



What to do if your employee is sick - Special Cases

Use for days of sickness
from 6 April 2005

**An employer's further guide
to Statutory Sick Pay**

Help

We can help you

By telephone

(Calls may be recorded for quality and training purposes.)

- New employers (*less than 3 years*) **0845 60 70 143**
open Mon – Fri, 8am-8pm and Sat – Sun, 8am-5pm.
- More experienced employers **0845 7 143 143**
open Mon – Fri, 8am-8pm and Sat – Sun, 8am-5pm.
- Deaf or hard of hearing employers *Textphone* **0845 602 1380**

For a list of helplines and opening hours, see your *Employer's Bulletin*.

In person

We have specially trained Business Support Teams covering all parts of the country to help you understand how to operate the scheme and

- what records to keep
- what returns to make
- when to send us information.

The Business Support Teams offer a range of workshops on specific subjects designed with busy employers in mind. They can also arrange a one-to-one visit at your business address to sort out your payroll needs.

For more details, and to book a one-to-one visit or a workshop, contact your local Business Support Team by

- logging on to our website at www.inlandrevenue.gov.uk/bst/index.htm or
- calling the New Employer's Helpline on **0845 60 70 143** and ask for details of your local Business Support Team.

At your local Inland Revenue office

Your local Inland Revenue office can also help you. To contact them, look under 'Inland Revenue' in your phone book. Write the telephone number below for future use.

Please tell us your reference, which you can find on all correspondence from your Inland Revenue office.

If your enquiry is about one of your employees, please also tell us their National Insurance number.

By Internet

Log on to the Employer's website at www.inlandrevenue.gov.uk/employers

Further guidance

Employer's Help Books

There are a number of Employer's Help Books designed to help you operate PAYE, NICs and other payroll matters.

The Help Books are for guidance only. They are not comprehensive and have no legal force.

We also have a number of other booklets that give further guidance, for example

- *Employer's Further Guide to PAYE and NICs, CWG2(2005)*
- *Class 1A NICs on benefits in kind, CWG5(2005)*
- *Expenses and Benefits – a tax guide, 480(2005)*

You can view the full range of these booklets, and other forms and guidance on

- the Internet – log on at www.inlandrevenue.gov.uk/employers
- the Employer's CD-ROM.

or you can

- download them from the Internet www.inlandrevenue.gov.uk/employers
- print them from the CD-ROM*
- get copies from the Employer's Orderline www.inlandrevenue.gov.uk/employers or

Fax: **0870 2 406 406**

Phone: **0845 7 646 646**

Check the Order Form in your Employer's Pack for a full list of what is available and how to order.

**The CD-ROM contains forms you can complete on screen, such as P11D, a new Learning Zone and a New Employer's Section.*

Calculators have been built-in to help speed up your calculations of

- *Pay Adjustment and PAYE*
- *NICs contracted out and not contracted-out*
- *Car benefit and Car Fuel benefit*
- *Student Loans*
- *Statutory Sick Pay*
- *Statutory Maternity Pay.*

Forms and guidance in Braille, large print or audio

We have a range of services for people with disabilities, including leaflets in Braille, audio and large print.

For details, please ask at your local Inland Revenue office or Enquiry Centre.

Yr Iaith Cymraeg

Ffoniwch **0845 302 1489** i dderbyn fersiynau Cymraeg o ffurflenni a chanllawiau.

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This Help Book does not cover all the law and details of Statutory Maternity Pay (SMP) and Statutory Paternity Pay (SPP) or maternity and paternity leave. The Help Book contains only what most employers will need to know to help run their payroll and agree leave with their employees.

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Agency workers

There are various types of agency workers who are treated as employees for SSP purposes. If a worker is treated as an employee for National Insurance contributions purposes, they are also treated as an employee for SSP purposes.

Agency workers can be treated as employees for PAYE and NICs. So if you have to deduct PAYE and Class 1 NICs from the worker's earnings then you will have to pay them SSP if they satisfy the qualifying conditions. If you're not sure whether you have to deduct PAYE and Class 1 NICs from their earnings contact your local Inland Revenue office and ask for the Status Inspector.

Workers introduced to a client of the agency who establish a contract with the client without further intervention by the agency will usually be employees of the client, unless they are self-employed. The client will need to consider SSP.

Workers who find work with a client through an agency, but who are not an employee of the client, will generally be treated as employees of the agency for SSP purposes.

