



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES

February 11, 2008

To: All Self Insured Employers and Third Party Administrators

From: Jean M. Vanek, Self Insurance Program Manager

**Subject: UPDATE TO MEMO DATED JANUARY 17, 2008  
Request for voluntary deductions from time loss payments**

The Department has received several requests from employers and third-party administrators asking whether deductions may be taken from time loss compensation payments if the injured worker voluntarily requests or authorizes the deductions.

The bottom-line answer is that according to [RCW 51.32.040](#), an injured worker is entitled to **no less than full time loss compensation**. Therefore, regardless of any deductions – voluntary or otherwise – the net amount of compensation actually given to the injured worker may never fall below the appropriate, mandated time loss amount to which he or she is entitled. [The only exceptions to this entitlement are for allowed public assistance and support enforcement liens per RCW 51.32.040 \(1\)](#).

We have attempted to balance this fundamental injured worker's guarantee with an appreciation for payroll system complexities and the potential administrative burden for employers. The worker's entitlement absolutely needs to take precedence.

If a worker is kept on salary (KOS as defined in RCW 51.32.090(6) and Interim Policy 5.12), **voluntary deductions may be taken so long as the net result does not fall below mandated time loss**. The same principle applies when an injured worker is paid more than time loss as a result of a collective bargaining agreement.

Decisions are as follows:

- If the worker receives supplemental payments in addition to time loss compensation, voluntary deductions may be taken from those additional benefits.
- A single check may be issued for TL and supplemental payments if documentation clearly shows the TL amount paid and that any voluntary deductions are only taken from the supplemental amounts paid.
- The net payment to the worker must be at or above the TL amount the injured worker is entitled to under Title 51.
- Employers who may have taken voluntary deductions from time loss compensation payments between June 2007 and January 2008 will not be penalized. Compliance is both anticipated and expected from the date of this communication forward.–
- Employers who take voluntary deductions from time loss payments after January 31, 2008, may be assessed penalties for delay of benefits.