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I. POLICY PURPOSE

This policy ensures that BWC evaluates and makes an accurate determination regarding payment of temporary total compensation (TT) to an injured worker (IW) who is unable to return to the former position of employment for eight days or more due to a work-related injury or occupational disease.

II. APPLICABILITY

This policy applies to Claims Services staff and BWC Legal.

III. DEFINITIONS

Average Weekly Wage (AWW)
The basis upon which to compute benefit payments for temporary total disability and living maintenance after the initial 12-week period of disability, death benefits, permanent total disability benefits, percent of permanent partial disability benefits, wage loss benefits, and may be used for payment of living maintenance wage loss if greater than the full weekly wage.

Disability Evaluator Panel (DEP)
A panel of physicians contracted by BWC to perform independent medical examinations and physician file reviews. The panel was established to provide quality, impartial independent medical examinations and physician file reviews. Physicians must provide objective, accurate independent medical examinations and physician file reviews that produce concise, timely and justifiable reports.

Due Process
The legal principle that government may not deprive an individual of life, liberty or protected property rights without providing:

- Notice; and
- An opportunity to be heard.

Extent of Disability (EOD)
An evaluation of injured worker's allowed conditions in the claim regarding:

- The injured worker's ability to return to the former position of employment;
- Restrictions which prevent the injured worker's return to the former position of employment;
- The injured worker having reached maximum medical improvement;
- The feasibility of a referral for vocational rehabilitation services; and
- The injured worker's eligibility for continued temporary total compensation.

Full Weekly Wage (FWW)
Basis for payment of compensation for the first 12 weeks of temporary total or living maintenance and may be the basis for living maintenance if it is greater than the average weekly wage.

Lost-Time Claim
A claim is considered lost-time when:

- There are eight or more days of lost time from work directly caused by a work-related injury; or
- BWC awards compensation, even if the injured worker did not miss eight or more days of work.

Maximum Medical Improvement (MMI)
A treatment plateau (static or well-stabilized) at which no fundamental functional, physiological, or psychological change can be expected within reasonable medical probability in spite of continuing medical or rehabilitative procedures. An injured worker may need supportive treatment to maintain this level of function.

Medical-Only Claim
A claim is considered medical-only when:
- There are seven or fewer days of lost time from work directly caused by a work-related injury; or
- BWC does not award compensation.

Net Pay
Gross wages minus taxes

Paid Time Off
A pool of time offered by the employer that the injured worker can call in at any time; can be used as sick time, vacation time, or holiday pay.

Parties to the Claim
The injured worker (or other claimant), the employer of record, and BWC.

Profit Sharing
Employees are paid a portion of the profits of a business.

Wage Agreement
An agreement between an injured worker and employer in which the employer advances wages to the injured worker for a period of up to 12 weeks (except under special circumstances) closely following the date of injury or disability and with the understanding that BWC will forward the injured worker's checks for temporary total compensation to the employer as reimbursement for the advancement when temporary total compensation becomes payable to the injured worker.

IV. POLICY

A. General Policy Statements
   1. It is BWC's policy to:
      a. Provide notification of the request to the non-filing party when a new (initial or subsequent) period of TT has been requested;
      b. Compensate an IW who is totally disabled from work for eight or more days due to a work-related injury or occupational disease;
      c. Create payment of TT based upon the available return to work (RTW) information;
      d. Automatically reassign a medical-only claim to the appropriate claims office for investigation and processing when an IW submits a *Request for Temporary Total Compensation* (C-84) or equivalent form;
      e. Issue a BWC order to grant TT or refer the request for payment of TT to the IC, unless the IW withdraws the request;
      f. Determine if an IW is receiving unemployment compensation benefits from the Ohio Department of Job and Family Services (ODJFS) prior to issuing payment of TT; and
      g. Prohibit payment of TT when the IW:
         i. Has returned to work;
         ii. Is released without restrictions to return to the former position of employment by the treating provider;
         iii. Refuses a written offer of work within their capabilities made by the employer of record (EOR) or another employer;
         iv. Has reached maximum medical improvement (MMI);
         v. Is working (full time or part time) for any employer during the disability period;
         vi. Has returned to work and is requesting TT for a doctor's appointment and/or medical treatment or services;
         vii. Receives profit-sharing benefits over the same period TT is requested, and the IW attended meetings and other employment-related activities that would constitute working. However, BWC may pay TT and profit-sharing benefits over the same period if the IW is not performing any form of employment-related activity;
         viii. Is receiving Department of Administrative Services (DAS) Hostage Leave according to the collective bargaining agreement;
         ix. Is a volunteer and has no lost earnings;
         x. Is serving as an elected political official and is attending meetings, whether frequent or infrequent, or performing any other activity related to the political position;
         xi. Is on active military duty;

a) Generally, active duty requires physical activities and pay that is inconsistent with the receipt of TT.
b) Soldiers who report for any drills, including weekend duty, are often paid for reporting for duty and any payment received as a result of reporting for duty is also inconsistent with the receipt of TT.

xii. Is working as a poll worker. The poll worker is considered an employee of the Board of Elections for the day worked at the polls; or

xiii. Elects to use PTO as sick leave.

2. Rate of Payment
   a. It is BWC's policy to pay TT for the first 12 weeks at 72% of the IW's FWW, subject to the statewide maximum for the injury year and any applicable offsets.
      i. If the FWW is at or below one-third of the statewide average weekly wage (SAWW) for the injury year, TT will be paid at the FWW.
      ii. If the FWW is above one-third of the SAWW for the injury year, but 72% of the FWW is at or below one-third of the SAWW for the injury year, TT will be paid at one-third of the SAWW for the injury year.
      iii. If 72% of the FWW is above one-third of the SAWW for the injury year and at or below the statewide maximum for the injury year, TT will be paid at 72% of the FWW.
      iv. If 72% of the FWW is above the statewide maximum for the injury year, TT will be paid at the statewide maximum for the injury year.
   b. It is BWC's policy to pay TT after the first 12 weeks at 66 2/3% of the IW's AWW, subject to the statewide maximum for the injury year and any applicable offsets.
      i. If the AWW is at or below one-third of the SAWW for the injury year, TT will be paid at the AWW.
      ii. If the AWW is above one-third of the SAWW for the injury year, but 66 2/3% of the AWW is at or below one-third of the SAWW for the injury year, TT will be paid at one-third of the SAWW for the injury year.
      iii. If 66 2/3% of the AWW is above one-third of the SAWW for the injury year and at or below the statewide maximum for the injury year, TT will be paid at 66 2/3% of the AWW.
      iv. If 66 2/3% of the AWW is above the statewide maximum for the injury year, TT will be paid at the statewide maximum for the injury year.

B. Considerations for Determining if TT is Payable
   1. BWC may pay TT over the same period as the following:
      a. Vacation pay;
      b. Vacation pay in lieu of sick leave;

c. Holiday pay;
d. Compensatory time;
e. Sick leave benefits paid by the EOR that are intended to supplement TT;
f. Jury duty pay;
g. PTO used as any leave time other than sick leave;
h. Supplemental payments;
i. Benefits of a non-occupational sick and accident program that is fully or partially funded by the IW;
j. Public Employees Retirement System (PERS) benefits;
k. Social Security disability (SSD) benefits;
l. Severance pay;
m. Statutory Permanent Total Disability (PTD) paid in a different claim;
n. Unused accrued sick leave paid in a lump sum (e.g., employee cashing in sick leave or receiving payment upon separation);
o. Unused accrued vacation time; or
p. Federal unemployment compensation paid by Ohio.

2. BWC may pay TT with an offset:
   a. In claims with a date of injury (DOI) on or after 11/3/1989, when an IW is receiving Social Security retirement (SSR) benefits (the actual amount of the benefits is not a factor) and where the TT rate is greater than 66 2/3% of the SAWW for the DOI;
   b. When an IW is receiving unemployment compensation that was paid and funded by the ODJFS;
   c. When an IW is receiving benefits of a non-occupational sick and accident program that is fully funded by the EOR; or
   d. When the IW has received sick leave from the injury employer at less than 100% of the IW's earnings and the sick leave is not intended to supplement TT. If sick leave is paid from the injury employer at 100% of the IW's earnings, and the sick leave replaces earnings, BWC will not pay TT.

V. PROCEDURE

A. General Claim Note and Documentation Requirements
   1. BWC staff will refer to the *Claim File Contents and Documentation* policy and procedure for claim note and documentation requirements; and
   2. Must follow any other specific instructions for claim notes and documentation included in this procedure.