They may work under a **contract of service** or a **contract for services**. Workers employed under a contract for services, although not employed, will be treated as employed earners if they fall within the provisions of *Paragraph 2 of Part 1 of Schedule 1 of the Social Security (Categorisation of Earners) Regulations 1978*.

This law refers to workers providing services to agencies and provides for them to be 'treated as falling within the category of employed earner'. The worker is deemed to have a contract of service for the purposes of entitlement to SSP. The deemed contract is considered to start on the date the worker is offered an assignment. Subsequent assignments will give rise to new deemed contract of service.

Further information on the employment status of agency workers can be found in the Employer's Further Guide to PAYE and NICs CWG2 (2005).

Agency workers qualify for SSP from the start of the contract with their agency under which they work, by virtue of the *Social Security Contributions and Benefits Act 1992*. Usually the worker will have to have done some work under their contract before qualifying for SSP. However, where they have worked for the agency within the preceding eight weeks they do not have to have worked under the latest deemed contract.

Where two PIWs are separated by no more than eight weeks the two PIWs are treated as one. But, where the deemed contract started between the two PIWs, the period of entitlement begins at the start of the second contract and entitlement to SSP will only arise after the first three QDs in that PIW.

Liability to pay SSP will continue until the worker's entitlement ends. This will be when the deemed contract, the assignment, would have ended or the worker is fit for work.

If the client wants another worker to be supplied by the agency in place of the sick worker, the deemed contract doesn't end. The sick worker's entitlement to SSP continues until the earlier of

- their becoming fit for work, or
- the date the original contract would have ended.

Where a worker first falls sick between assignments, entitlement to SSP cannot arise, as during any period when they are not placed by the agency, i.e. between placements, there is no deemed contract running.

If any contract is ended mainly to avoid liability to pay SSP liability will continue as provided by Regulation 4 of the SSP (General) Regulations 1982, and SSP must be paid.

Example 1

The worker is given a new assignment on Friday lunchtime. This lasts from the following Monday to Friday evening. The deemed contract lasts from Friday to Friday. This is the first assignment given to this worker by the agency. The worker falls sick on Sunday and undertakes no work under the deemed contract. There is no entitlement to SSP since the worker hasn't previously worked through this agency.

Example 2

The worker is given an assignment on Friday lunchtime. The assignment lasts from the following Monday to Friday evening. The deemed contract lasts from Friday to Friday. The worker has worked on previous assignments without a gap of more than eight weeks between them. The worker falls sick on Sunday and undertakes no work under the deemed contract. They are entitled to SSP after the WDs have passed.

Casual workers

A casual worker is usually someone who works for somebody else as and when they are required, but

- they do not have to accept the work that is offered
- the person with the work doesn't have to offer it to them.

If you have to deduct PAYE and Class 1 NICs from the casual worker's earnings then you will have to pay them SSP if they satisfy the qualifying conditions. If you're not sure whether you have to deduct Class 1 NICs from the worker's earnings contact your local Inland Revenue office and ask for the Status Inspector.

Mariners

Mariners are covered by the SSP scheme, if they are

- employed on a British registered ship, or
- their contract was entered into in the United Kingdom (UK) and the person paying the mariners' earnings or the owner of the vessel has a place of business in Great Britain (GB).

Foreign-going mariners

Mariners are not covered by the SSP scheme if they

- are employed on board a foreign-going ship and their earnings are paid exclusively for that employment, or
- are employed partly on a foreign-going ship and partly elsewhere and the earnings for the employment on the foreign-going ship are paid during that employment, or
- have been employed on a foreign-going ship within the last 13 weeks, and
 - remain employed by the same employer, and
 - are not employed by anybody on terms which would stop them returning to their employment on the foreign-going ship within 13 weeks of leaving it.

Employers of foreign-going mariners pay a special rate of NICs, details of these rates can be found in Foreign Going Mariners and Deep Sea Fisherman's tables, CA42.

Employee has two contracts

It is possible for an employee who has two distinct contracts, with the same employer or different employers, to be incapable of work under one of them but capable of carrying out the other.

When an employee has more than one contract with the same, or different employers trading in association, and their earnings are aggregated for NIC purposes, they must be incapable of work under all contracts before they can be entitled to SSP.

For example an employee may work during the day as a plasterer and evenings as a bingo caller. If he breaks his leg he will be incapable of doing his daytime job but still able to do his evening one.

If he works for two separate employers he will be able to work for one while getting SSP from the other.

If he works two jobs for one employer, or for two associated employers, he will not get SSP while he is off sick in only one of the jobs.

