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Spring 2020

# KKSG focus

## OHIO WORKERS' COMPENSATION AND UNEMPLOYMENT ADMINISTRATION AND COST CONTROL

*At KKSG & Associates, we value our client relationships and take pride in providing a personal level of service that is unique in our industry.*

### ESTIMATED ANNUAL PAYROLL

The Estimated Annual Payroll (EAP) notices for the period 7/1/20 – 6/30/21 will be mailed out in April. Please pay close attention to these estimates. It is important that these be as accurate as possible to avoid sizable additional premium due or a large credit when it is true-up time in 2021. A **significant** over or under estimated payroll could result in a future audit by the BWC if not corrected. The BWC generally uses payroll from two years prior. This may or may not be a good estimate for the current year. You can update this estimate at any time up until March during the rate year if you feel an adjustment should be made. Any change will have an impact on your premium installment schedule.

### SMART PAY REBATE—SI EMPLOYERS

Recently, the BWC Self-Insured Department proposed a change to the rules applying to the Self-Insuring Employers Guaranty Fund assessment. Through this change, they can offer rebates to self-insuring employers who participate in their e-notification service offering and who timely pay assessments online via the BWC website. KKSG has been working with our Self-Insured clients to ensure they are eligible for the rebates.



### BWC INSTALLMENT SCHEDULES 7/1/20—6/30/21

Installment schedules will be mailed by the BWC for the new rating year (July 1, 2020 – June 30, 2021) in early May. The deadline to change the installment schedule **online is May 15**. Any changes in the schedule or the estimated payroll after that date requires you call the BWC (800-644 -6292), or please call KKSG to assist. Installment options are: Monthly, Bi-Monthly, Quarterly, Semi-Annual, or Annually. No matter which option you choose, **the first installment will be due by June 21st**.

**Do not rely on the BWC invoice/ statement for premium installment due dates! Always pay installment payments per the installment schedule provided by the BWC. You can re-print this schedule from the BWC website or contact KKSG to assist.**



## BWC TRUE-UP PROCEDURE

Payroll True-up requires employers to report their actual payroll for the previous policy year and reconcile differences in premium. The true-up period for this year will be 7/1/19 – 6/30/20. You must complete the true-up even if payroll matched exactly what you reported or if you had zero payroll. The true-up can be submitted starting 7/1/20 and the **deadline to submit and pay any additional premium due is 8/15/20.**

- A) Online Procedure
  - 1) Log into [www.bwc.ohio.gov](http://www.bwc.ohio.gov) with your BWC account by entering your user ID and password
  - 2) Select payroll true-up reports – select period
  - 3) Enter # of employees and payroll
- B) If you do not owe additional premium or have a credit, click submit on the verification page. Finish by completing the electronic signature page and click I Agree (print the confirmation page for your records).
- C) If you owe premium, pay in full at this time to earn your 1% Go Green Discount. You must select the Electronic Notification option (if not already enrolled) prior to starting the true-up process to get the Go Green Discount. If you elect to pay another amount, click that option (may include other charges).
- D) Payment must be received by due date. Private Employers deadline is 8/15. Public Employers is 2/15.

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## CHILD SUPPORT DEDUCTIONS

Ohio Workers' Compensation benefits are subject to withholding of Child Support payments. Child support is the only deduction that can be made from workers' compensation benefits (no garnishments, etc.) When child support is ordered to be paid by an employee, the employer receives the Income Withholding For Support from the Child Support Enforcement Agency (CSEA). The order(s) are maintained by an employer's payroll department for the appropriate deduction from the employee's wages and for provision of payment to CSEA.

It is ***extremely important*** that the CSEA order(s) is provided to KKSG at the time that wages are sent for a workers' compensation claim. All indemnity payment types are subject to these deductions, including Temporary Total Disability, Percentage of Permanent

Partial, Lump Sum Settlements, etc. Ohio law requires that we contact CSEA in the event the employee is to be paid a lump sum for workers' compensation benefits. The amount of any child support arrearages is provided by CSEA so that the appropriate payment can be deducted from the workers' compensation benefits and sent to CSEA.

Failure to comply with the requirements of a CSEA withholding order can result in the employer being held in contempt of court. Contempt penalties and fines can be assessed against the employer and increase with each offense. Therefore, it is vital that employers provide applicable child support orders to KKSG when providing the wages for claims. KKSG will ensure that all CSEA compliance requirements are met in workers' compensation claims.



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## **NEW RULE ENACTED FOR PAYMENT FOR TREATMENT OF CONCUSSION INJURIES**

On January 1, 2020, a new Ohio Administrative Code Rule became effective pertaining to payment for treatment of concussion related injuries. Prior to this there were no specific rules that pertained to authorization of medical treatment for these types of injuries.