B. The Request for TT
   1. Claims Services staff must contact and provide notification to the employer or employer's authorized representative upon receipt of a request for a new period of TT.
      a. Claims Services staff's initial attempt at contact and notification must be by phone unless the employer or employer's representative has requested another form of contact. Claims Services staff must request any additional information to be submitted within three business days of the date of the phone call.
      b. Claims Services staff must send the *Insured Due Process letter* if initial contact and notification cannot be made by phone. Claims Services staff must request any additional information to be submitted within:
         i. Three business days from the date of the letter if it is sent by fax or email; or
         ii. Seven calendar days (plus four additional days per the *Due Process: Mailbox Rule, Notification, and Opportunity to Respond* policy) from the date of the letter if it is sent by mail.
   2. Claims Services staff must create a new TT case for:
      a. The first C-84 or equivalent form and continue updating the case until ongoing TT stops; and
      b. Each new period of TT.
   3. Claims Services staff must verify that the C-84 or equivalent form includes at least the following information for BWC to award TT:
      a. Verification of receipt (or lack of receipt) of any other benefits, salary continuation (SC), or earnings.
         i. The IW's receipt of monetary government assistance has no impact on the payment of TT unless the IW is working to receive the benefits.
         ii. When receipt of monetary government assistance is indicated, BWC must contact the IW to determine if the IW is required to work to receive the benefits.
         iii. If the IW claims they have a waiver of the work requirements due to their disability, BWC may consider the waiver by verifying it by phone with the applicable county office of jobs and family services; however, the IW will need to submit written verification as soon as possible.
      b. Work history over the requested period;
      c. Light duty availability;
      d. Certification that the IW understands they cannot work and collect TT; and
      e. The IW's signature on the completed form, unless the IW is completely incapacitated (e.g., coma) and unable to sign the C-84 or equivalent form.
         i. The date of the IW's signature must be generally close in time to both:
            a) The date the application was submitted and;

b) The requested period of disability the treating provider has certified.

ii. If the signature is not close in time, BWC may further investigate.

iii. The IW's attorney cannot sign the C-84 or equivalent form on behalf of the IW.

4. TT can be paid for an initial four-week period without a signed C-84 or medical proof in the following circumstances:
   a. A properly completed and signed application is submitted;
   b. The employer certifies the claim; and
   c. The payment of benefits is non-controversial (i.e., TT may be considered when the circumstances of the industrial accident will obviously preclude the IW from returning to work and will result in a lost-time claim).
   d. Example:
      i. The IW is a truck driver involved in a motor vehicle accident during work.
      ii. The IW has broken both his legs and is currently hospitalized. The employer certifies the claim.
      iii. Medical evidence has not yet been submitted to BWC, but the IW will be disabled from working for an extended period.
      iv. In these circumstances, BWC would not need a C-84 or medical proof to support and pay TT benefits for up to four weeks.
5. When there is a delay between the DOI and the date the IW can get an appointment with the treating physician, Claims Services staff may pay TT for a period up to four weeks from the DOI if the treating provider has certified TT. For periods of TT longer than four weeks, Claims Services staff must consult with an injury management supervisor (IMS) and medical service specialist (MSS) to determine the reasonableness of the medical evidence.
6. If the IW is over age 62, Claims Services staff must verify via crossmatch if the IW is receiving SSR benefits.
7. If an IW indicates they are receiving SSD benefits, Claims Services staff must contact the IW and request medical evidence regarding the basis for the SSD benefits.
8. If the IW indicates they are receiving retirement benefits, Claims Services staff may ask the IW or the EOR if the IW has retired completely, removing themselves from the workforce, and if the retirement is related to the allowed conditions in the claim.
9. Claims Services staff may pay TT without a signed C-84 or equivalent form when the IW is completely incapacitated (e.g., coma) and unable to sign a C-84 or equivalent form. If an IW cannot physically sign the C-84 or equivalent form, but is lucid, they may:
   a. Have another person sign the IW's name, noting beside the signature that the IW is physically unable to sign; or

b. Place an “X” or other mark that is intended to reflect the IW’s acknowledgement in place of the IW’s signature.

10. When a request is submitted for a back period of TT in excess of two years prior to the date of filing of the application (e.g., request for TT from 6/1/2017-12/31/2017 is filed on 3/5/2020), Claims Services staff must:
    a. Deny TT at the time of initial claim determination; or
    b. Refer to the IC for a request subsequent to the initial claim determination.
11. Claims Services staff must notify the IW of the requirements for payment of TT compensation if a period of disability greater than seven days is indicated in the evidence in the claim and a C-84 or equivalent form and/or *Physician's Report of Work Ability* (MEDCO-14) or equivalent form has not been filed.
12. If a C-84 or equivalent form and a MEDCO-14 or equivalent form indicating seven days or less of lost time or restrictions have been filed, Claims Services staff must not consider the request for TT.
13. Claims Services staff must not request a C-84 or equivalent form when a MEDCO-14 or equivalent form indicating seven days or less of lost time or restrictions is filed with no C-84 or equivalent form.

C. Eligibility Factors
    1. Factors Claims Services staff must consider when determining if the IW is eligible for TT include, but are not limited to:
        a. Concurrent Payments
            i. Claims Services staff may pay the following compensation types concurrently with TT when substantiated by supporting medical evidence:
                a) Scheduled loss (SL);
                b) Temporary partial (TP), only if in a different claim involving different body parts and conditions;
                c) Facial disfigurement (FD);
                d) Violation of a specific safety requirement (VSSR);
                e) Statutory PTD only if the IW returned to work and had a new injury resulting in a new claim.
                    i) TT can be paid in the new injury claim concurrently with the statutory PTD in the original claim.
                    ii) The TT for the new injury is not payable in the original claim;
                f) Percentage of permanent partial disability (%PP), only when the %PP was paid first and the IW later requests TT over the same period in the same claim; or
                g) TT in another claim, but only if paid as a split (i.e., one payment of TT is issued but split between claims).

ii. Claims Services staff must not pay the following compensation types concurrently with TT in the same claim or in a different claim:
    a) Wage loss (WL);
    b) Living maintenance (LM);
    c) Living maintenance wage loss (LMWL);
    d) Change of occupation; or
    e) PTD, except statutory PTD as noted above.

b. Inability to work as the direct result of something other than the allowed injury or occupational disease (formerly called voluntary abandonment)
    i. When the reason for the IW's loss of wages is in question, Claims Services staff may complete the *Entitlement to TT Worksheet* and review the information gathered with BWC Legal.
        a) Claims Services staff may deny TT via a BWC order if it is determined during the initial determination investigation that the IW's loss of wages is not a direct result of reasons related to the injury or occupational disease.
        b) BWC Legal must assist in determining that the appropriate fact pattern is cited and the language on the BWC order is appropriate.
    ii. If TT has been allowed in a claim, then BWC Legal determines the IW is no longer suffering a loss of wages due to the allowed injury or occupational disease:
        a) BWC Legal may prepare a *Motion* (C-86).
        b) Claims Services staff must refer to the IC via a Notice of Referral (NOR). Claims Services staff must generate the NOR from the TT case with BWC as the filing party.

c. Time Period of TT Eligibility
    i. The First Seven Days
        a) Claims Services staff must pay TT beginning on day eight when the IW is disabled for more than seven days, but less than 14 consecutive days, due to a work-related injury.
        b) Claims Services staff must pay TT for the first seven days of disability once the IW has been disabled for more than 14 consecutive days due to a work-related injury, whenever that occurs in the life of the claim.
        c) Example:
            i) The IW's DOI and last date worked are 04/01/2020.
            ii) The IW's period of disability is seven days, 04/02-04/08/2020.
            iii) The IW returns to work on 04/09/2020.
            iv) The IW has a subsequent period of disability from 05/01-05/31/2020. The IW returns to work on 06/01/2020.

v) The IW is paid TT for 04/02-04/08/2020 in addition to 05/01-05/31/2020 because they have 14 or more consecutive days of disability due to a work-related injury.

ii. Claims Services staff must consider the following payments as wages in lieu of TT and count them toward the first 12 weeks of TT when they are paid:
   a) LM;
   b) SC;
   c) Full sick leave;
   d) Non-occupational sickness and accident benefits fully funded by the EOR; and
   e) Occupational Injury Leave (OIL).

iii. Claims Services staff must pay TT to an eligible IW whose treating provider has released the IW to RTW with restrictions, but the employer fails to accommodate those restrictions. If the restrictions are preventing the IW from performing the job the IW held at the time of the injury, Claims Services staff must continue payments to an eligible IW.