Start of incapacity and deemed incapacity

General

There are circumstances in which your employee may not be sick themselves but are required to be absent by a medical practitioner, for example to prevent the spread of a disease with which they have been in contact. In these circumstances they are deemed to be incapable of work.

There are also times when your employee may have been to work for part of a day before becoming sick but that day can still count as a day of incapacity for work for SSP purposes.

The following paragraphs explain the majority of circumstances in which such absences count, or do not count, as incapacity for work.

Part of a day's sickness

An employee is deemed to have been incapable of work for the whole day if they arrive for work but do no work before they go sick.

But if an employee has done even a minute's work, that day cannot be treated as a day of incapacity for SSP purposes.

Shift workers

Work done in any shift that extends over midnight is always treated as done on the first of the two days, regardless of how many hours are worked before and after midnight. Therefore, if your employee becomes incapable of work after the end of the shift, the second day, the day they finished work, is deemed to be a day of incapacity even though they have worked that day.

For example, an employee works a shift starting at 6 pm on Friday and finishing at 2 am on Saturday. If he then becomes sick on the Saturday that day will count as a day of incapacity for SSP even though he worked part of his shift that day.

Precautionary reasons

An employee is deemed incapable of work for SSP purposes if a registered medical practitioner states they should not work for precautionary reasons. Incapacity is deemed to continue as long as the doctor states that the employee should refrain from work for a precautionary reason.

Infectious or contagious diseases

An employee who

- is a carrier of, or
- has been in contact with

an infectious or contagious disease may have been issued with a statement from the appropriate medical officer advising them not to go to work. If they have been issued with such a statement, they are deemed to be incapable of work for SSP purposes.

This guidance applies to the whole of GB and Northern Ireland.

Convalescence

An employee is deemed to be incapable of work for SSP purposes if a registered medical practitioner states that they should not work because they are convalescing.

Bereavement

Bereavement isn't an incapacity itself but it does affect people in different ways. Your employee may well be ill due to bereavement, for example shock or depression. But if you get a medical certificate with the reason for absence given only as 'bereavement', you must decide whether the incapacity can be accepted or not.

Working for therapeutic reasons or in supported permitted work

If an employee returns to work, for example on a part-time basis, for therapeutic reasons, the days they work for you cannot be treated as days of incapacity for SSP purposes.

If they start work under the supported permitted work arrangements, they can only get SSP from you if they do that work for an employer other than you.

For information about the rules concerning supported permitted work contact your nearest Jobcentre Plus or social security office. In Northern Ireland contact the Labour Relations Agency or visit their website at www.lra.org.uk

Are you liable to pay employer's Class 1 NICs on your employee's earnings?

Employee working outside UK on first day of PIW

Employees who work outside the UK on the first day of a PIW may be entitled to SSP if you are liable to pay employers' Class 1 NICs, or would be if the employee's earnings were high enough.

To qualify to get SSP from you an employee must have average weekly earnings of at least £82 in the eight weeks before the first day they are first off work sick. See page 16 of the E14 Employers Help Book, What to do if your employee is sick.

If your employee's PIW or linked PIW continues but your liability to pay employers' Class 1 NICs ceases, the employee continues to be entitled to SSP until their entitlement stops for another reason, for example they have received 28 weeks' SSP or have become fit for work.

Change of employer

If you take over a business and the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply, then continuity of employment isn't broken. These regulations are often referred to as the TUPE Regulations.

Usually the regulations apply when you take over the business as a going concern, with no interruption to trading, and take over the contracts of employment of those employed in the business immediately before the transfer.

If you are not sure if the Transfer of Undertakings (Protection of Employment) Regulations 1981 apply contact the Advisory, Conciliation and Arbitration Service (Acas) (visit their website at www.acas.org.uk or call **08457 47 47 47**). In Northern Ireland contact the Labour Relations Agency (LRA) for more information visit their website at www.lra.org.uk

Continuity of employment is also not broken when:

- one corporate body takes over from another as the employer by or under an Act of Parliament
- the employer dies and their personal representative or trustees keep the employee on
- there is a change in the partners, personal representatives or trustees of a business

- the employee moves from one employer to another and at the time of the move the two employers are associated, for example
 - one is controlled by the other either directly or indirectly, or
 - both companies are controlled by the same third party, either directly or indirectly
- a teacher in a school maintained by a local education authority, moves to another school maintained by the same authority, including maintained schools where the governors of the school, rather than the local education authority, are the teacher's employer.

Does your employee earn enough?

