

# DRAFT

**Walworth County Board of Supervisors  
Human Resources Committee Meeting Minutes  
Wednesday, July 19, 2023  
Walworth County Government Center, County Board Room 114  
100 West Walworth Street, Elkhorn, Wisconsin**

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Chair Susan Pruessing called the meeting to order at 3:30 p.m.

Roll call was conducted and the following members were present: Chair Susan Pruessing (Remote); Vice-Chair Ryan Simons; and Supervisors Kathy Ingersoll, Joanne Laufenberg, and Kenneth Monroe. A quorum was declared.

Chair Pruessing turned the meeting over to Vice-Chair Simons.

## **Others in Attendance**

County Staff: Walworth County Administrator Mark W. Luberdia; Director-Human Resources Kate Bishop; Benefits Manager Josh Pollock; Corporation Counsel/Director of Land Use and Resource Management Michael Cotter; Finance Director Jessica Conley; Sheriff Dave Gerber; Risk Manager Megan Rogers; Safety Specialist Chris Morrison; and Deputy Wayne Blanchard.

**On motion by Supervisor Ingersoll, second by Supervisor Laufenberg, the agenda was approved with no withdrawals.**

**On motion by Supervisor Monroe, second by Supervisor Ingersoll, the June 21, 2023 Human Resources Committee meeting minutes were approved.**

**Public Comment** – Deputy Wayne Blanchard spoke in support of approving the ordinance Amending Section 15-572 of the Walworth County Code of Ordinances Relating to County Provided Benefits, and elaborated on how this has and will impact him personally.

## **Unfinished Business**

7a) Ord. No. \*\*\*\*-08/23 Amending Section 15-572 of the Walworth County Code of Ordinance Relating to County Provided Benefits

Human Resources Director Kate Bishop explained, after discussion at last month's Human Resources (HR) Committee meeting, amendments have been made to Section 15-572 of the Walworth County Code of Ordinances which will allow the accrual of vacation time/Scheduled Time Off (STO) when an employee is out on an approved worker's compensation absence. Those amendments have been brought forward for approval however, Bishop noted, further amendments may need to be made pertaining to additional changes requested by Deputy Blanchard during the Public Comment period.

**Supervisor Laufenberg offered a motion, second by Supervisor Ingersoll, to approve the changes to the ordinance Amending Section 15-572 of the Walworth County Code of Ordinances Relating to County Provided Benefits, while changing the second to last sentence in paragraph (a) to read: The salary supplement would continue until they reach maximum medical improvement or until worker's compensation benefits are otherwise suspended or employment ends.** Benefits Manager Josh Pollock explained, paragraphs (c) and (d) would also need to be amended in the ordinance to add sick time because vacation time and STO were the only two benefits discussed at the previous meeting. County Administrator Mark W. Luberdia provided input regarding the addition of sick time relative to the Sheriff's Office bargaining agreement. Discussion ensued. Corporation Counsel/Director of Land Use and Resource Management Michael Cotter encouraged the Committee to allow proper time to make further amendments to this ordinance. He explained, the intent of the discussion is understood but there are many moving parts. Risk Manager Megan Rogers cautioned that per Worker's Compensation Statutes, while sick time may be allowed to accrue, if sick time is utilized, there is a possibility that time could be deducted from an employee's worker's compensation benefits. Rogers advised she will research what the true effect would be and report back at the next meeting. Bishop noted, Deputy Blanchard also requested amendments be prorated back to August 1, 2022 as that is when his vacation accruals had stopped accruing. Sheriff Gerber spoke in support of these changes. Luberdia discussed the potential of Wisconsin Retirement System (WRS) and/or Internal Revenue Service (IRS) penalties by having a retroactive date. Finance Director Jessica Conley advised, if there is no cash payout then there should not be any penalties. Discussion ensued regarding the timeline of decisions relative to this ordinance amendment. Bishop stated, as long as there is a retroactive date, there is no rush to approve these changes. Cotter reiterated, the Committee should not feel pressured to make a decision quickly. Discussion then focused on holding a Special HR meeting to allow amendments to be drafted and discuss further if

necessary. **Supervisor Laufenberg offered a motion, second by Supervisor Ingersoll, to amend the original motion to include adding sick time in paragraphs (c) and (d), setting a retroactive effective date of August 1, 2022, and have the ability to confirm the changes at a meeting between the County Board meeting and Agenda Setting in August. Motion carried 5-0.** Luberda clarified there is no Agenda Setting meeting in August because there are no Committee Meetings in August. Therefore, the Special HR meeting would simply be held prior to the County Board meeting. **The original motion, as amended, was approved. Motion carried 5-0.**

7b) Ord. No. \*\*\*\*-08/23 Amending Sections of Chapter 15 of the Walworth County Code of Ordinances Relating to Civil Service

Bishop reminded the Committee this item was brought forward by Sheriff Gerber in May requesting an amendment to the ordinance relating to Civil Service. She explained, this amendment hopes to achieve two main goals; expedite the hiring process for new deputies by eliminating Civil Service from the process; and enhance the promotional process. The Civil Service Board is in support of these changes. Gerber noted Corporation Counsel, HR, and the Sheriff's Office were all involved in this amendment process and all are in approval of the amendment. **Supervisor Monroe offered a motion, second by Supervisor Ingersoll, to approve the ordinance Amending Sections of Chapter 15 of the Walworth County Code of Ordinances Relating to Civil Service.** Supervisor Laufenberg inquired if there were portions of the ordinance currently not being followed, and if the Civil Service Board will be involved in the hiring process at all. Bishop stated there has been some language clean-up which should have been made in the past to better align with current practices. She also explained Civil Service will still be involved in the promotional process for Detective, Sergeant, Lieutenant, and Captain Positions. **Motion carried 5-0.**

### New Business

8a) Proposed Updates to the 2024 Health and Prescription Plans

Bishop explained, included on Pages 29-43 of the packet is information regarding the proposed changes to the 2024 Health and Prescription Plans which is brought forward annually. She noted these recommendations may change as they get into the budget process and the budget becomes more fully developed. Pollock provided a detailed overview of his Memorandum (Pages 29-30) which outlines these proposed changes. Discussion followed.