2. Claims Services staff must refer to Section V.E of this procedure for information including, but not limited to, various employment types and other employer compensation payments.

D. Evaluating the Supporting Medical Evidence

1. Claims Services staff must require the following supporting medical evidence to pay TT, except as noted in Section V.B.4 above:
   a. A MEDCO-14; or
   b. Equivalent form to the MEDCO-14.
2. Claims Services staff must evaluate the supporting medical evidence for the following:
   a. If supporting medical evidence is submitted, but a C-84/equivalent form is not, Claims Services staff must follow the *Medical Supporting Period of Disability Received without C-84 from IW* workflow found on COR.
   b. Claims Services staff must verify the supporting medical documentation (including the MEDCO-14):
      i. Supports the period of disability the IW is requesting; and
      ii. Confirms the IW's disability is independently caused by conditions allowed in the claim.
   c. When supporting medical documentation (including the MEDCO-14) lists a non-allowed condition or a disallowed condition as causing temporary total disability, it is not valid and Claims Services staff must not accept it.

i. Claims Services staff must contact the MCO with a request to obtain medical evidence that supports temporary total disability due to conditions allowed in the claim.
ii. The MCO has up to three full business days to contact the treating provider regarding obtaining the medical evidence.
iii. If the MCO does not respond to Claims Services staff or is unable to obtain the medical evidence, Claims Services staff may attempt to contact the provider.
    a) If Claims Services staff does not receive medical evidence that supports temporary total disability due to conditions allowed in the claim, they must staff the issue with BWC Legal to determine next steps based on the circumstances of the claim.
    b) If the IW is currently receiving TT, Claims Services staff must not continue payment of TT until valid supporting medical documentation is obtained. When valid documentation is obtained, Claims Services staff may begin payment of TT back to when it was previously put on hold.

d. Claims Services staff must review the MEDCO-14 or equivalent form and ensure the following required information has been provided by the treating provider. This information may also be included in the claim file:
    i. The date of the MEDCO-14 or equivalent form;
    ii. The date of the last examination;
    iii. The International Classification of Diseases (ICD) diagnosis codes recognized in the claim for all conditions and all parts of the body being treated that are affecting the length of disability, including a primary diagnosis code, with a narrative description identifying the conditions and specific areas of the body being treated;
    iv. Any reason why recovery has been delayed;
    v. The date temporary total disability began;
    vi. The current physical capabilities of the IW;
    vii. An estimated or actual RTW date;
    viii. An indication of need for vocational rehabilitation;
    ix. Objective findings; and
    x. Clinical findings supporting the above information.
e. When the MEDCO-14 or equivalent form is incomplete and includes the information detailed above, Claims Services staff must review the claim file to determine if the missing information can be found in other medical evidence on file.

i. If the missing information is contained in the claim file, it is considered as a supplement to the form. Therefore, the form and the claim file information are sufficient to support the payment of TT.
ii. If the missing information is not on file, Claims Services staff must contact the MCO to obtain any medical information that is missing or needed to make a decision regarding the payment of TT.
    a) The MCO has up to three full business days to contact the appropriate provider regarding obtaining the necessary information.
    b) If the MCO does not respond to Claims Services staff or is unable to obtain the necessary information, Claims Services staff may attempt to obtain the information.

f. When Claims Services staff requests supporting medical documentation, but does not receive it, Claims Services staff must notify the IW to give the IW an opportunity to attempt to obtain supporting medical documentation from the treating provider. Ultimately, the IW is responsible for providing supporting medical documentation to receive payment of TT.
g. Claims Services staff must review the information in the claim file to determine if evidence relating to the IW's position of employment at the time of injury is already on file or included in a previous MEDCO-14 or equivalent form. If such information is on file, staff must not require the treating provider to complete the section of the MEDCO-14 or equivalent form that relates to the IW's job duties and responsibilities.
h. Claims Services staff must verify that the MEDCO-14 or equivalent form is signed by a provider authorized or their authorized designee to support a period of disability (see *Provider Signature on Medical Evidence Grid* or MEDCO-14 job aid on COR).
    i. If the MEDCO-14 or equivalent form is signed by a provider who is not authorized to support a period of disability or their authorized designee, Claims Services staff must contact the MCO.
    ii. The MCO must contact the treating provider's office to discuss who has the authority to support a period of disability or sign the MEDCO-14 or equivalent form on behalf of the treating provider.
        a) The MCO has up to three full business days to contact the treating provider regarding obtaining supporting evidence that is appropriately signed.
        b) If the MCO does not respond to Claims Services staff or is unable to obtain appropriately signed supporting evidence, Claims Services staff may attempt to obtain the evidence.
i. Claims Services staff must not suspend or deny payment of TT because the treating provider is not BWC-certified. It is not a requirement for the treating

provider to be BWC-certified to complete and sign a MEDCO-14 or equivalent form.

3. When the treating provider supports a period of disability prior to the first time the IW saw the provider, Claims Services staff must review the supporting documentation and the request for TT with a supervisor to determine if the period of disability is appropriate.

E. Special Considerations for Payment of TT
   1. Accrued Sick Leave or Vacation Time Payout: When an employer pays the IW for unused accrued sick leave or vacation time, Claims Services staff may pay TT or LM over the same period when supporting documentation is submitted.
   2. Assault Leave
      a. When assault leave is paid to an IW, Claims Services staff may pay TT concurrently, if allowed under the applicable collective bargaining agreement.
      b. Claims Services staff must obtain a copy of the IW's collective bargaining agreement and must review and discuss the issues in the claim with BWC Legal prior to making payment. BWC Legal may assist in determining the nature of the assault leave and whether the leave is intended to replace workers' compensation benefits.
   3. Elected Political Position
      a. Claims Services staff may pay TT to an elected political official when they:
         i. Have been disabled for eight or more days; and
         ii. Have submitted a request for TT and supporting medical documentation.
      b. Claims Services staff must not pay TT to an elected political official when they are working, including attending frequent or infrequent meetings or other activity related to the position. See the *Wage Loss Compensation* policy and procedure to determine if the IW is entitled to WL.
      c. Claims Services staff must review the issue with BWC Legal when the elected official is receiving wages, and it appears that they are performing no work.
   4. Foster Care
      a. Claims Services staff must determine if foster care maintenance payments to cover costs for items such as food, clothing, travel, or liability insurance or foster care maintenance payments for child support purposes are being paid prior to deciding how TT or LM payments are affected.
      b. Foster care payments may represent payment for the care of an elderly or disabled person, which may conflict with payment of TT or LM. Claims Services staff must consult with BWC Legal in these instances.
   5. Hostage Leave
      a. Hostage leave is paid according to the collective bargaining agreement under which the IW is employed.

b. Claims Services staff must obtain a copy of the IW's collective bargaining agreement and must review and discuss the issues in the claim with BWC Legal prior to making payment. BWC Legal may assist in determining the nature of the hostage leave and whether the leave is intended to replace workers' compensation benefits.

6. LM
    a. When Claims Services staff discovers that TT was paid for a period in which LM should have been paid, or LM was paid for a period in which TT should have been paid, Claims Services staff must:
        i. Replace the compensation paid with the appropriate compensation type; and
        ii. Deduct the originally paid compensation from the compensation that should have been paid. This is referred to as an even adjustment.
            a) If the TT and LM rates are the same, Claims Services staff must:
                i) Pay no money to the IW; and
                ii) Create no overpayment;
            b) If one rate is higher than the other, the result of the adjustment will be:
                i) An additional payment to the IW; or
                ii) An overpayment for the IW.
    b. When an IW is changing from LM to TT without a break in payment, Claims Services staff must send a *TT Restart letter*.
7. Military Duty
    a. Claims Services staff must not pay TT when the IW is on active military duty.
    b. Active duty generally requires physical activity and pay that is inconsistent with the receipt of TT.
    c. Soldiers who report for any drills, including weekend duty, are often paid for reporting for duty and any payment received as a result of reporting for duty is also inconsistent with the receipt of TT.
8. Multiple Employers: If an employee worked for multiple employers during the same period and is injured at one of the jobs:
    a. Claims Services staff may pay TT if the IW cannot work at any job.
    b. Claims Services staff must not pay TT if the IW continues to work full or part time at any job.
9. Non-occupational Sick and Accident Insurance (short- or long-term disability)
    a. Claims Services staff must offset payment of TT by the gross amount received from the benefits of a non-occupational sick and accident insurance program that is fully funded by the EOR when the benefits are paid over the same period as TT.