General

The following paragraphs explain how to work out your employee's average weekly earnings in the set period for the various special cases. All the other guidance on what counts as earnings and how much your employee needs to earn applies.

Employees with more than one job

Your employee could have more than one job with you or work for you and another employer.

If the employee's earnings from all their jobs have to be added together to work out Class 1 NICs they also have to be added together to work out the employee's average weekly earnings, and the employee can only get one lot of SSP.

If Class 1 NICs are worked out separately on the employee's earnings from each job, you must work out their average weekly earnings separately, and the employee can get more than one lot of SSP.

For more information on how to work out Class 1 NICs for employees with more than one job see the booklet Employer's Further Guide to PAYE and NICs, CWG2 (2005).

New employees

Employees who have not worked for you for long enough for the normal average weekly earnings rules to apply, or have worked for you before in a previous contract which doesn't link with the current contract, fall into two groups, that is employees who have not received

- payments covering at least eight weeks at the time the PIW begins
- any payments at the time the PIW begins.

Earnings do not cover eight weeks

Where the last normal pay day before the PIW has been established but the eight previous pay days have not, regulations provide for an employee's average weekly earnings to be calculated differently. In these circumstances calculate using the period represented by all the earnings, paid under the contract before the first day of sick absence, as the 'set period'.

So if the employee only received three days wages, the set period is three days. To get the average divide the three days' wages by three and multiply by seven.

No earnings paid yet

Where the employee falls sick before they have had their first pay day, you should use their contractual earnings to see if they earn enough to get SSP.

Change of employer in the set period

If you take over a business during the set period worked out from the check sheets on pages 9 to 12, see 'Change of employer' on page 6.

You must still add together all their earnings in the set period even where some of them were paid by the previous employer.

If the employee was getting SSP at the time you took over the business, you must carry on paying it until the PIW ends.

Rounding to the nearest whole month when there isn't a whole number of months in the set period

To calculate the number of months to use for employees paid calendar monthly, when there aren't a whole number of months in the set period that is, between the dates at 4 and 2 of the check sheet,

- Choose the relevant check sheet for monthly paid employees on pages 9 to 12
- when you get to Step 4 of the monthly check sheets, work out the number of rounded months as follows

Count the number of whole months and the number of odd days. Round the odd days up or down in line with these rounding rules

If the date at 2 is in

- February - round 14 days or less down and 15 days or more up.
- Any month except February - round 15 days or less down and 16 days or more up.

Then use the number of rounded months at Step 7 and follow the rest of the steps on page 12.

Earnings

NHS employees

NHS employees whose contracts were split between Health Authorities (now known as Strategic Health Authorities) and/or NHS Trusts as a result of NHS re-organisation, can choose to have all their earnings added together for working out average weekly earnings for SSP purposes.

This means that employees with low earnings from their individual contracts won't lose out on SSP just because of NHS re-organisation.

The earliest date on which a Trust could be set up was 1 April 1991.

Some employees, could qualify separately for SSP under each contract, and would, therefore, benefit.

Others may no longer qualify for SSP, although they would have if the original contract had not been split. For example if their average weekly earnings under each separate contract are below the LEL.

The law allows for these employees to choose to have their separate contracts treated as one for SSP purposes if it would benefit them.

This rule

- only applies to employees who were employed by a Health Authority at the time their contract was split between the Health Authority and Trust(s), or between Trusts
- doesn't affect the rules where an employee has more than one contract with the same employer.

Employees who start working for the Trust(s) after the split

- are not entitled to make this choice, and
- will only qualify for SSP from their employers if the conditions are satisfied with one, or more of them.

When NHS Trusts merge

At any time after 1 April 1999, two Trusts or a Health Authority and a Trust may merge to become one employer. If TUPE Regulations apply to the merger, an employee who:

- works for more than one employer before they merged, and
- who has SSP entitlement with each of the merging employers' continuing over the date of the merger, will keep their multiple entitlements to SSP until they return to work.

The multiple entitlement will last only until the end of the current spell of sickness that spans the merger date. In any future PIWs that employee will only be entitled to one payment of SSP, even if the PIWs link with a PIW, which started before the merger.

Earnings included in PAYE Settlement Agreements and subject to Class 1B NICs

If an employee doesn't qualify because their average weekly earnings in the 'set period' are less than the LEL, you must check whether they received any benefits or expenses, which would otherwise have attracted Class 1 NIC liability, within the 'set period', that were subject to a PAYE Settlement Agreement and Class 1B NICs.