8b) Discussion on Projected Employer and Employee Contribution Rates for Walworth County Self-Funded Insurance Plans

Bishop referred to the Memorandum from Pollock (Pages 44-46) relative to projected employer and employee contribution rates for Walworth County's self-funded insurance plans. She noted there is a proposed increase to the monthly premiums as well as a change to contribution strategy. There are no recommended changes to the 2024 dental premiums. Pollock elaborated further regarding these changes.

8c) Recommendation for Short-Term Disability, Long-Term Disability, and Basic Life and AD&D (Accidental Death & Dismemberment) Contract Award for 01-01-2024

Bishop provided an overview of Pollock's Memorandum and the analysis performed by Walworth County's insurance broker, National Insurance Services (Pages 47-53). The recommendation is to remain with Madison National Life, the incumbent, who has offered a reduced rate for Basic Life, AD&D, and Long-Term Disability (LTD) insurance, with no change in premium for Short-Term Disability (STD). **Supervisor Laufenberg offered a motion, second by Supervisor Monroe, to approve the recommendation for Short-Term Disability, Long-Term Disability, and Basic Life and AD&D (Accidental Death & Dismemberment) Contract Award for 01-01-2024. Motion carried 5-0.**

8d) Adoption of Walworth County's Employee Wellness Council 2023-2024 Operating Plan and Event Plan

**Supervisor Laufenberg offered a motion, second by Supervisor Monroe, to accept the Adoption of Walworth County's Employee Wellness Council 2023-2024 Operating Plan and Event Plan. Motion carried 5-0.**

### Reports

9a) Mid-Year Worker's Compensation Report and Training Update

Rogers provided an overview of her report (Pages 64-69) which covers incidents from January 1, 2023- June 30, 2023. She noted, she has provided a new figure in the report for the estimated cost on claims, which she believes provides a better reflection of the claims. This year's current estimated cost for new claims is around \$320,000 whereas last year at

this time it was at \$91,000. This increase was due mainly to injuries requiring surgeries. Of the 22 incidents this year, 5 were due to slip and falls. In preparation for winter weather, Rogers has worked in collaboration with the Department of Public Works (DPW) regarding a snow removal plan. In addition, she intends on developing an awareness campaign to educate employees on winter safety. Rogers also introduced the new Safety Specialist Chris Morrison. Morrison introduced himself and provided an overview of his background. **Supervisor Laufenberg offered a motion, second by Supervisor Ingersoll, to accept the Mid-Year Worker's Compensation Report and Training Update. Motion carried 5-0.**

**Reports/announcements by Chairperson** – There were none.

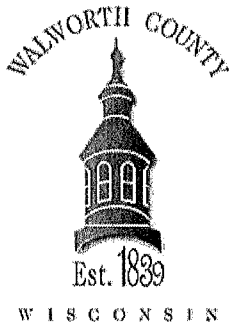
**Confirmation of next meeting date and time: Supervisor Monroe offered a motion, second by Supervisor Laufenberg, to hold a Special Human Resources Meeting on August 8, 2023 at 4:00 p.m. Motion carried 5-0.**

**Adjournment**

**On motion and second by Supervisor Monroe and Supervisor Ingersoll, Vice-Chair Simons adjourned the meeting at 4:50 p.m.**

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Submitted by Lindsey Ross, Administrative Assistant. Meeting minutes are not considered final until approved by the Human Resources Committee at the next regularly scheduled meeting.



Human Resources

Kate Bishop  
Human Resources Director

# Memorandum

**To:** Walworth County Human Resources Committee

**Cc:** Mark Lubberda, County Administrator

**From:** Kate Bishop, Human Resources Director

**Date:** July 26, 2023

**RE:** Amending Section 15-572 of the Walworth County Code of Ordinances  
Relating to County Provided Benefits.

This item has been on the agenda for the last two Human Resource Committee meetings, and a great deal of discussion ensued regarding changes and/or additions to be included in the Ordinance regarding benefits offered to employees who are unable to work due to a work-related injury. A detailed memorandum stating our current practice, a summary of results from surveying other counties, and our conclusion with a recommendation were provided at both the June and July meetings. I have included them again for your convenience.