This new rule allows for payment of medical treatment for symptoms related to the concussion for up to six months from the date of injury when there is a documented mechanism of injury that is consistent with a concussion as well as clinical information within six weeks from the date of injury. Treatment that would extend beyond six months would require additional condition(s) be added to the claim. This new rule could enable workers to remain at work if minimal injury occurred and if more severe could get them back to work quicker.

A concussion would be considered a type of traumatic brain injury caused by force, which might include a blow to the head, or hit to the body, which causes the brain to bounce causing changes in the brain and sometimes damaging brain cells.

The new rule provides for payment of medical treatment relating to eight specific clinical domains:

1. Anxiety and mood: including ruminating thoughts, difficulty concentrating, hypervigilance or fastidiousness;
2. Vestibular: including impaired balance and equilibrium, dizziness, nausea, or environmental sensitivity
3. Ocular: including impaired vision and visual tracking, impaired comprehension, trouble focusing, or distractibility;
4. Sleep: including trouble falling asleep or sleeping more or less than usual;
5. Cervical: including neck pain, stiffness, or reduced range of motion;
6. Cognitive fatigue: including impaired thinking abilities, feeling slow or one step behind, physical and mental fatigue, general headache, or sleep disturbance;
7. Headache: (Migraine, cervicogenic, tension headache) including variable and intermittent severe headache, nausea, photosensitivity, or vestibular migraine;
8. Cognitive impairment: including impairment in attention, memory, executive function, language processing, or visual perception and processing.

Criteria for reimbursement for these eight specific clinical domains are required to be submitted within six months from the date of injury and not to exceed 6 months. These may be authorized in an allowed claim, without disclaimer when the following are met:

1. The documented mechanism of injury in the claim included a bump or blow to the head, or a jolt or hit to the body; and
2. Signs or symptoms related to the clinical domains have manifested within six weeks of the date of injury; and
3. The requested treatment is determined to be medically necessary and appropriate, and reasonably related to treatment of concussion, based on the medical evidence.





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## **GUIDE FOR STATE FUND EMPLOYERS FOR PROPER REPORTING OF PAYROLL**

To ensure compliance with all prevailing Bureau guidelines, the following information will provide standards to "reportable payroll". The Bureau performs random payroll audits to Ohio employers. Failure to follow the Bureau's rules could result in additional premiums.

Therefore, when reporting your payroll please include ALL of the following categories:

- Gross hourly wages and gross salaries (including vacation, overtime and holiday pay) less qualifying deductions for section 125 cafeteria plan benefits
- Sick pay (including third party, excluding workers' compensation)
- Bonus payments, including stock given as a bonus
- Sales commissions
- Tips reported to the employer
- Severance pay
- Shift or holiday differential pay
- Stock gifts and profit sharing going directly to the employee as payroll
- Any taxable benefits
- Voluntary employee contributions to retirement plans, including 401K
- Any portions of cafeteria plans as reportable to FUTA, such as cash options and unqualified benefits (normal employee contributions are not reportable)
- Reasonable value of board, lodging, house or room rent unless provided for the

convenience of the employer

- Per diems and traveling expense is reportable when this amount exceeds one-third of the employee's total remuneration. Total remuneration includes both the regular wages, per diems and traveling expense.
- Contributions to deferred compensation by employees (except for contributions to a 457 plan)
- Personal use of company car
- Wage continuation
- Payments to casual/spot labor

### **Corporate Officers:**

Officers must be designated in the corporate minutes and/or registered with the Secretary of State. Acceptable titles include President, CFO, Vice President, Secretary and Treasurer. Each active Officer must report an established minimum amount, even if the amount earned is lower. The current guidelines:

### Year 2020

#### Weekly/Annual Minimum

\$490 / \$25,480

#### Weekly/Annual Maximum

\$1,470 / \$76,440

This changes annually.

## **ONE TIME FORGIVENESS POLICY**

Governor DeWine has renewed the One Time Forgiveness policy effective December 12, 2019. This policy was originally implemented by Governor Kasich in 2011. This policy allows a request for retroactive coverage and penalty abatement for failure to timely pay premium resulting in a lapse of coverage. The lapse in coverage must be less than sixty days. If the One Time Forgiveness is granted, the workers' compensation coverage is reinstated retroactively with the failure to comply penalties forgiven. The One Time Forgiveness can also be requested to abate the penalty for failure to timely file and pay the annual true-up.

Both of these infractions can remove an employer from the Group Rating Program for the current policy year and the subsequent year. Employers can only make this request once. It is not available on an annual basis or each time a lapse or late payment occurs. Your KKSG account executive will assist with the completion of form U-59, filing, and follow-up.



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## MAXIMUM MEDICAL IMPROVEMENT

What is MMI? An injured worker may reach a point in his or her recovery called maximum medical improvement (MMI). MMI occurs when a condition has stabilized and further functional improvement is unlikely, despite continued medical treatment or physical rehabilitation.