If they did, you must recalculate their average weekly earnings to include these expenses and/or benefits, on which Class 1B NICs were paid, to see if they qualify.

Working out average weekly earnings

Weekly paid employee gets regular payment earlier or later than normal with more or less than eight weeks pay in the set period

This usually happens when, for example, you pay holiday pay in advance.

Follow Steps 1 to 5 of the weekly check sheet below but, divide the figure in Step 4 by the number of weeks wages actually paid.

Weekly paid employee without a whole number of weeks in the set period

This usually happens when you decide to bring your

employee's normal pay day forward because of Bank Holidays at Easter, Christmas or when you pay them early.

Follow Steps 1 to 5 of the weekly check sheet below but divide the figure in Step 4 by the number of weeks' wages actually paid.

Employees paid calendar monthly

Use the monthly check sheet below to work out their average weekly earnings.

Check sheet for employees paid weekly or multiple weekly

To work out average weekly earnings for employees paid in multiples of a week, e.g. weekly, fortnightly or other multiple weekly

Note the first day of the employee's PIW.

 / /

- 1 Find the date of the last normal pay day before the first day your employee is sick. **This is the last day of the set period.**

 / /

- 2 Count back eight weeks from the date in 1 and come forward one day, for example, if eight weeks back is 3 August, use 4 August

 / /

- 3 Find the date of the pay day before the date in 2 and come forward one day, for example, 25 June becomes 26 June. **This is the first day of the set period.**

 / /

- 4 Add together all the earnings paid between the dates in 3 and 1 (inclusive).

| | | |
|---|----------------------|----------------------|
| £ | <input type="text"/> | <input type="text"/> |
|---|----------------------|----------------------|

- 5 Divide the figure in 4 by the number of weeks in the set period. **(Don't round up or down to whole pence, use the unrounded figure to decide if the employee's average earnings are high enough.)**

| | | |
|---|----------------------|----------------------|
| £ | <input type="text"/> | <input type="text"/> |
|---|----------------------|----------------------|

Check sheet for employees paid calendar monthly

To work out average weekly earnings for employees paid calendar monthly

Note the first day of the employee's PIW

 / /

- 1 Find the date of the last normal pay day before the first day your employee is sick. **This is the last day of the set period.**

 / /

- 2 Count back eight weeks from the date in 1 and come forward one day, for example, if eight weeks back is 3 August, use 4 August.

 / /

- 3 Find the date of the pay day before the date in 2 and come forward one day, for example, 25 June becomes 26 June. This is the first day of the set period.

 / /

- 4 Add together all the earnings paid between the dates in 3 and 1 (inclusive). If there are more or less than two payments in the period, see page 12.

| | | |
|---|----------------------|----------------------|
| £ | <input type="text"/> | <input type="text"/> |
|---|----------------------|----------------------|

- 5 Multiply the figure in 4 by 6.

| | | |
|---|----------------------|----------------------|
| £ | <input type="text"/> | <input type="text"/> |
|---|----------------------|----------------------|

- 6 Divide the figure in 5 by 52. **(Don't round up or down to whole pence, use the unrounded figure to decide if the employee's average earnings are high enough.)**

| | | |
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| £ | <input type="text"/> | <input type="text"/> |
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Employee paid at irregular intervals

If you pay your employee at irregular intervals, for example because they don't work for you during every pay period, or they are paid on a commission only basis, see 'agency workers' opposite.

If you do not pay your employees in a regular pay pattern use the check sheet below to work out their average weekly earnings.

Agency workers, supply teachers, seasonal workers and other irregular employment

Employees paid in multiples of a week

Use the weekly check sheet on page 9. You must still divide the figure in Step 4 by the number of whole weeks in the set period, even if your employee wasn't paid for some of those weeks.

Employees paid calendar monthly

Use the check sheet on page 9 to work out their average weekly earnings.

Check sheet for employees paid at irregular intervals

To work out average weekly earnings if you do not pay your employees in a regular pay pattern

Note the first day of the employee's PIW

- 1 Find the date of the last normal pay day before the first day your employee is sick. **This is the last day of the set period.**

- 2 Count back eight weeks from the date in 1 and come forward one day, for example, if eight weeks back is 22 June, enter 23 June.

- 3 Find the date of the pay day before the date in 2 and come forward one day, for example, 15 May becomes 16 May. **This is the first day of the set period.**

- 4 Add together all the earnings paid in between the dates in 3 and 1 (inclusive).

- 5 Work out the number of days between the dates in 3 and 1 (inclusive).