i. Claims Services staff must enter the gross amount received from the non-occupational sick and accident insurance program in the claims management system as a rate offset to the TT that is payable.
ii. On the adjustments tab, choose “Add Adjustment” in the adjustments drop down. Select “Offset” as the type, “Disability” as the category and “Employer Fully Funded” as the adjustment type.
iii. For example:
    a) The FWW rate is $165, and the DOI is 03/31/2009.
    b) The IW receives benefits from an employer paid non-occupational sick and accident insurance policy from 04/01/2009 to 05/01/2009 at the rate of $150/week.
    c) The IW is entitled to the difference of $15/week in TT from 04/01/2009 to 05/01/2009.

b. Claims Services staff must pay the full TT amount with no offset when the IW pays all or part of the insurance premium for a non-occupational sick and accident program, and the benefits of the sick and accident insurance are paid over the same period as TT. For example:
    i. The FWW rate is $165. The DOI is 03/31/2009.
    ii. The IW receives benefits from 4/1/2009 to 05/01/2009 at $150/week from a non-occupational sick and accident insurance policy that the IW paid for.
    iii. The IW must also receive $165/week in TT from 04/01/2009 to 05/01/2009.
c. Claims Services staff must pay the full TT amount with no offset when the IW is receiving benefits of a non-occupational sick and accident program that is fully funded by an employer other than the EOR, and the benefits are paid over the same period as TT. For example:
    i. The FWW rate is $165. The DOI is 03/31/2009.
    ii. The EOR is Joe’s Restaurant. The IW receives benefits from 04/01/2009 to 05/01/2009 at $150/week from a non-occupational sick and accident insurance policy that is fully funded by Jane’s Hair Salon.
    iii. The IW must also receive $165/week in TT from 04/01/2009 to 05/01/2009.

10. OIL
    a. For OIL offered by the state agencies listed below, Claims Services staff must:
        i. Make no payments of TT the IW may be entitled to over the same period that benefits from the OIL program are received;
        ii. Request a *Calendar of Wages Paid* (ADM-4741) form from the employing agency for periods of lost time not paid under the OIL program;
        iii. Consider the weeks paid in the OIL program as part of the first 12 weeks of TT;

iv. Ensure that the participating agency or third-party administrator (TPA) provides a notice of approval or extension for those employees participating in the OIL program.

b. Only employees of the following state agencies are eligible for this program:
   i. Department of Rehabilitation and Corrections;
   ii. Department of Youth Services;
   iii. The Ohio State Troopers' Association;
   iv. Ohio Department of Mental Health;
   v. Department of Developmental Disabilities;
   vi. Department of Veterans' Services;
   vii. School for the Deaf; and
   viii. School for the Blind.

c. Claims Services staff must follow the directions above when OIL is offered by other government entities.

11. ODJFS
    a. Claims Services staff may:
       i. Offset payment of TT and/or reimburse ODJFS for unemployment compensation that was paid and funded only by the ODJFS.
       ii. Pay TT over the same period that unemployment benefits have been paid when unemployment benefits are paid by a state other than Ohio or the federal government.
    b. Refer to the *Ohio Department of Job and Family Services Reimbursement and Claim Adjustment* policy and procedure for more information.
12. Passive Income: Claims Services staff may pay TT if the IW is receiving passive income from sources such as rental properties or investments without performing work for that business.
13. PTO
    a. If the specific type of leave time used as PTO (e.g., sick time, holiday pay, vacation leave) is not noted, Claims Services staff must contact the employer to verify how the PTO was used by the IW.
    b. If the PTO is not designated as any type of leave time, BWC considers it to be vacation time.
14. Poll Workers: When an IW is receiving TT and has worked at the polls over the same period, Claims Services staff must issue a BWC order to omit the one day worked at the polls, and then payment of TT will start up again.
15. Profit Sharing
    a. Claims Services staff must review issues involving profit sharing with the supervisor, and then with BWC Legal, if necessary, to determine if payment is appropriate.

b. Claims Services staff must not pay TT when the IW has received profit-sharing benefits and has attended meetings or other employment-related activities that constitute working.
c. Claims Services staff may pay TT when the IW has received profit-sharing benefits but has not performed any form of employment-related activities.

16. PERS Benefits and SSD
    a. Claims Services staff must pay TT with no offset when an IW is receiving PERS benefits or SSD.
    b. When the IW's SSD/widow's benefits change to SSR, Claims Services staff must not pay a weekly TT benefit amount that exceeds 66 2/3 % of the SAWW. See Section V.E.21 below.
    c. When the IW reaches age 62 and their TT rate exceeds 66 2/3% of the SAWW, Claims Services staff must request a social security cross match to determine if the IW is receiving social security benefits and the type of benefits the IW is receiving.
        i. The assigned PTD claims service specialist (CSS) may assist in reviewing the information provided from the cross match to determine if the benefits paid to the IW are either disability or retirement benefits.
        ii. If the IW is not receiving SSR, Claims Services staff must set a work item as a reminder that the IW is over age 62 and that a cross match must be requested each time TT is extended.
        iii. If, after TT or LM have been paid, Claims Services staff discovers that the IW was on SSR and TT or LM should have been offset, Claims Services staff must issue a BWC order to set the IW up overpaid.
17. Seasonal Employees
    a. Claims Services staff may continue to pay TT to an IW who was engaged in seasonal employment (e.g., construction, landscaping, farming) once their seasonal employment ends.
    b. Claims Services staff must request documentation to support the seasonal employee's search for employment once seasonal employment ends.
    c. Issues regarding continued entitlement to TT for seasonal employees must be considered on a case-by-case basis.
18. Severance Pay: When an IW is receiving TT compensation and receives severance pay from an employer, Claims Services staff must pay TT with no offset for the severance pay.
19. Sick Leave
    a. When the IW receives sick leave benefits from an employer, including an employer who is not the EOR, Claims Services staff must determine if the sick leave is intended to replace earnings, or supplement or offset TT.

b. Claims Services staff may need to refer to Section V.E.20 below for information regarding a sick leave buy back/wage agreement.
c. Replacement
    i. If sick leave is paid at 100% of the IW's earnings and replaces earnings, Claims Services staff must not pay TT.
    ii. Claims Services staff must build the SC benefit plan in the claims management system.
d. Supplement
    i. Claims Services staff must pay TT when sick leave is paid as a supplement to TT.
    ii. Payment of sick leave and TT allows the IW to return to up to 100% of their earnings. This may occur when the IW has a large FWW/AWW and is already receiving the maximum TT rate but is receiving less than their full earnings.
    iii. Example:
        a) IW's DOI is 5-10-2017.
        b) FWW/AWW are $1,500.
        c) TT will be paid at the maximum rate for 2017 ($902) because 72% of the FWW and 66-2/3% of AWW are above $902.
        d) However, $902/week is below the amount of IWs usual paycheck, so the employer is allowing the IW to take sick leave to bring payment (TT and sick leave) to the IW up to 100% of the IW's usual paycheck.
e. Offset
    i. If sick leave is paid at less than 100% of the IW's earnings and is not intended to supplement TT, Claims Services staff must pay TT less the amount of sick leave received.
    ii. The sick leave amount must be entered into the claims management system. On the adjustments tab, choose "Add Adjustment" in the adjustments drop down. Select "Offset" as the type, "Disability" as the category and "Partial Sick Leave" as the adjustment type.
    iii. Example:
        a) IW's DOI is 3-28-2017.
        b) FWW/AWW is $1,200.
        c) FWW rate = $864.
        d) AWW rate = $800.
        e) Employer's sick leave payment is $600/week.
        f) The IW's actual TT payment is $264/week ($864-$600) for the first 12 weeks (FWW) and $200/week ($800-$600) after the first 12 weeks (AWW).
        g) $600 (The partial sick leave amount) will be entered in the claims management system (Indemnity Payments-Adjustments-Add

Adjustment-Offset). Disability is the category, and partial sick leave is the adjustment type.