Deputy Wayne Blanchard spoke at both meetings, and his wife spoke at the June meeting, regarding their experience and their support of a change to the current practice. Although a recommendation was provided in June and the Committee asked that Human Resources bring back that recommendation to the July Committee in the form of a draft ordinance, additional requests and recommendations were made at the July meeting. The Committee asked for the new requests to be included in the draft ordinance and called for the special meeting prior to the August 8, 2023 County Board Meeting. The new recommendation is detailed in the draft ordinance which is included in your packet. In summary, the request asks the following:

- Extend the salary supplement from the current practice of 12 months from the date of injury to *“while on an approved temporary total disability leave under worker’s compensation until they reach maximum medical improvement, or until worker’s compensation benefits are otherwise suspended or employment ends.”*
- Specify that all regular employees *“to continue to earn their full scheduled time off/vacation and sick leave accrual amounts while on an approved temporary total disability leave under worker’s compensation until they reach maximum medical improvement, or until worker’s compensation benefits are otherwise suspended or employment ends”* verses the current practice of only deputies being allowed to continue to accrue their full vacation accruals for 12 months from the date of injury.
- Allow for all regular employees *“to use scheduled time off/vacation/sick leave payout for the equivalent of one regular shift for each payroll period while on an approved worker’s compensation absence.”*

**Human Resources**  
100 W. Walworth  
PO Box 1001  
Elkhorn, WI 53121  
262.741.7965 tel  
262.741.7948 fax

Memo to Human Resources Committee  
August 8, 2023

- Please note that these changes will be effective retroactively back to August 1, 2022.

These changes will allow for employees, if they have County Health Insurance, to remain on the County Health Plan and only pay the employee portion of the premiums verses be removed from the Health Plan and placed on COBRA paying the higher premiums once FMLA expires and/or accrued time earned before their injury is exhausted.

ORDINANCE NO. 1322 – 08/23

AMENDING SECTION 15-572 OF THE WALWORTH COUNTY CODE OF ORDINANCES  
RELATING TO COUNTY PROVIDED BENEFITS

THE WALWORTH COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

1 **PART I: That Section 15-572 of the Walworth County Code of Ordinances is hereby amended**  
2 **to read as follows (additions are underlined; deletions are shown in strike-through text):**

3  
4 **“Sec. 15-572. County provided benefits.**

- 5  
6 (a) *Supplemental pay.* A regular employee absent due to a workers compensation claim arising  
7 out of County employment and accepted as compensable under worker's compensation shall  
8 be paid his or her regular wages for the day of injury and the next three calendar days of  
9 disability immediately following the date of injury. Beginning with the fourth calendar day  
10 of disability, a salary supplement shall be paid to a regular employee equal to the difference  
11 between the employee's normal net ("after-tax") pay and the temporary disability payment  
12 under worker's compensation. The salary supplement ~~is limited to a period of 12 months~~  
13 ~~from the date of injury~~ will continue until they reach maximum medical improvement, or  
14 until worker's compensation benefits are otherwise suspended or employment ends. Time  
15 covered by this section shall not be charged against sick leave, extended sick leave bank or  
16 sick benefit bank.
- 17  
18 (b) *Elected officer salary continuation.* An elected officer or County Board Supervisor who  
19 incurs a compensable injury while engaged in an activity related to and arising out of  
20 County employment shall continue to receive their regular salary during the period of  
21 temporary disability and only while the officer continues to hold the elected office.  
22 Temporary disability payments under worker's compensation are not payable to the elected  
23 officer during the period that the salary is continued.
- 24  
25 (c) *Accruals while on an approved worker's compensation absence.* Effective August 1, 2022,  
26 all regular employees will continue to earn their full scheduled time off/vacation and sick  
27 leave accrual amounts while on an approved temporary total disability leave under worker's  
28 compensation until they reach maximum medical improvement, or until worker's  
29 compensation benefits are otherwise suspended or employment ends.
- 30  
31 (d) *Scheduled time off/vacation and sick leave payout while on an approved worker's*  
32 *compensation absence.* Effective August 1, 2022, all regular employees will be allowed to  
33 use scheduled time off/vacation/sick leave payout for the equivalent of one regular shift for  
34 each payroll period while on an approved worker's compensation absence.”

35  
36 **PART II: That this ordinance shall be effective upon passage and publication.**

37  
38 **PASSED and ADOPTED** by the Walworth County Board of Supervisors this 8<sup>th</sup> day of August  
39 2023.

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\_\_\_\_\_  
Rick Stacey  
County Board Chair

\_\_\_\_\_  
Susi Pike  
County Clerk

County Board Meeting Date: August 8, 2023

Action Required:    Majority Vote   X              Two-thirds Vote \_\_\_\_\_            Other \_\_\_\_\_

Policy and Fiscal Note is attached.  
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

_____ Michael P. Cotter Corporation Counsel	_____ Date	_____ Jessica Conley Finance Director	_____ Date
_____ Mark W. Luberda County Administrator	_____ Date		

If unsigned, exceptions shall be so noted by the County Administrator.







Human Resources

**Kate Bishop**  
Human Resources Director

# Memorandum

**To:** Walworth County Human Resources Committee

**Cc:** Kate Bishop, Human Resources Director

**From:** Josh Pollock, Benefits Manager

**Date:** June 9, 2023

**RE:** Recommended changes to employee benefits related to worker's comp

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## Overview

Over the past several months, Human Resources staff, along with County Administration and Risk Management, have been reviewing the benefits offered to employees who are absent from work due to a work-related injury.

Some of the concerns that have been brought to our attention include issues with the adequacy of the salary supplement, accrued time off during a worker's comp absence, how benefits are retained during a worker's comp absence and uninsured motorist coverage under the auto liability policy.

## Inquiry

The purpose of this review was to analyze the benefits of other Counties to make sure that Walworth County was offering comparable benefits to the market. The questions posed to the other Counties were:

1. Do you have any salary continuation or salary supplements for employees on a worker's compensation absence?
2. Do employees continue to accrue paid time off while off on worker's comp?
3. How are other benefits handled while off on worker's comp (i.e. – health insurance)?
4. Are employees provided coverage for uninsured motorists under your automobile liability insurance policy?
5. Are there any other benefits or payments that you offer to employees on worker's comp?