- 6 Divide the figure in 4 by the number of days in 5. **(Don't round up or down to whole pence)**

- 7 Multiply the figure in 6 by 7 **(Don't round up or down to whole pence, use the unrounded figure to decide if the employee's average earnings are high enough).**

Check sheet for monthly paid agency workers, supply teachers, seasonal workers or other sporadic employment

To work out average weekly earnings for employees paid calendar monthly

Note the first day of the employee's PIW

| | | | |
|--|---|---|--|
| | / | / | |
|--|---|---|--|

1 Find the date of the last normal pay day before the first day your employee is sick. **This is the last day of the set period.**

| | | | |
|--|---|---|--|
| | / | / | |
|--|---|---|--|

2 Count back eight weeks from the date in **1** and come forward one day, for example, if eight weeks back is 22 June, enter 23 June.

| | | | |
|--|---|---|--|
| | / | / | |
|--|---|---|--|

3 Find the date of the pay day before the date in **2** and come forward one day, for example, 15 May becomes 16 May. **This is the first day of the set period.**

| | | | |
|--|---|---|--|
| | / | / | |
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4 Add together all the earnings paid in between the dates in **3** and **1** (inclusive).

| | | |
|---|--|--|
| £ | | |
|---|--|--|

5 Work out how many whole months there are between the dates in **3** and **1** (inclusive). For example, if the dates were 1 October and 31 December there are three whole months. If there aren't a whole number of months see 'Rounding to the nearest whole month when there aren't a whole number of months in the set period' on page 7. If there are more or less than 2 payments in the period go to page 12

| |
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6 Divide the figure in **4** by the number of whole months in **5**.

| | | |
|---|--|--|
| £ | | |
|---|--|--|

7 Multiply the figure in **6** by 12

| | | |
|---|--|--|
| £ | | |
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8 Divide the figure in **7** by 52. (**Don't round up or down to whole pence**, use the unrounded figure to decide if the employee's average earnings are high enough).

| | | |
|---|--|--|
| £ | | |
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Directors

Directors paid by formal vote

If the director is paid only by a formal vote calculate their average weekly earnings using the check sheet below.

A formal vote usually takes place at the company's Annual General Meeting and is agreed in the company minutes.

The director may also be paid a bonus. If so, only include bonus payments paid in the set period if Class 1 Nics liability arose at the time they were paid.

A director who is paid only by a formal vote may also draw money from the business on a regular basis in anticipation of the vote. Do not include these drawings in your calculation as they are not earnings for SSP purposes even if the director has chosen to pay Class 1 NICs on them at the time they are drawn.

Directors paid by contractual salary

If the director is paid a contractual salary calculate their average weekly earnings like any other employee; see page 9.

Check sheet for directors paid by formal vote

To work out average weekly earnings for directors paid by a formal vote

Note the first day of the director's PIW

1 Find the date of the last vote before the first day the director is sick.

This is the last day of the set period.

2 Count back eight weeks from the date in 1 and come forward one day, for example, if eight weeks back is 22 June, use 23 June.

3 Find the date of the vote before the date in 1 and come forward one day.

For example, 15 May becomes 16 May. **This is the first day of the set period.**

4 Add together the money voted between the dates in 3 and 1 (inclusive).
(Do not include any money drawn in anticipation of the vote.)

5 Work out how many whole months there are between the dates in 3 and 1 (inclusive).

For example, if the dates were 1 January 2004 and 31 December 2004 there are 12 whole months. If there aren't a whole number of months see 'Working out the number of rounded months when there aren't a whole number of months in the set period' on page 7.

6 Divide the figure in 4 by the number of whole months in 5.

7 Multiply the figure in 6 by 12.

8 Divide the figure in 7 by 52. (Don't round up or down to whole pence, use the unrounded figure to decide if the director's average earnings are high enough).

Check sheet for employees paid calendar monthly with more or less than two payments in the set period

If your employee is paid calendar monthly and there are more or less than two payments in the period at Step 6 of the check sheet on page 9, use Steps 7 to 10 below.

7 Work out how many whole months there are between the dates in 3 and 1 (inclusive).

For example, if the dates were 1 January 2004 and 31 December 2004 there are 12 whole months. If there aren't a whole number of months see 'Working out the rounded number of months when there aren't a whole number of months in the set period' on page 7.

8 Divide the figure in 4 by the number of months in 7.

9 Multiply the figure in 8 by 12.

10 Divide the figure in 9 by 52. (Don't round up or down to whole pence, use the unrounded figure to decide if the employee's average earnings are high enough).