Under Ohio's workers' compensation law, once the injured worker has reached MMI, the BWC or the Ohio Industrial Commission (IC) may terminate temporary total (TT) compensation. BWC will terminate TT compensation when the treating physician determines the injured worker has reached MMI and no conflict or dispute exists. However, medical treatment needed to maintain the stability of the injured worker's condition may continue in his or her claim. If, at a future date, the injured worker becomes temporarily and totally disabled, he or she may be entitled to TT compensation again.

How is MMI determined? When the treating physician determines an injured worker has reached MMI, the treating physician submits information to BWC. Unless there is a conflict or dispute, BWC issues an order terminating TT compensation effective on the date indicated by the treating physician, or the date of the last exam, if no specific effective date is given. BWC pays TT through the day before the MMI effective date.

When an independent medical examination (IME) report states the injured worker has reached MMI, BWC sends a copy of the medical report to the treating physician, injured worker, employer and all representatives. BWC will follow up with the treating physician to determine if he or she agrees with the findings of the medical exam. If the treating physician agrees, BWC issues an order terminating TT compensation effective on the date of the exam or the date the treating physician gives his or her agreement. BWC pays TT through the day before the MMI effective date.

When the treating physician does not agree with the findings of the medical exam, BWC will refer the claim to the IC for a final decision regarding MMI and termination of TT compensation. The IC will notify the injured worker, employer and all representatives of the date, time, and location of the hearing. BWC may continue to pay TT compensation up to and including the date of the hearing, as long as medical evidence supports the disability is due to the injured worker's work-related injury.

What happens next? If BWC or the IC terminates payment of TT compensation because the injured worker has reached MMI, he or she may be entitled to other benefits such as:

- o **Rehabilitation** — The injured worker may be entitled to a variety of return-to-work programs, including rehabilitation services;

- o **Wage loss** — If the injured worker returns to work at a lower wage or with fewer hours because of physical restrictions resulting from his or her work-related injury, he or she may be eligible for working wage loss. If the injured worker cannot find a job within his or her physical limitations resulting from his or her work-related injury, he or she may be eligible for nonworking wage loss;

- o **Percentage of permanent partial disability** — BWC provides compensation for an injured worker's residual impairment that results from the work-related injury;

- o **Lump sum settlement** — The injured worker may be able to receive a lump sum payment to settle his or her claim(s);

- o **Permanent total disability** — If the injured worker cannot permanently return to any form of employment because of his or her work-related injury, he or she may be eligible for permanent total benefits. The IC makes this decision.

# Important Dates To Remember

INFORMATION FROM BWC  
WEBSITE OHIOBWC.GOV



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## Private Employers—May 1, 2020, through December 31, 2020

### May 2020

- 01- MCO Open Enrollment period begins April 27 thru May 22
- 01- Notice of estimated annual premium sent
- 15- Last date employer can change installment plan online
- 22- MCO Open Enrollment Ends
- 31- DFSP, ISSP, TWB program application deadlines for 7/1 start date

### June 2020

- 22- First premium installment due**
- 30- Deadline for safety council participation requirements
- 30- Deadline for ISSP loss prevention activities and ISSP on-site consultation survey, SH-29

### July 2020

- 01- Policy year starts
- 01- Publishing of new rates
- 01- Program year starts for BWC programs: DFSP, Deductible, Individual retro, Group rating, Group retro, OCP, ISSP, .99 EM Construction Cap, EM Cap, TWB
- 01- PY 2019 payroll true-up notice sent (approx. date)
- 03- 2% Early Payment Discount due date
- 17- Last day to submit C-240 (settlement)
- 31- .99 EM construction cap deadline to opt out or submission of the safety management self-assessment (SH-26)
- 31- Safety Council enrollment deadline
- 31- DFSP accident analysis training deadline for 7/1/20 program start date initial year only. New supervisors have 60 days from hire date to complete
- 31- DFSP and ISSP online safety mgmt. self-assessment (SH-26) deadline for 7/1/20 start date

### August, 2020

- 15- PY 2019 payroll true-up report due
- 30- DFSP action plan (DFSP-5) deadline (advanced level only) for 7/1/20 program start date
- 31- Self-Insured assessment payment due—second half

## Public Employers—May 1, 2020, through October 31, 2020

### May 2020

- 01- Deferred premium payment due (Jan-May)
- 31- PEC Group experience rating program application deadline (PY 1/1/21)

### June 2020

- 30- Deadline for safety council participation requirements

### July, 2020

- 29- Group-Retropective-rating, Deductible, Retro rating, and OCP application deadline for 1/1/21 start date
- 31- Safety Council enrollment deadline

### August, 2020

- 31- Self-insured assessment payment due—second half

### September, 2020

- 30- DFSP annual report due for 1/1/20 program start date
- 30- EM cap and OCP requirement deadline
- 30- Last date to request change in installment plan and estimated annual payroll exposure

### October, 2020

- 31- Notice of estimated annual premium mailed for PY 2021