## Results

Twenty different counties responded. The full results are included in **Attachment A**. Below, I have summarized my thoughts on the five questions and have included our recommendations for any changes at the end of this memo.

## Do you have any salary continuation or salary supplements for employees on a worker's compensation absence?

- **Walworth County Current Practice**

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262.741.7948 fax

Generally, employees who are absent due to a work-related injury for a period of time are paid two-thirds of their average weekly wages by worker's compensation benefits and receive a salary supplement from the County that is equal to the difference between the employee's normal net ("after-tax") pay and their temporary disability pay under worker's comp.

- **Summary of Results**

Fifteen of the twenty counties surveyed do not offer any additional supplement or continuation. Two of them offer the same supplement that Walworth County offers. The main difference for the counties that I rated as having a better benefit is that Walworth County's supplement is only paid for one year. There are two others that offer this same supplement but without a limit on how long it is paid. Some of the counties had bargained benefits for deputies that were richer, but a full supplement is rare.

- **Conclusion**

It appears Walworth County is on track or offering a better benefit in relation to supplements or salary continuance. For more information on how and why worker's comp pay is calculated please see **Attachment B**.

**Do employees continue to accrue paid time off while off on worker's comp?**

- **Walworth County Current Practice**

Sworn deputies, as part of their bargaining agreement, continue to earn their full accrual amounts for one year after the date of injury. After that one-year period, they would only accrue additional time based on their own paid time (hours worked or accrued time used). Accruals are not earned based on worker's compensation pay. All other employees are subject to that rule from the date of injury. Therefore, if the employee cannot work at all, and they do not have any accrued time to use, they will not earn any additional accruals.

- **Summary of Results**

Fourteen of the counties surveyed continue to offer full accruals for the entirety of a worker's compensation absence. The remainder follow the same rule as Walworth County. Very few do not offer any continuation for accrued time off.

- **Conclusion**

Walworth County could make some improvements in this category to improve benefits for employees and align more with what other employers are offering.

**How are other benefits handled while off on worker's comp (i.e. – health insurance)?**

- **Walworth County Current Practice**

- Employees absent due to a work-related injury retain their benefits as long as they have FMLA (if eligible) or accrued time available. Employees are able to use a small amount of their accrued vacation/STO time during a worker's

comp absence, and this allows them to pay for their insurance premiums. As long as an employee has accrued time to use, they would only pay the employee portion of the health insurance premiums. If they have exhausted all FMLA eligibility (typically twelve weeks) and all of their accrued time, insurance benefits would end as an employee, and they would be offered COBRA continuation coverage where the full plan premium would be charged.

- **Summary of Results**

Fifteen of the surveyed counties offer the same benefit continuation as Walworth County. The employee can remain on the health plan as long as they have approved FMLA time and/or time worked or accrued time to use on their check. If an employee does not have one of these three, benefits are discontinued and COBRA is offered. Of note, five other counties allow the employee to only pay their portion of their premium as long as they are on an approved worker's comp absence, regardless if they have accrued time or not.

- **Conclusion**

Our benefits fall in line with most other counties in this category, but there could be room for improvement to assist an employee and their family while on a worker's comp absence.

**Are employees provided coverage for uninsured motorists under your automobile liability insurance policy?**

- **Walworth County Current Practice**

Walworth County employees are excluded from underinsured and uninsured motorist coverage under the automobile liability policy.

- **Summary of Results**

All counties surveyed, except for four, exclude underinsured and uninsured coverage for employees under their auto liability policy. The four that provide uninsured motorist to employees limit coverage to \$25,000 and work comp benefits received by the employee offset the coverage.

- **Conclusion**

Walworth County falls in line with the benefits offered by the other counties. For more information on uninsured motorist coverage in relation to on-the job injury, please see **Attachment C**.

**Are there any other benefits or payments that you offer to employees on worker's comp?**

Walworth County does not offer any additional benefits and there were no additional notable benefits mentioned by responding employers.

### **Recommendations**

While Walworth County meets or exceeds the benefits of most of the surveyed counties, I feel that one area that could be improved is the continuation of accrued time off, and indirectly, continuation of insurance benefits, while an employee is on an approved work comp leave. Sworn deputies earn their full accruals for one year after the date of injury, while non-sworn employees stop accruing immediately unless they are using some accrued time to supplement their worker's compensation pay. After the first three months, while FMLA and worker's comp run concurrently, the employee must use increments of accrued time to ensure continuation of benefits. If an employee does not have a substantial accrued time off bank, they can quickly find themselves without affordable insurance and without any means to return to work. While most medical costs would be covered for the employee under worker's compensation, oftentimes the employee's family is also covered under the health plan, and this would then leave them without affordable coverage and possibly no other route to obtain coverage.

Allowing the employee to continue to accrue their full time off benefits would allow the employee to continue on the county health insurance while only paying the employee portion of the premium. Indirectly, this covers the two areas that I noted for possible improvement.

As we have learned over the past few months during this review and working with employees on worker's comp absences, there are numerous obstacles that an employee and their family have to maneuver while they are unable to work. In some cases, the employee may have been injured to the point that not only can they not return to work, they might be fighting for their lives, and their family may be tasked with their care. Making this change would take one big concern off of the minds of our employees and their families so that they can concentrate on the recovery and care.