Employee not entitled to SSP

Introduction

Some employees cannot get SSP from you when they are sick, but may be entitled to a social security benefit instead.

Remember if your employee cannot get SSP at the start of a PIW they will not be entitled to it in any later linking PIW.

Your employee cannot get SSP if, on the first day of the PIW

- their PIW links with a claim for certain social security benefits such as Incapacity Benefit (IB) or Jobseekers Allowance
- they have already been due 28 weeks' SSP from their previous employer
- their average weekly earnings in the 'set period' are below the LEL for National Insurance purposes. But if they had any earnings in their set period that were included in a PAYE settlement agreement, see page 8 for what you must do.
- they are under age 16, or over age 65
- she is within the 'disqualifying period' related to her pregnancy
- they are away from work because of a trade dispute
- they are in legal custody
- they are outside the UK and you are not liable to pay employer's Class 1 NICs, and would not be liable even if their earnings were high enough
- they are a new employee and have not yet done any work for you.

What to do if your employee isn't entitled to SSP

You must complete and issue form SSP1, or your own version, to enable them to claim social security benefits.

SSP1 issued by mistake

If you realise later that you have made a mistake and SSP is due, you should

- pay the SSP, and
- inform your employee and their Jobcentre Plus or social security office so that benefit isn't wrongly paid.

Employee already had 28 weeks SSP from a previous employer

Your employee cannot get SSP if

- they give you a leaver's statement, form SSP1(L), which shows they have been due 28 weeks' SSP from their former employer, and
- the gap between the first day of the PIW with you and the last day of SSP shown at Date 2 on form SSP1(L) is eight weeks, that is 56 consecutive days or less.

Average weekly earnings below LEL

If your employee has average weekly earnings below the LEL in the "set period" then they are not entitled to SSP and should be given form SSP1.

But, if they had earnings that were included in PAYE Settlement Agreements and subject to Class 1B NICs you will need to recalculate their earnings. Go to paragraph headed 'Earnings that were included in PAYE Settlement Agreements and subject to Class 1B NICs on page 8

Employee under age 16

An employee cannot qualify for SSP while they are under age 16. But if sickness spans their 16th birthday, the spell of sickness is treated for SSP as starting on their birthday.

Employee aged 65 or over

An employee who is aged 65 or over on the first day of the PIW isn't entitled to SSP unless that PIW links to an earlier one. If your employee becomes 65 during a PIW, their entitlement to SSP continues until the end of that PIW and any later linked PIW.

Employee pregnant - in her disqualifying period

There is an 18/26 week period spanning the week baby due, for which you do not pay a pregnant employee SSP. Women expecting a baby on or after 6 April 2003 are not entitled to SSP

- during the 26 weeks they are entitled to SMP, or
- during the 26 weeks they are entitled to Maternity Allowance (MA)

If they are not entitled to SMP or MA and are not getting SSP, they are not entitled to SSP for 18 weeks starting on the earlier of:

- the Sunday of the week they are incapable of work with a pregnancy related illness within the four weeks before the week baby due, or
- the Sunday of the week in which the baby is born.

If they are not entitled to SMP or MA and they are getting SSP, they cannot get SSP for 18 weeks starting with the earlier of:

- the day following the day the baby is born, or
- the day after the day they are first off sick with a pregnancy related illness within the four weeks before the week baby due.

Where a PIW doesn't start until after the end of the disqualification period, SSP should be considered under the normal rules for that PIW.

Where a PIW started before, or during the disqualification period, SSP will not become payable until there has been a break of at least eight weeks after the end of that PIW, that is, until a new, unlinked, PIW is formed.

For more information about SMP and conditions, see Employer's Help Book Pay and time off work for parents, E15.

Employee involved in a trade dispute

An employee who is involved in a trade dispute cannot get SSP from you.

If your employee is off work because of a trade dispute on the first day of a PIW they cannot get SSP unless

- they had no direct involvement in the dispute, and
- they didn't take part in it at any time up to and including the first day of the PIW.

If they were involved in the dispute and go sick again, for four or more days in a row, within 56 days of their return to work after the dispute is ended, you will need to issue them form SSP1 so they can claim IB.

Legal custody

An employee who is in legal custody at any time on the first day of the PIW cannot get SSP for the whole of that PIW.

If they are taken into custody during a PIW your liability to pay them SSP stops and you should send them form SSP1. They cannot get SSP for the rest of that PIW.