20. Sick Leave Buy Back/Wage Agreements
    a. Claims Services staff must receive written notice of the sick leave buy back/wage agreement between the employer and IW.
    b. When Claims Services staff are considering honoring a sick leave buy back/wage agreement, staff must ensure that:
        i. Written notice of the agreement is signed by the employer and IW and submitted to BWC within 30 calendar days of the beginning date of payment of wages, sick leave, or advancement. For example:
            a) The employer paid wages from 4/17-4/30/2015 on 5/8/2015.
            b) Written notice of the agreement must be submitted to BWC within 30 calendar days of 5/8/2015, the beginning date of payment.
            c) If continuous, ongoing payments are made by the employer, additional notices of the beginning of payment are not required. For example:
                i) The employer paid wages from 4/17-4/30/2015 on 5/8/2015, from 5/1-5/14/2015 on 5/22/2015, and from 5/15-5/28/2015 on 6/5/2015.
                ii) One notice is required to be submitted within 30 days of 5/8/2015, the beginning date of payment.
                iii) Additional notices are not required 30 calendar days from 5/22/2015 and 6/5/2015.
            d) However, additional notice is required if there is a break in the employer's payment, and then payment resumes. For example:
                i) The employer paid wages from 4/17-4/30/2015 on 5/8/2015.
                ii) The IW returned to their former position of employment on 5/1/2015, but worked for only two weeks, and then was unable to work again due to their injury.
                iii) The employer paid another period of wages from 5/15-5/28/2015 on 6/5/2015.
                iv) Written notice of the agreement must be submitted to BWC within 30 calendar days of 5/8/2015, the beginning date of payment for the first period.
                v) A second notice must be submitted to BWC within 30 calendar days of 6/5/215, the beginning date of payment for the second period.
        ii. Within 30 calendar days of the end date of payment of wages, sick leave, or advancement, the employer or IW have submitted written notice that payment has ended. For example:
            a) The employer's final payment of wages to the IW was for the period 12/4-12/17-2015 and was made on 12/25/2015.

b) Within 30 calendar days of 12/25/2015, the end date of payment, the employer or IW must submit written notice to BWC that payment has ended.
c) If continuous, ongoing payments are made by the employer, additional notices that payment has ended are not required. For example:
    i) The employer paid wages from 4/17-4/30/2015 on 5/8/2015, from 5/1-5/14/2015 on 5/22/2015, and from 5/15-5/28/2015 on 6/5/2015.
    ii) One notice is required to be submitted to BWC within 30 days of 6/5/2015, the end date of payment.
    iii) Additional notices are not required 30 calendar days from 5/8/2015 and 5/22/2015.
d) However, additional notice is required if there is a break in the employer's payment, and then payment resumes. For example:
    i) The employer paid wages from 4/17-4/30/2015 on 5/8/2015.
    ii) The IW returned to their former position of employment on 5/1/2015, but worked for only two weeks, and then was unable to work again due to their injury.
    iii) The employer paid another period of wages from 5/15-5/28/2015 on 6/5/2015.
    iv) Written notice of the agreement must be submitted to BWC within 30 calendar days of 5/8/2015, the end date of payment for the first period.
    v) A second notice must be submitted to BWC within 30 calendar days of 6/5/2015, the end date of payment for the second period.

c. If the sick leave buy back/wage agreement extends beyond the period originally submitted but Claims Services staff does not receive written notice of the change, Claims Services staff must not send the IW's payment of TT compensation in care of the employer.
d. It is possible that Claims Services staff may not receive a request for TT when staff receives:
    i. Written notice of the agreement between the employer and IW; or
    ii. Written notice of the beginning or end date of payment of wages, sick leave, or advancement.
    iii. However, Claims Services staff must receive a request for TT within two years of the date of payment of wages, sick leave, or advancement to pay TT over the period covered by the employer and IW's agreement.
e. Claims Services staff must pay TT to the IW when Claims Services staff has determined TT is payable based on this procedure and related policy. Claims Services staff must not pay TT strictly based on the agreement between the employer and IW.

f. Claims Services staff must enter in the claims management system the full amount of the weekly sick leave buy back/wage agreement monies paid.
g. Claims Services staff must mail warrants in care of the employer, but made out to the IW, with instructions that the warrant must be personally signed by the IW.
h. Claims Services staff must pay TT to the IW for a period not to exceed 12 weeks closely following the DOI or beginning of disability, except in special circumstances. Examples of special circumstances include, but are not limited to the following:
    i. A clearly defined human resources (HR) policy/employee handbook policy; or
    ii. A bargaining unit contract.
i. When determining if special circumstances apply and extension of a sick leave buy back/wage agreement beyond 12 weeks is appropriate, Claims Services staff must review the circumstances with their supervisor, and then with BWC Legal, if necessary.
    i. When a clearly defined HR policy/employee handbook policy or a bargaining unit contract is submitted as proof of special circumstances, Claims Services staff must review the policy or contract with their IMS to determine if special circumstances apply.
    ii. When proof other than a clearly defined HR policy/employee handbook policy or a bargaining unit contract is submitted as proof of special circumstances, Claims Services staff must review the proof with a BWC field attorney to determine if special circumstances apply.

21. SSR
    a. In claims with dates of injury on or after 11/03/1989, Claims Services staff must pay a weekly TT or LM benefit amount that does not exceed 66 2/3% of the SAWW for the DOI when an IW is receiving SSR benefits (the actual amount of the SSR benefits is not a factor). This includes payments of TT at the FWW rate or the AWW rate.
    b. Example:
        i. The DOI is 03/05/2009 and the IW's AWW is $1,095.
        ii. The maximum SAWW for 2009 is $767.
        iii. The IW is receiving SSR. Therefore, they are not entitled to the full maximum weekly amount of $767.
        iv. The IW is entitled to 66 2/3 of $767, which is $511.33.
    c. Additional information can be found on the *TT and Social Security Retirement* job aid.
22. Student IWs
    a. Claims Services staff may pay TT to a student IW in the following situations:

i. When the injury prevents the IW from returning to the former position of employment, but does not prevent the IW from attending school; or
ii. When the injury prevents the IW from returning to the former position of employment and from attending school.

b. Claims Services staff may pay TT to the student IW if they can show that they would have remained in the work force and did not voluntarily remove themselves from the work force due to returning to school.
c. Claims Services staff must review and discuss claims pertaining to payment of TT to student IWs with their local BWC attorney and supervisor.

23. Teachers and Other School Employees
    a. Claims Services staff must determine issues involving a teacher or other school employee's eligibility for TT on a case-by-case basis and may review the claim with their supervisor and a BWC attorney, if necessary.
    b. When Claims Services staff is determining an issue involving a school employee's eligibility for TT over the summer months, Claims Services staff must review and discuss the issue with the local BWC attorney prior to issuing a decision. Prior to the staffing with the BWC attorney, Claims Services staff must consider the following questions:
        i. Was the school employee injured during the school year;
        ii. Is the school employee receiving their regular wages (SC);
        iii. Is the school employee currently receiving TT; and
        iv. Is the school employee still under contract with the school for the period in which TT is requested?
    c. When a teacher or other school employee is receiving their wages during the summer months and those wages were earned during a prior period, Claims Services staff may pay TT with no offset over the same period that the IW is receiving their wages. Claims Services staff must not preclude the IW from receiving TT simply because the IW is receiving wages for a prior work period.
    d. Claims Services staff must not pay TT to a teacher or other school employee who is receiving their wages during the summer months and who is not scheduled to work over the summer months unless the teacher or other school employee shows intent to work during those months. The following information documents proof of their intent to work during the summer months:
        i. A job offer for the summer that they are temporarily and totally disabled;
        ii. A history of working at another job during the summer months; or
        iii. A job search for summer employment performed prior to the injury.
    e. Claims Services staff must refer the issue to the IC when the IW indicates an intention to work during the summer months but has no evidence of such intent.

f. Once BWC has determined that a teacher or other school employee is entitled to TT, payments may continue if the teacher or other school employee is unable to RTW at one of their former places of employment.
g. If a teacher or other school employee has been receiving continuous TT and is unable to work during the previous 9-month academic year as a result of the industrial injury, the teacher or other school employee is entitled to continue to receive TT during the summer months as long as the teacher or other school employee is not receiving payment of any wages.
h. Example 1 (corresponds to Section V.E.23.d above – not eligible for TT):
    i. A teacher gets injured in May and is off work until August (a new school year begins in September).
    ii. The teacher continues to be paid wages over a pro-rated 12-month period and has never worked over the summer months.
    iii. The teacher can return to the teaching job once school resumes.
    iv. TT is not payable to the teacher during their period of disability (May-August) because they did not show intent to work over the summer months and there was no loss in earnings.
i. Example 2 (corresponds to Section V.E.23.d above – eligible for TT):
    i. Same facts as Example 1, but the IW has worked every summer for the last three years.
    ii. TT is payable to the teacher during their period of disability because they had a loss in earnings over the summer.
j. Example 3 (corresponds to Section V.E.23.g above):
    i. A teacher gets injured in November, is not paid anything under the teaching contract during the period of disability and has received TT during the remainder of the school year.
    ii. The teacher is now applying for TT for the summer months.
    iii. TT is payable to the teacher for the summer months because they were unable to earn any wages during the school year and will not receive their regular pro-rated wages.