As accrued time off would be processed separately from worker's comp through payroll, benefit premiums could easily be collected through this process and separate payments or large "catch-up" premiums upon return would be avoided.

We would, however, limit this extension until the end of maximum medical healing for an injury related to an approved work comp leave, so an employee will not be accruing longer than the point when permanent disability for that injury is determined.

Employee benefits are protected while an employee is on an approved family medical leave, so this change would mainly affect employees who were on an extended absence due to a work-related injury lasting over 90 days or newly-hired employees who do not yet qualify for FMLA. Over the past five years, only three employees have had work-related injuries that kept them out of work for 90 days or more.

There are some risks associated with making this change. If we have an employee who is not on the County's health plan and therefore not using their accrued STO or vacation for premiums, it is possible that they build up that bank while out of work. This would allow them to have paid time when they return or if they separate

employment prior to returning to work, the vacation or STO bank is paid out at their current rate. In the second scenario, that employee would have a slightly higher severance as those accrued benefit banks are paid out upon termination. We feel like the benefits outweigh the risks in this scenario and it is also rare that this would occur.

We are making the recommendation to allow all employees to earn their full vacation or scheduled time off accruals while off on an approved worker's compensation absence until they reach maximum medical healing.

*Human Resources staff will be present at your meeting on June 21, 2023 to answer any questions you may have. Please feel free to contact me at 262.741.7964 prior to your meeting with any questions.*

	<b>Walworth County</b>		<b>Bayfield County</b>		<b>Chippewa County</b>		<b>Columbia County</b>		<b>Dodge County</b>	
	<b>Deputies</b>	<b>Other Employees</b>	<b>Deputies</b>	<b>Other Employees</b>	<b>Deputies</b>	<b>Other Employees</b>	<b>Deputies</b>	<b>Other Employees</b>	<b>Deputies</b>	<b>Other Employees</b>
<b>Salary Continuation</b>	Supplement equal to the difference between comp payments and net wages for 12 months	Supplement equal to the difference between comp payments and net wages for 12 months	Supplement equal to the difference between comp payments and net wages for 12 months	Supplement equal to the difference between comp payments and net wages for 12 months	No Salary Continuation Benefit	No Salary Continuation Benefit	No Salary Continuation Benefit	No Salary Continuation Benefit	Supplement equal to the difference between comp payments and net wages for 12 months	Supplement equal to the difference between comp payments and net wages for 12 months
<b>Accruals</b>	Employees earn full accruals for first 12 months after injury. After that - only accrue time off if using already banked time off to supplement work comp payments (prorated based on amount of time off used)	Employees only accrue time off if using already banked time off to supplement work comp payments (prorated based on amount of time off used)	Employees continue to accrue time off for 12 months after injury	Employees only accrue time off if using already banked time off to supplement work comp payments	Accrue PTO for up to 4 full pay periods while off. Then only if using PTO (prorated)	Employees only accrue time off if using already banked time off to supplement work comp payments	Employees out on a work comp absence are treated as active employees and earn full sick and vacation accruals/allotments	Employees out on a work comp absence are treated as active employees and earn full sick and vacation accruals/allotments	No accruals earned while off on work comp	No accruals earned while out on work comp
<b>Benefits</b>	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Employees out on a work comp absence are treated as active employees on pay the employee premiums. Employees can catch up on premiums upon return or use accrued time	Employees out on a work comp absence are treated as active employees on pay the employee premiums. Employees can catch up on premiums upon return or use accrued time	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted
<b>UM/UIM</b>	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WCMIC member - Provided \$25,000 of Uninsured motorist coverage (NOT UIM). Policy provision says it reduces by any work comp received and retained by the person for which UM is being claim	WCMIC member - Provided \$25,000 of Uninsured motorist coverage (NOT UIM). Policy provision says it reduces by any work comp received and retained by the person for which UM is being claim	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	Unanswered	Unanswered	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees
<b>Other</b>	None	None	Emergency Leave Bank - other employees can donate. Voluntary accident insurance offered	Emergency Leave Bank - other employees can donate. Voluntary accident insurance offered	LTD Plan pays \$100/month while on comp	LTD Plan pays \$100/month while on comp	None	None	None	None

