrator determines whether claimants are required to apply for other benefits. Should medical evidence support the application, the claimant is notified that they are required to apply for the benefit and complete the application process. For example, applications for Social Security Disability Insurance must be pursued through the administrative law judge level of appeal. Claimants are also notified of the possibility that ICI benefits will need to be repaid due to the approval of the other income.

Claimants who do not apply (or follow through with an application process) for other available benefits will have their ICI benefit reduced by the amount (or an estimated amount) they would have been eligible to receive from other source(s).

ICI benefits will be reduced by the largest benefit available from other sources, even though the claimant may select an option that pays a reduced benefit amount.

A claimant younger than the normal WRS retirement age for their employment category is not required to apply for a WRS retirement or separation benefit. However, should they do so, the ICI benefit will be offset by the maximum benefit provided by that income source.

The ICI third-party administrator also instructs the disabled employee to apply for Worker's Compensation (WC) benefits if the illness/injury appears work-related.

When an ICI claimant receives temporary WC benefits, the ICI Program must calculate the date the sick leave will be exhausted when used to supplement the WC benefits. WC pays 2/3rd of the employee's normal wages; therefore to bring the person up to "full pay," would require a supplement of 1/3 of pay. Based on a standard 8 hour work day, this would mean that the employee would need to use 2.6666 hours of sick leave for every standard work day.

Example calculation of sick leave exhaust date:

A full-time employee has 70 hours of sick leave. If he or she uses 2.6666 hours per day, he or she would have enough sick leave to cover 26.25 days ($70 \div 2.6666 = 26.2506$). The ICI third-party administrator would determine the sick leave exhaust date by counting standard work days (skipping weekends and holidays), starting with the first day absent.

For a person who only works 60% (or any other partial appointment), multiply 2.6666 times the work percentage. This will give you the correct number of hours needed per day. For example, $2.6666 \times 60\% = 1.6000$ hours per day.

Future ICI benefits may be reduced or suspended if the employee fails to apply for WC benefits. Once a WC decision is issued, the employer must report any approved WC awards to the third-party administrator, who then determines whether the ICI benefit needs to be reduced. Employers must report any temporary WC disability benefits on the [Income Continuation Insurance Report of Employment and Earnings \(ET-5901\)](#). (Refer to subchapter 901.)

In the event the WC claim determination is delayed, ICI benefits will be payable following the elimination period and computed without any WC adjustment. However, ICI payments are *recomputed* once the WC award is determined. Overpayments created by a WC award or another income source must be repaid to the ICI Program by the claimant. Payment options include repayment in full, monthly repayments made directly to ETF, wage assignments (garnishment) and/or withholding of future benefits.

Should an employee return to your employ in an appointment less than their pre-disability appointment, you are required to report any part-time earnings as indicated in subchapter 900.

709 Reduction or Termination of Benefits

ICI benefits are reduced or terminated when any of the following occur:

A. Return to full-time employment:

Benefits are payable through the date of return or through the date medical evidence indicates the claimant is capable of returning to work full-time, if earlier. The claim may be reopened if the employee becomes disabled with the same or a related disability within the time limits below. The employee needs to contact the third-party administrator:

- less than 14 consecutive calendar days (for claimants disabled fewer than 12 months)
- or*
- less than 6 months (for claimants disabled for more than 12 months).

B. Return to part-time employment:

Benefits continue on a reduced basis if the claimant returns to part-time employment with the pre-disability employer or if employment is approved as rehabilitative training. The ICI benefit will terminate for claimants receiving ICI benefits under the long-term disability benefit whose gross part-time earnings are

equal to or greater than the gross ICI benefit. The claimant is required to begin paying ICI premiums to continue ICI coverage.

The third-party administrator will contact the employers of any claimant released to return to part-time employment with restrictions to determine whether that employer can/will accommodate the restrictions.

Note: Claimants released to return to work for a specified number of hours but who choose to work fewer hours, will have their ICI benefit reduced by the number of hours specified by the physician release.

710 Rehabilitative Training

Rehabilitative training may be approved under the ICI Program if the claimant can no longer perform their previous occupation due to disability but, with proper training and education, could be capable of performing other gainful activities. A gainful activity is one that would provide an income equal to or greater than the gross ICI benefit.

Rehabilitative training may include higher education, vocational training, job counseling, on-the-job training or retraining. All rehabilitative training plans must be in writing, approved in advance by ETF, and include specific goals and dates agreed to by the claimant. In addition to regular benefits, once the rehabilitation program has been approved, the ICI Program may pay expenses such as tuition or textbooks (expenses associated with rehabilitation) if these expenses are not payable from other sources. Plans developed in conjunction with the Division of Vocational Rehabilitation (DVR) and approved by DVR and presented to ETF or the third-party administrator will be considered an approved rehabilitation plan.

As an incentive to return to work, only 75% of earnings from the employer under which the employee became disabled or an approved rehabilitative employment apply to the reduction of the claimant's ICI benefit. Sick leave earned after returning to work reduces the benefit amount dollar-for-dollar at the time paid. Earnings from unapproved rehabilitative employment reduce the claimant's ICI benefit amount dollar-for-dollar.

Under certain approved programs, ETF may authorize a benefit offset waiver for all or part of the rehabilitative earnings for a maximum of nine months; ETF must pre-approve the offset waiver. The claimant is required to provide appropriate documentation supporting any expenses related to accommodating their needs in getting to work and/or having an appropriate workstation.

Claimants determined physically and mentally capable of rehabilitative training who refuse to participate may have ICI benefits offset by the amount of projected rehabilitative employment earnings or may be subject to termination or suspension of ICI disability benefit payments.

711 Social Security Withholding on ICI Benefits

Social Security regulations provide that any income from a sickness or disability plan received during the first six months of a disability is subject to Social Security withholding if the employer paid a portion of the ICI premiums. The percentage of the benefit subject to Social Security withholding is equal to the percentage of the gross premium paid by the employer. Therefore, ICI benefits received during the first six months include the Social Security (FICA) withholding deduction. Paid ICI benefits based on the supplemental ICI coverage are not subject to FICA because there are no employer premiums; the employee pays the entire premium for supplemental coverage.

Social Security withholding ceases when a claimant terminates during the first six months of disability due to the approval of a WRS disability retirement benefit.

712 Taxability of ICI Benefit

The percentage of benefits considered taxable income is directly proportionate to the percentage of the total ICI premium paid by the employer. The taxable portion of the benefit is based on an average of the premium percentage paid by the employer over the three years prior to the year in which the ICI benefits are first paid. This applies to the standard coverage only, as the employee paid the entire premium for the supplemental coverage. However, due to continuing revisions of tax laws and the interpretation of the revenue code, claimants should consult both state and federal tax authorities for answers to specific questions concerning the exclusion or inclusion of such benefit payments as taxable income.

The ICI third-party administrator automatically withholds Federal income tax from the taxable portion of a benefit at the rate of 25%. The claimant may submit Form W-4S to change the percentage of Federal tax withheld. Form W-4S is available from the Internal Revenue Service or the third-party administrator.

Wisconsin State income tax is withheld from a taxable ICI benefit only when the claimant submits the Wisconsin withholding exemption form WT-4. The form is available from the Wisconsin State Department of Revenue or the third-party administrator.