24. TT Split among Multiple Claims
    a. When requests are received in separate claims asking BWC to pay TT over the same period and Claims Services staff has confirmed that split TT is the intent of the IW, Claims Services staff must refer all claims involved in the request to the IC at the same time:
        i. Seeking a determination of TT; and
        ii. A decision regarding payment of TT in one claim or split among claims.
    b. In the referral, Claims Services staff must:
        i. Ask the IC to set the claims as a “heard with” and not as reference claims to ensure that the IC publishes one order addressing the request for TT; and

ii. Include the “heard with” in the based on add text section.

c. If TT is being paid in one of the claims referred to the IC, Claims Services staff must note this information on the referral and continue to pay TT in that claim, with supporting evidence, until the IC issues a decision.

d. Claims Services staff must review issues involving TT split among multiple claims with an IMS and/or local BWC attorney.

25. Volunteers

a. A volunteer IW with no other employment is not entitled to TT as no loss of wages has occurred due to a work-related injury.

b. BWC may pay TT when a volunteer IW has multiple jobs, one as a volunteer with no earnings and the other as an employee with earnings.

c. Example:

i. A volunteer firefighter also works as a mechanic at a local garage.

ii. They suffer an injury and cannot work at either job.

iii. TT may be payable.

F. Initial Decision with TT Included

1. Claims Services staff may allow or deny a request for TT on the BWC order when they are issuing a decision for an initial award of TT at the same time as the initial claim allowance.

a. Claims Services staff must not deny TT on the BWC Initial Allowance order solely due to the absence of a completed and signed C-84 or equivalent form from the IW. However, they may include the appropriate order insert regarding consideration of the TT request.

b. When the claim is changed over to lost time and the allowance order from medical claims is still within the appeal period with no appeal filed:

i. Claims Services staff must vacate the allowance order and issue a new order to allow the claim and payment of TT (when TT is medically supported).

ii. If the claim is certified, Claims Services staff must release TT upon issuance of the re-issued order.

2. If a party to the claim appeals the order after the appeal period has expired, Claims Services staff must:

a. Refer the claim to the IC for hearing;

b. Keep the claim in the status as determined by the order; and

c. Continue paying TT in the claim while the IC adjudicates the appeal when a valid request for TT and supporting documentation have been submitted.

3. Claims Services staff must issue a decision to allow a claim and grant TT once the wages are set, supporting medical evidence is received, and the compensable period and amount of the TT payment are determined.

G. Claim Certification
    1. When the claim is certified:
        a. The EOR retains the right to appeal to the BWC order.
        b. Claims Services staff must release TT immediately when the BWC order has been issued for initial decisions only. If a timely appeal is filed to the order, Claims Services staff must place the claim in "Hearing" status and stop compensation until a District Hearing Officer (DHO) decision is made.
        c. Claims Services staff must not hold payment of TT for receipt of a waiver or expiration of the appeal period.
        d. If the initial allowance order has not been issued and the claim was changed over from medical-only to lost-time, Claims Services staff must issue the initial allowance order and release TT without waiting for expiration of the appeal period of the order.
        e. After the initial allowance order is issued and no appeal has been filed, Claims Services staff must release TT when the certification is received.
    2. When the EOR does not respond regarding claim certification, or the claim is rejected, and the claim is being allowed after the initial investigation is complete, Claims Services staff may release TT:
        a. Once the appeal period has expired and no appeal has been filed; or
        b. Upon receipt of the signed *Waiver of Appeal Period* (C-108) submitted by the IW and EOR. Claims Services staff is not required to obtain a C-108 from the employer when the employer is out of business, or their policy number is in a final cancelled status.

H. TT as a Subsequent Decision (New and Subsequent Periods of TT)
    1. Claims Services staff must:
        a. Not consider a request for TT until a final decision is reached on any previously filed request for additional condition when the requested condition is the sole basis for the period of disability covered by the TT; and
        b. Send the *Application/Request Pending letter* to notify the parties to the claim that the request for TT is suspended.
    2. If there is no dispute or conflict with the requested TT and evidence has been received to support the payment, Claims Services staff must generate a BWC order outlining the TT award being granted when:
        a. The initial allowance decision in the claim is final; or
        b. BWC is paying TT after an interruption in payment, or an omitted or extended period between TT payments, regardless of the period. See Section V.H.6 below.
    3. Claims Services staff must refer the issue of payment of TT to the IC if a conflict or dispute exists.

a. When a conflict or dispute created by a party to the claim, including BWC, is supported by objective evidence, Claims Services staff must refer the issue to the IC for hearing.
b. If a party to the claim, including BWC, objects to the payment of TT, but does not support the objection with evidence, the objection does not create a conflict; therefore, Claims Services staff must process the request for TT as though the party did not object.

4. Claims Services staff must release TT when a BWC order is issued granting TT (including when the claim is changed over from medical only to lost time) and:
   a. The appeal period for the order has expired with no appeal filed, even if the claim was certified; or
   b. A signed C-108 is submitted by the appropriate parties.
      i. Claims Services staff is not required to obtain a signed C-108 from the employer when the employer is out of business, or their policy number is in a final cancelled status.
      ii. Claims Services staff is not required to obtain a C-108 from the IW if the only issue addressed in the order is payment of TT.
5. Claims Services staff must contact the IW or IW's attorney and request a completed and signed C-84 or equivalent form when a C-86 requesting payment of TT is filed by the IW or IW's attorney, but a completed and signed C-84 or equivalent form has not been submitted.
   a. Claims Services staff must dismiss the C-86 if the completed and signed C-84 or equivalent form is not received, and payment of TT was the only issue requested on the C-86.
   b. If there are multiple issues on the C-86, Claims Services staff must refer the C-86 to the IC and include the evidence for the other issues.
      i. Claims Services staff must ask the IC to deny TT based on the lack of a signed C-84 or equivalent form from the IW.
      ii. If Claims Services staff requests denial of TT for a medically related reason, Claims Services staff must obtain a physician file review to support the denial prior to referring the C-86 to the IC.
6. When there is a break in payment of TT, regardless of the length of the break in payment (see Section V.H.2.b above), and a need for clarification of information or to obtain additional information, Claims Services staff must contact the IW, employer, and/or MCO to investigate and verify the following:
   a. Reason for the lapse in payment of TT;
   b. Status of the disabling conditions as of last exam/treatment;
   c. RTW dates, including light/modified duty;
   d. Receipt of any other benefits during the period of disability; and
   e. Any deductions or offsets to TT.

7. When SC has been paid previously, and TT is now payable, Claims Services staff must issue an order granting payment of TT.
    a. If there is a conflict or dispute with the requested TT, Claims Services staff must refer the issue to the IC.
    b. When the appeal period expires with no appeal filed, Claims Services staff must release TT.
    c. Claims Services staff must release TT immediately upon receipt of a written waiver from the appropriate parties prior to the expiration of the appeal period.

I. TT Entitlement and TT Restart Letters
    1. The claims management system automatically sends the *TT Entitlement letter* when the initial TT award is entered into the claims management system, regardless of when the award is granted in the life of the claim.
    2. Claims Services staff must manually generate the *TT Entitlement letter* when a subsequent period of TT is granted.
    3. Claims Services staff is not required to send the *TT Entitlement letter* for ongoing TT awards.
    4. When an IW is changing from payment of LM to TT, Claims Services staff must send the *TT Entitlement letter*.

J. IC Order Language
    1. Claims Services staff must pay TT according to the IC order when the order states that TT must be paid upon submission of supporting medical evidence and the evidence is received.
        a. Claims Services staff must have a completed and signed C-84 or equivalent form from the IW.
        b. Claims Services staff must not issue a separate BWC order awarding TT compensation.
    2. Claims Services staff must issue a BWC order granting TT or must refer the request to the IC when the IC orders that payment of TT must be considered upon submission of supporting medical evidence and the evidence is received.
    3. Claims Services staff must pay TT as directed in the IC order when an IC order is received ordering TT paid, but the IW's signature is absent from the C-84 or equivalent form.
    4. The IC may consider the IW's presence at a hearing sufficient to meet the requirement of an IW requesting TT.
    5. When a subsequent C-84 or equivalent form is submitted, Claims Services staff must:
        a. Pay ongoing TT when the IW has signed the C-84 or equivalent form; or
        b. Follow up with the IW to obtain a signature when necessary.