<b>Key</b>	
	Similar Benefit
	Better Benefit
	Lesser Benefit

	Dunn County		Fond du Lac County		Green County		Jefferson County		Juneau County	
	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees
<b>Salary Continuation</b>	No salary continuation benefit offered	No salary continuation benefit offered	Law Enforcement is paid the additional 33.4% to add to the 66.6% work comp pay to make them whole. No end date noted.	No salary continuation benefit offered	No salary continuation benefit offered	No salary continuation benefit offered	Sworn deputies receive hazardous pay that can be used to supplement the difference (bargained benefit)	No salary continuation benefit offered	No salary continuation benefit offered	No salary continuation benefit offered
<b>Accruals</b>	Yes - Employee continues to accrue time off while out on approved work comp	Yes - Employee continues to accrue time off while out on approved work comp	No - employees do not accrue PTO balances while on an approved work comp	No - employees do not accrue PTO balances while on an approved work comp	Employee will continue to accrue all PTO during 12 week FMLA period. After FMLA is exhausted only sick time continues to accrue.	Employee will continue to accrue all PTO during 12 week FMLA period. After FMLA is exhausted only sick time continues to accrue.	Employees earn full accruals while on FMLA and the first 30 days of unpaid time outside of FMLA. After that employees only accrue time off if using already banked time off to supplement work comp payments (prorated based on amount of time off used)	Employees earn full accruals while on FMLA and the first 30 days of unpaid time outside of FMLA. After that employees only accrue time off if using already banked time off to supplement work comp payments (prorated based on amount of time off used)	Employees only accrue time off if using already banked time off to supplement work comp payments	Employees only accrue time off if using already banked time off to supplement work comp payments
<b>Benefits</b>	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Employee is responsible for their portion of the premiums. No end date noted.	Employee is responsible for their portion of the premiums. No end date noted.	Employer pays regular contribution for 1 year. After 1 year and FMLA has exhausted employee pays 100% of full premium	Employer pays regular contribution for 1 year. After 1 year and FMLA has exhausted employee pays 100% of full premium	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted
<b>UM/UIM</b>	WCMIC member - Provided \$25,000 of Uninsured motorist coverage (NOT UIM). Policy provision says it reduces by any work comp received and retained by the person for which UM is being claim	WCMIC member - Provided \$25,000 of Uninsured motorist coverage (NOT UIM). Policy provision says it reduces by any work comp received and retained by the person for which UM is being claim	None	None	Unanswered	Unanswered	If an employee driving for the County gets in an accident with an uninsured motorist, the County covers them.	If an employee driving for the County gets in an accident with an uninsured motorist, the County covers them.	None *WCMIC members	None *WCMIC members
<b>Other</b>	None	None	None	None	None	None	Hazardous Pay	None	None	None

<b>Key</b>	
	Similar Benefit
	Better Benefit
	Lesser Benefit

	Kenosha County		Langlade County		Manitowoc County		Marathon County		Racine County	
	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees
<b>Salary Continuation</b>	Supplement equal to the difference between comp payments and net wages - No end of benefit noted	Non-Exempt, Non-Sworn Employees: no salary continuation or supplement and Exempt Non-Sworn receive supplement equal to difference between comp payments and net wages - Indefinite	Employees are paid 100% of regular wages if they agree to turn over all workers comp checks	Employees are paid 100% of regular wages if they agree to turn over all workers comp checks	Full salary is continued for first 30 days. Comp payments only after that.	Full salary is continued for first 30 days. Comp payments only after that.	90 days without having to use their paid time. Get paid the difference between comp payment and base pay. After 90 days - employees only receive work comp payment	Employees can use benefit time - otherwise just WC payment non-taxed	Supplement Payment (difference between work comp and net wages) - No time limit/benefit indefinite as long as off for comp injury	Supplement Payment (difference between work comp and net wages) - No time limit/benefit indefinite as long as off for comp injury
<b>Accruals</b>	PTO Grant awarded on Jan 1 to use throughout the year	PTO Grant awarded on Jan 1 to use throughout the year	Yes - accruals continue while off on WC	Yes - accruals continue while off on WC	Yes - Employees continue to accrue PTO	Yes - Employees continue to accrue PTO	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp
<b>Benefits</b>	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted
<b>UM/UIM</b>	Exclude employees from uninsured motorist--they would get benefits from work comp. *WMMIC members	Exclude employees from uninsured motorist -- they would get benefits from work comp. *WMMIC members	None *WCMIC members	None *WCMIC members	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	employees are excluded from coverage under policy *WMMIC member	employees are excluded from coverage under policy *WMMIC member	None	None
<b>Other</b>	None	None	None	None	None	None	work comp payments are non-taxed through payroll/Not required to use FMLA time while off for work comp	work comp payments are non-taxed through payroll/Not required to use FMLA time while off for work comp	None	None

<b>Key</b>	
	Similar Benefit
	Better Benefit
	Lesser Benefit



	Rock County		Sheboygan County		Taylor County		Washington County		Waukesha County	
	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees	Deputies	Other Employees
<b>Salary Continuation</b>	Deputies - supplemental pay for 2 years	Corrections - up to 13 weeks/All others - None	Deputies and Detectives receive an additional 13 1/3% while on work comp	No salary continuation benefit offered	No salary continuation benefit offered	No salary continuation benefit offered	Supplement work comp that would normally be 66 2/3 to 85% of their wages	No salary continuation offered	Disability Pay in addition to comp pay - taxable 13 1/3 % for 2080 hours - after reverts back to comp pay only	No salary continuation offered
<b>Accruals</b>	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees accrue sick and vacation time while on work comp	Yes - Employees accrue sick and vacation time while on work comp	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp	If an employee is completely off of work they will not earn accruals. If the employee is partially off and have some paid time they will still accrue PTO	If an employee is completely off of work they will not earn accruals. If the employee is partially off and have some paid time they will still accrue PTO	Employees accrue holidays to be used in subsequent calendar year - indefinite	Employees accrue time off for the first 6 months of injury.
<b>Benefits</b>	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits continue while out on approved work comp	Benefits continue while out on approved work comp	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Coverage continues while of on work comp and missed deductions are caught up upon return	Coverage continues while of on work comp and missed deductions are caught up upon return	County pays employer portion for up to 6 months - COBRA offered after 6 months	County pays employer portion for up to 6 months - COBRA offered after 6 months
<b>UM/UIM</b>	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees	Includes endorsement to auto liability for uninsured motorists	Includes endorsement to auto liability for uninsured motorists	None *WCMIC member	None *WCMIC member	None	None	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees - states Work Comp is meant to be employee's exclusive remedy, so feels WMMIC decision to exclude employees is appropriate	WMMIC member - Auto liability policy excludes UM/UIM coverage for employees - states Work Comp is meant to be employee's exclusive remedy, so feels WMMIC decision to exclude employees is appropriate
<b>Other</b>	None	None	None	None	None	None	None	None	Employees can use onsite clinic for work injuries and get well cards are sent	Employees can use onsite clinic for work injuries and get well cards are sent