6. When the IC orders BWC to pay TT and the IW has also received SC, Claims Services staff must pay TT as ordered by the IC (usually the difference between the TT rate and the IW's net pay).

K. Managing Ongoing TT
   1. When medical evidence and a completed and signed C-84 or equivalent form are submitted to support continued or ongoing payments of TT, Claims Services staff is not required to:
      a. Provide notification to the EOR every time TT is extended; or
      b. Issue a BWC order.
   2. Claims Services staff may discuss an extension of TT with the EOR to manage the IW's continued disability. If the employer verbally objects to the ongoing payment of TT, Claims Services staff must explain to the employer that:
      a. A verbal objection will not stop payment of TT; and
      b. The EOR must file a C-86, with supporting evidence for the issue to be addressed.
   3. When a conflict or dispute exists with ongoing payment of TT, Claims Services staff must continue to pay TT and refer the issue to the IC for a hearing.
      a. Claims Services staff does not have authority to discontinue payment or terminate TT when a conflict or dispute exists with ongoing payment.
      b. Claims Services staff must attempt to resolve any conflicts to avoid a referral to the IC.
      c. If the EOR submits a C-86 objecting to ongoing payment of TT with supporting evidence, Claims Services staff must continue to pay TT and refer the issue to the IC.
   4. BWC may create a conflict or dispute by objecting to the continued payment of TT. The dispute must be:
      a. Supported by objective evidence (e.g., physician file review or exam); and
      b. Clearly outlined in the Notice of Referral to the IC.
   5. If the IW is not expected to RTW, Claims Services staff must send a C-84 to the IW and set a work item to follow up with the IW if they do not return the C-84 or equivalent form.
   6. If the IW is expected to RTW on the estimated date, Claims Services staff must:
      a. Set a work item for the estimated RTW date to remind them to follow up and obtain an actual RTW date if the IW returned to work on that date; and
      b. Update disability tracking in the claims management system with the actual RTW date.
   7. Claims Services staff must continue payment of TT when the IW is receiving TT and the IW files an *Application for Compensation for Permanent Total Disability* (IC-2).
      a. Claims Services staff must not terminate TT based upon the filing of the IC-2.

b. Payment of TT may continue until there is an MMI finding, or the IC makes a determination on the IC-2.
c. Claims Services staff must terminate TT as ordered by the IC when the IC-2 is allowed.
d. When the IC is processing an IC-2 and BWC subsequently receives medical evidence from the treating provider indicating that the IW has reached MMI:
    i. Claims Services staff must terminate TT as of the MMI date.
    ii. Claims Services staff is not required to wait for a decision on the IC-2.
e. If the IC is processing an IC-2 and evidence is received from a provider other than the treating provider indicating the IW has reached MMI, Claims Services staff may send the MMI issue to the IC while the IC-2 is still under consideration.
f. When the IW has filed an IC-2 after BWC has made an MMI referral to the IC, the process to terminate TT due to a finding of MMI may continue.
g. Claims Services staff may schedule the IW for an EOD exam if an IC-2 has been filed.
h. If the IC-2 is dismissed or the IC finds the IW is not permanently and totally disabled, Claims Services staff must review the issue with BWC Legal to determine if any of the evidence from the IC-2 or IC exam for permanent total disability could be used as a basis for an IC referral on the issue of MMI.
i. Refer to the *Permanent Total Disability and Disabled Workers' Relief Fund* policy and procedure for more information.

L. Medical Exams and Payment of TT
1. Claims Services staff may schedule an exam to evaluate the treatment and EOD early in the life of the claim to facilitate the earliest possible safe RTW and to ensure appropriate and timely medical treatment.
2. Claims Services staff may schedule the IW for
    a. An EOD exam anytime, if appropriate; or
    b. A 200-week exam.
3. Claims Services staff must schedule a 90-day exam as required by law.
4. Claims Services staff must refer to the *Independent Medical Examinations and Physician File Reviews* policy and procedure for information regarding medical exams.

M. Terminating TT
1. Claims Services staff must terminate TT without a hearing for any of the following reasons when no conflict or dispute exists:
    a. The IW returns to work;
    b. The IW's treating provider has made a written statement that the IW can return to the former position of employment.

c. The IW's treating provider indicates the IW has reached MMI; or
d. The IW's employer or another employer makes work available within the IW's physical capabilities.
    i. The job offer must be in writing.
    ii. The IW's treating provider must agree with the job offer.

2. RTW
    a. Claims Services staff must pay TT up to but not including the day the IW returns to work (e.g., the IW's estimated or actual RTW date is 05/31/2020. TT is paid up to and including 05/30/2020).
    b. Claims Services staff may need to contact the IW, employer, their respective authorized representative, or the treating provider to obtain or verify the correct RTW date.
    c. Claims Services staff must update disability tracking in the claims management system with the actual RTW date.
    d. Claims Services staff must send the *TT Terminated letter* to notify all parties to the claim of the following:
        i. Ongoing TT is being terminated due to RTW;
        ii. No overpayment exists because payment of TT ended prior to the RTW date; and
        iii. The IW is no longer eligible for TT.
            a) Claims Services staff must send the letter rather than an order as there is no issue to appeal.
            b) Claims Services staff must not send the letter when TT is ordered paid for a closed period in the past.
    e. Claims Services staff must send a BWC order to terminate TT when the IW receives TT beyond the RTW date.
        i. Once a decision on the TT termination issue is final, Claims Services staff must address the IW's overpayment in a separate BWC order.
        ii. Refer to the *Overpayment of Compensation* policy and procedure for more information regarding overpayments.

3. Treating Provider Releases the IW without Restrictions
    a. Claims Services staff must pay TT up through and including the day before the treating provider released the IW to return to their former position of employment.
    b. Claims Services staff must send a BWC order when the IW has not returned to work.
    c. Claims Services staff must send an order rather than a letter because their decision to terminate TT based on the treating physician's opinion to release the IW without restrictions may be appealed by the IW or employer.

4. Treating Provider Releases the IW with Restrictions

a. Claims Services staff must gather the following evidence to determine if termination of TT is appropriate:
    i. A written job offer that is within the medical restrictions set forth by the treating provider and agreed to by the treating physician; and
    ii. A job description.
b. Claims Services staff may continue to pay TT when the IW refuses a job offer that would require them to work a shift or at a location that is different than the former position of employment.
c. Claims Services staff may review such issues with BWC Legal to determine if payment of TT must continue or if the issue must be referred to the IC for hearing.

5. MMI
    a. Claims Services staff must refer the issue to the IC when:
        i. A conflict or dispute exists regarding MMI; or
        ii. The IW is receiving or requesting TT at the time a party to the claim (including BWC) files a request to find the IW has reached MMI.
    b. If Claims Services staff receives an exam report that finds the IW MMI on some, but not all, allowed conditions, they:
        i. Must review the issue with BWC Legal to determine if IC referral is appropriate;
        ii. May refer the matter to the IC on a NOR;
        iii. Must not enter MMI in disability tracking unless TT is being terminated due to MMI; and
        iv. May refer to TT job aids and the *Notice of Referral to the Industrial Commission* policy and procedure for more information.
    c. Treating Provider Finds MMI
        i. Claims Services staff must issue a BWC order to terminate TT when the treating physician:
            a) States the IW has reached MMI and TT is being requested or paid in the claim; or
            b) Concurs with a finding of MMI and TT is being requested or paid in the claim.
        ii. When the treating provider submits a MEDCO-14 or equivalent form and indicates the IW has reached MMI, Claims Services staff must terminate TT effective on the date of the last examination, unless the treating provider specifies an MMI effective date. For example:
            a) The treating provider performs an exam on 10/02/2020.
            b) The treating provider's medical report dated 10/05/2020 states the IW is MMI, but an effective date is not given.

c) The effective date of the termination is 10/02/2020, the date of the treating provider's medical exam.
d) TT is paid through 10/01/2020.

iii. Claims Services staff must terminate TT as of the date listed on the MEDCO-14 or equivalent when the treating provider indicates the IW has reached MMI and must pay TT through the day before the MMI effective date. For example:
a) The treating provider indicates on the MEDCO-14 or equivalent form that the IW has reached MMI on 10/2/2020.
b) The MMI effective date entered in the MMI section of the MEDCO-14 is the termination date.
c) TT is paid through 10/01/2020.

iv. Claims Services staff must enter the MMI effective date in the claims management system.

v. When an IW is in a rehabilitation plan and the treating provider submits a MEDCO-14 or equivalent form indicating the IW has reached MMI, compensation is not affected. If the IW subsequently requests TT, the MMI finding may be sufficient for a referral to the IC if no new and changed circumstances exist.

d. Employer IME Finds MMI
i. If TT is being requested or paid at the time the EOR submits an IME with an MMI finding and a request for a finding of MMI, Claims Services staff must complete a NOR based on the employer's C-86 or request for a finding of MMI.

ii. If no C-86 or request for a finding of MMI is submitted with the IME that concludes the IW has reached MMI, Claims Services staff must contact the employer and ask if the employer is seeking an MMI finding. If yes, Claims Services staff must ask the employer to submit a C-86 or request for MMI finding.
a) When the C-86 or request is received, Claims Services staff must refer the issue to the IC based on the employer's request.
b) Claims Services staff must not refer the issue without a C-86 or request from the employer.

iii. If TT is not being requested or paid or the IW is receiving SC at the time the employer submits an IME with a finding of MMI and a request for a finding of MMI, Claims Services staff must complete a NOR based on the employer's C-86 or request for a finding of MMI. Claims Services staff must recommend the C-86 or request be dismissed as TT is not being requested or paid.

e. BWC IME Finds MMI

i. When Claims Services staff receives a report from the DEP physician with a finding of MMI, Claims Services staff must review the claim to determine if the IW is still requesting or receiving TT and/or a new request for medical treatment has been received. If the IW is requesting or receiving TT, Claims Services staff must send to the treating provider:
   a) *The Physician Letter – IME Received with MMI Finding*; and
   b) A copy of the IME report, unless the provider has indicated they will review the report online.

ii. Before proceeding with the MMI issue, Claims Services staff must wait the following number of days to receive a response from the treating provider:
   a) Seven business days if the letter and report are sent by fax or email (may set a work item for eight days); or
   b) 11 days (seven plus four days per the *Due Process: Mailbox Rule, Notification, and Opportunity to Respond* policy) if they are sent by mail (staff may set a work item for 12 days).

iii. Before referring the request to terminate TT based on MMI, Claims Services staff must:
   a) Review the claim for any recent *Physician's Request for Medical Service or Recommendation for Additional Conditions for Industrial Injury or Occupational Disease* (C-9) approving treatment that could potentially affect the IME findings; and
   b) Review the claim to determine whether the DEP physician was aware of the treatment being sought.
      i) If there is treatment being sought that is not mentioned in the BWC exam report, Claims Services staff may obtain an addendum from the DEP physician.
      ii) If the treatment being sought impacted the IME findings, Claims Services staff may obtain an addendum from the DEP physician to address whether the treatment being sought would impact the ultimate conclusion in the exam report.
      iii) Claims Services staff must review the issue with BWC Legal to determine if it is appropriate to move forward with the MMI referral.
      iv) Claims Services staff must notify the MCO if an MMI referral is made to the IC, so the MCO is aware in case any new treatment requests come in after the referral.

iv. The effective date of the TT termination is:
   a) The MMI date indicated by the treating provider when they give a specific MMI date in their statement of concurrence with the IME results; or

b) The date of the IME with treating provider concurrence. Claims Services staff must pay TT up to and including the day before the MMI effective date.
c) Example:
    i) An IME is performed on 10/02/2020.
    ii) The IME report dated 10/05/2020 states the IW has reached MMI.
    iii) The treating provider's statement dated 10/15/2020 concurs with the MMI finding and provides an effective date of 10/16/2020.
    iv) The effective date of the termination is 10/16/2020, the date provided by the treating provider.
    v) Claims Services staff must enter 10/16/2020 as the MMI date in the claims management system to pay TT up to and including the day before.
d) Example:
    i) An IME is performed on 10/02/2020.
    ii) The IME report dated 10/05/202 states the IW has reached MMI.
    iii) The treating provider's statement dated 10/15/2020 concurs that the IW has reached MMI, but an effective date is not given.
    iv) The effective date of the termination is 10/02/2020, the date the IME was performed.
    v) Claims Services staff must enter 10/02/2020 as the MMI date in the claims management system to pay TT up to and including 10/01/2020.

v. If TT is not being requested or paid (e.g., IW was receiving TT, but no new C-84 or MEDCO-14 has been submitted) or the IW is receiving SC at the time of a finding of MMI, Claims Services staff must document the finding in claim notes for future reference in the event the IW becomes eligible for TT.
    a) Claims Services staff must not enter an MMI date in the claims management system.
    b) Claims Services staff must not issue a BWC order or refer the matter to the IC unless a subsequent request for TT is received.
    c) If a subsequent request for TT is received, Claims Services staff must refer the issue to the IC for a decision regarding TT entitlement, not MMI.

f. IC Finds MMI
    i. Claims Services staff must pay TT up to and including the TT termination date, which is the date of the IC hearing that determined the IW had reached MMI. However, the IC may determine an effective date of termination that is more appropriate (e.g., IC affirms BWC order terminating TT when the treating provider states an MMI date).

ii. Claims Services staff must stop payment of TT compensation upon receipt of an IC order finding the IW has reached MMI.

g. Permanency
   i. Medical evidence that has determined a condition is permanent may be sufficient to terminate TT if the IW has reached MMI.
   ii. When the treating provider indicates that the IW's medical condition is not improving further, no other treatment options are feasible, and the condition has reached a level of permanency, this may be evidence that the IW has reached MMI and TT termination may be appropriate.
      a) The treating provider's report must strongly conclude that the IW has reached MMI for the report to support TT termination.
      b) However, if the treating provider indicates that the IW's condition is permanent but is still responding to medical treatment and is improving, this is not evidence that the IW has reached MMI. TT termination is not appropriate.
   iii. Example:
      a) Right knee sprain is allowed in an IW's claim.
      b) The IW is receiving treatment for the condition; however, a progress report recently submitted by the treating provider states that the IW is no longer benefiting from treatment, no other treatment options are viable, and the condition has become permanent.
      c) The IW may have reached MMI and TT termination may be appropriate.
   iv. Example:
      a) An IW has an amputation and permanent loss of the leg, but the IW's condition is still improving with medical treatment.
      b) The IW's condition is permanent but has not reached a maximum level of medical recovery.
      c) The IW has not reached MMI and TT termination is not appropriate.

6. Incarceration: See the *Incarceration* policy and procedure for information regarding termination of TT due to incarceration.

N. Suspending TT
1. Claims Services staff must suspend TT when:
   a. Without good cause, an IW refuses to submit to any examination scheduled pursuant to ORC 4123.651, or refuses to release or execute a release for any medical information, record, or report that is required to be released pursuant to ORC 4123.651, and involves an issue pertinent to the conditions alleged in the claim, and the IC Hearing Administrator issues a compliance letter; or
   b. An IW refuses to submit to any medical examination or vocational evaluation scheduled pursuant to ORC 4123.53, or obstructs the same, or refuses to

complete and submit to BWC or the IC a vocational questionnaire within 30 days after BWC or the IC mails the request to complete and submit the questionnaire.

2. For more information, refer to the *Independent Medical Examinations and Physician File Reviews* policy and procedure.

O. Reinstating TT
   1. Reinstating Terminated TT
      a. The termination of TT, whether by BWC order, IC order, or court order, does not preclude the commencement of TT at another point in time if the IW becomes temporarily and totally disabled, unless TT is forever barred.
      b. If the IW becomes eligible to receive TT after termination and it is requested, Claims Services staff must investigate the request as a new, subsequent request (see Section V.H. above).
      c. If TT was previously terminated by the IC, BWC may reinstate payment of TT. An IC Referral is not required.
      d. Claims Services staff may issue an order when:
         i. Following staffing with BWC Legal, Legal agrees that the request for payment of TT is supported by medical evidence of new and changed circumstances (e.g., surgery or newly allowed conditions) and no conflict or dispute exists; or
         ii. TT has been terminated by BWC due to a previous finding of MMI for the conditions allowed in the claim and a request is submitted for TT for a newly allowed conditions that renders the IW temporarily and totally disabled.
      e. If TT was terminated due to an IW's incarceration, Claims Services staff may begin payment of TT on the date the IW was first seen by their treating physician, not the date the IW was released from confinement, unless it is the same date the IW was first seen by their treating physician.
         i. Claims Services staff must obtain supporting documentation; and
         ii. May refer to the *Incarceration* policy and procedure for more information.
   2. Reinstating Suspended TT: Claims Services staff must:
      a. Reinstate TT when the IW has remedied the reason for suspension.
      b. Pay TT beginning from the date of last payment if the IW has submitted supporting evidence; and
      c. Notify all parties to the claim that TT is being reinstated via the *TT Reinstatement letter*.