<b>Key</b>	
	Similar Benefit
	Better Benefit
	Lesser Benefit

	<u>Winnebago County</u>		<u>Wood County</u>	
	<u>Deputies</u>	<u>Other Employees</u>	<u>Deputies</u>	<u>Other Employees</u>
<u>Salary Continuation</u>	Employees receive salary continuance for 26 weeks - per contract	No salary continuation offered	No salary continuation offered	No salary continuation offered
<u>Accruals</u>	Yes - Employees continue to accrue PTO while on a comp absence	Yes - Employees continue to accrue PTO while on a comp absence	Yes - Employees continue to earn all accruals while out on work comp	Yes - Employees continue to earn all accruals while out on work comp
<u>Benefits</u>	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted	Benefits terminated after FMLA and available accrued time off are exhausted
<u>UM/UIM</u>	None *WCMIC member	None *WCMIC member	None *WCMIC member	None *WCMIC member
<u>Other</u>	None	None	None	None

<u>Key</u>	
	Similar Benefit
	Better Benefit
	Lesser Benefit

## FAQ

### **How an Employee is Paid While on Worker's Compensation- *Temporary Total Disability (TTD)***

#### **How will I be paid when I am on workman's compensation leave and for how long?**

- County Payment:
  - An employee who is taken off of work due to a work-related injury will be paid their regular wages for the day of the injury and the next three (3) calendars days immediately following the injury.<sup>1</sup>
- Worker's Compensation Payment:<sup>2</sup>
  - If the employee is unable to return to work for a period of time, Walworth County's third party claims administrator will begin to pay the state required worker's compensation benefit called Temporary Total Disability (TTD) on the fourth (4) calendar day after the first day the employee is taken off of work by a physician.
  - The payment for TTD will be  $66 \frac{2}{3}$  % ("two-thirds") of the average weekly wages (AWW), which includes all wages such as tips, premiums, overtime, etc., up to the statutory weekly maximum for the year the injury occurred (e.g. \$1,247 if the date of injury was in 2023, \$1,159 in 2022, and so on). TTD is paid on a biweekly basis.
  - These payments continue until the status of the employee's work eligibility changes (i.e. able to return to work with restriction or able to return to work without restrictions).
- (Possible) County Payment:<sup>3</sup>
  - Beginning with the fourth (4) calendar day of disability, a salary supplement shall be paid to an employee who is taken off of work equal to the difference between the employee's normal net ("after-tax") pay and the TTD payment under worker's compensation.
  - The salary supplement is limited to a period of 12 months from the date of injury. Time covered by this section shall not be charged against sick leave, extended sick leave bank or sick benefit bank.
  - If the TTD payment from Worker's Compensation exceeds the employee's net ("after-tax") pay, then no supplement is issued.

#### **How is the Worker's Compensation TTD wage calculated?<sup>4</sup>**

- The Average Weekly Wage (AWW) is calculated by taking the total gross earnings (including tips, premiums, overtime, etc.) of the employee for the 52 weeks prior to the injury, dividing it by 52 and determining the average weekly wages (AWW), or by using the employee's hourly rate times the average number of hours worked in the 52 weeks prior to injury.
- This is multiplied by  $66 \frac{2}{3}$ % to determine the AWW.

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<sup>1</sup> Walworth County Ordinance 15-572(a) *Supplemental Pay*

<sup>2</sup> Wis. Stat. § 102.43; Wis. Stat. § 102.11

<sup>3</sup> W.C.O. 15-572

<sup>4</sup> Wis. Stat. § 102.43; Wis. Stat. § 102.11

- TTD is subject to a maximum AWW as determined by the Wisconsin legislature. The maximum is typically adjusted annually.

### Why is the TTD rate calculated in this way?

- The standard rate for the replacement of wages for TTD benefits, as recommended by the 1972 National Commission on State Workmen's Compensation Laws report, is 66 2/3 % of an employee's *gross weekly wage* (called "average weekly wage" in Wisconsin statutes).<sup>5</sup> Currently, 37 states still calculate TTD payment based on 66 2/3 %.<sup>6</sup>
  - The report states that in order to achieve the goal of protecting workers against loss of income from work-related injuries and diseases, the Commission "must carefully weigh the worker's interest in substantial income benefits against factors such as the loss of incentive for rehabilitation, which some believe may occur if income benefits are too high."<sup>7</sup>
  - In practical terms, the TTD benefit is tied to a worker's actual wage, but there is no tax or social security subtracted from workers' compensation benefits, so if the TTD benefit payment were paid at 100% of the worker's gross weekly wage, it would be more attractive than a worker's usual take home pay (i.e., pre-injury wage, minus tax and social security), thus creating a disincentive to return to work. The goal of the state legislature is to attempt to match the benefit with a worker's take home pay, or slightly less.
- In addition, most states also impose a maximum gross weekly wage, which the TTD rate is applied to, resulting in the maximum TTD payment. In Wisconsin, the maximum average weekly wage is based on 110% of the State's average weekly earnings.<sup>8</sup> By allowing the maximum average weekly wage to be based on the State's average weekly earnings, the State can automatically adjust the adequacy of the benefit.

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<sup>5</sup> National Commission on State Workmen's Compensation Laws (NCSWCL). 1972. The Report of the National Commission on State Workmen's Compensation Laws. Washington, DC: U.S. Government Printing Office, pp. 53 – 75; Wis. Stat. § 102.43.

<sup>6</sup> Victoria Munoz, *How Much Does Workers Comp Pay In Every State*, Atticus.com, (Feb. 28, 2023), <https://www.atticus.com/advice/general/how-much-does-workers-comp-pay-payment-percentages-in-every-state>

<sup>7</sup> 1972 NCSWCL Report at 53.

<sup>8</sup> Wis. Stat. § 102.11.



# Memorandum

**To:** Mark Luberda, County Administrator

**Cc:** Kate Bishop, Human Resources Director  
Josh Pollock, Benefits Manager

**From:** Megan Rogers, Risk Manager

**Date:** January 16, 2023

**RE:** Uninsured Motorist Coverage in Relation to On-the-job Injury

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## Administration

**Megan Rogers**  
Risk Manager

**Rhonda Jenkins**  
Safety Specialist

**Emily Krabbenhoft**  
Administrative Assistant

Uninsured Motorist (UM) insurance is bodily injury coverage for an insured and the occupants of an insured's vehicle if they are involved in an accident with an uninsured motorist or a hit and run driver. UM is mandatory in the state of Wisconsin with limits of at least \$25,000 per person and \$50,000 per accident. *Wis. Stat.* § 632.32(4)(a)(1). UM generally covers medical bills, lost wages, pain and suffering, and funeral expenses. UM differs from Underinsured Motorist (UIM) insurance, which provides coverage when an at-fault driver's insurance limits are not high enough to cover the cost of injury. UIM is not mandatory in Wisconsin. *Wis. Stat.* § 632.32(4m).

Walworth County is insured for automobile liability coverage through its membership with Wisconsin Municipal Mutual Insurance Company (WMMIC). WMMIC membership includes 15 other counties, 3 cities, and 2 special districts. Due to the state requirement for UM coverage, WMMIC's policy does include UM coverage endorsement with the minimum limits of \$25,000 per person and \$50,000 per accident.

However, WMMIC's policy excludes all employees of its members from UM coverage. Specifically, "no employee of the Named Insured shall be considered an insured for the purposes of Uninsured Motorist Coverage." Although Wisconsin requires UM coverage, excluding employees from coverage was found to be legal when challenged in court. A 2008 Wisconsin Court of Appeals decision upheld this language in WMMIC's policy allowing employees to be excluded from coverage because "[e]mployees ... are already entitled to worker's compensation benefits for injuries arising out of the course of their employment under *Wis. Stat.* § 102.07." *Ellifson v. West Bend Mut. Ins. Co.*, 2008 WI App 86, 312 Wis. 2d 664, 674 n.3. The Court found the coverage was intended to apply to others who may be riding in a county vehicle during the normal course of service,

such as persons in custody, juvenile detainees, persons in need of mental health service, juveniles involved in Child Services, students, nursing home residents, or non-employee ride-alongs. These individuals likely would not have any other manner of recovery, unlike employees, if riding in a county vehicle and involved in an accident where the at-fault driver was uninsured.

Additionally, the UM coverage provided under the WMMIC policy “does not apply to ... [t]he direct or indirect benefit of any insurer or self-insurer under any workers’ compensation, disability benefits or similar law.” Wisconsin Statutes § 632.32(5)(i) specifically allows insurers providing UM coverage to include this language, commonly called a “reducing clause.” In practice, any UM payment will be reduced by those benefit amounts actually paid to the insured for injuries caused by the same accident. If workers’ compensation benefits exceed \$25,000, no UM coverage will be paid. Therefore, even if the WMMIC policy did cover employees, there is no UM available if the employee received, or received the benefit of, \$25,000 or more of workers’ compensation or disability benefits.

Wisconsin County Mutual Insurance Company (WCMIC) is another mutual insurance company that provides automobile liability coverage to approximately 53 other Wisconsin counties. WCMIC’s policy does provide UM coverage to its member’s employees and has a limit of \$25,000 per person, \$50,000 per occurrence. Like most UM coverage offered in Wisconsin, the language in WCMIC’s Uninsured Motorist insuring provisions also includes a reducing clause for workers’ compensation and other benefits, as allowed by state statute.

**So why has the law allowed insurers of UM coverage to exclude employees from coverage or reduce any UM payments by workers’ compensation benefits and insurance received?**

As noted by the Wisconsin Court of Appeals, the Wisconsin Workers’ Compensation statutes are designed by the legislature to ensure that all workers in the state are compensated by their employers for on the job injuries, regardless of the employee’s or employer’s liability. The employee does not have to prove their employer was negligent in order to receive benefits. In exchange for making benefit payments by employers mandatory, the legislature provides that the employee’s “right of compensation ... shall be the exclusive remedy against the employer, any other employee of the same employer and the workers’ compensation insurance carrier.” *Wis. Stat.* § 102.03(2). The Court of Appeals alludes to this premise in *Ellifson*, stating employees “are already entitled to Workers’ Compensation” in their decision allowing the exclusion of employees from receiving UM coverage.

When we asked whether other similarly situated counties as Walworth County provide any special uninsured motorist coverage for employees, all responses received were “no”. In one circumstance, decision-makers in the county elaborated that workers’ compensation is meant to be the proper and exclusive remedy from employers for employees injured on the job. Additionally, while there is not pain and suffering element in workers’ compensation, benefits go beyond just wage replacement and medical expenses to include benefits such as permanent disability, vocational rehabilitation, or retraining.