Legal custody means detained, arrested or in prison. It doesn't include voluntarily helping the police with enquiries or being on bail.

Welfare to work beneficiaries

Under the Government's New deal for disabled people, some employees are entitled to return to benefits for up to 52 weeks after starting to or resuming work for an employer.

You should check with all new or returning employees to see if they have a 52 week linking letter (BF220B) or check with the Jobcentre Plus or social security office to see if there is any IB entitlement. 'Welfare to Work' beneficiaries do not have any SSP entitlement during their first 52 weeks after starting, or returning, to work for you if they are entitled to IB.

Any payment of SSP made to a 'Welfare to Work' beneficiary who has continued entitlement to Incapacity Benefit (IB) will have been wrongly paid. If you make such a payment you may recover the amount paid from the employee concerned as overpaid wages. You must make good any erroneous recovery made under the Percentage Threshold Scheme (PTS), in the same way as you would correct any other incorrect payment or recovery of SSP.

Each linking letter bears a date and the instruction that if the employee is sick again before this date, they cannot get SSP. This is because of a 'link' with benefit. So you must fill in form SSP1 to show why you cannot pay SSP, and send or give it to your employee.

Paying SSP

General

SSP is paid at the same time and in the same way as you would pay wages for the same period.

A full week for SSP purposes begins with a Sunday and ends at midnight the following Saturday.

SSP must be paid for all periods of entitlement regardless of whether or not earnings would normally be due for the same period.

Deductions from SSP

You treat SSP just like pay, so you must make deductions for PAYE and NICs. Any other deductions which you lawfully make from pay can also be made from SSP, for example pension contributions, student loans and attachment of earnings orders.

Opting out from fully operating the SSP scheme

You can choose whether or not to operate all the rules of the SSP scheme but only if you pay your workers contractual pay that is equal to, or more than, the SSP they are entitled to for each day of their sickness. There is no need to apply to do this and you are free to apply it to some employees and not others, or to some periods of sickness and not others.

If you choose to use this option you must still keep enough records so that you can issue form SSP1 to an employee in appropriate circumstances, e.g. after they have been sick for 28 weeks. You also need to keep some basic sick records so that you can issue form SSP1. Check the E14 What to do if your employee is sick under 'keeping records' for more details.

Recovery

If you are entitled, and want to recover any of the SSP you would have paid in any tax month, you must make sure you fill in all the forms needed for recovery for each tax month that you make any recovery.

Check the E14 Employers Help Book, What to do if your employee is sick, under 'keeping records' for more details.

Employee dies

If your employee dies while on sick absence, SSP is due up to and including the day of death.

Insolvent and defaulting employers

Insolvent employer

If an employer is insolvent within the terms of the SSP (General) Regulations 1982, as amended, and the employees' contracts are not terminated on insolvency, any SSP due in that employment from the date of insolvency becomes the liability of the Inland Revenue. If the employees' contracts are terminated, entitlement to SSP ends when the contracts end. Remember, it remains the employer's liability to pay any SSP due for the period before the date of insolvency.

SSP not paid after a formal decision that it is due

Defaulting Employer

If an employer fails to pay SSP within the legal time limit following a decision

- by the Inland Revenue that SSP is due and the employer makes no appeal, or
- by Tax Commissioners that SSP is due at an appeal hearing, the employer may incur a civil penalty.

Penalties

Prior to 1 January 2005 failing or refusing to operate the SSP scheme correctly was a criminal offence. The National Insurance Contributions and Statutory Payments Act 2004 came into force from that date and such failures will now incur civil penalties, similar to those already in place for unpaid PAYE and NICs.

For failure to produce records, documents or to provide information the maximum penalty will be £300 with a £60 daily penalty for continuance of the failure.

For refusal, failure, or repeated failures to

- produce records,
- keep records
- make payments of SSP to an employee who has entitlement, or
- for fraud or negligence in respect of incorrect statements, records, documents and payment of SSP the maximum penalty will be £3000.

Employer ceases to trade

When an employer ceases to trade, entitlement to SSP ends only when the employee's contract ends.

Remember an employee who is still sick when their contract ends cannot continue to get SSP after that date. The employer should issue form SSP1 so that the employee can contact their local Jobcentre Plus or social security office to claim IB.

People unable to act for themselves

If an employee is mentally incapable of acting for himself and you are unsure about who should be paid the SSP, contact the Employer's Helpline and explain the situation. They will be able to direct you to the appropriate Statutory Payments office that will advise you how to handle paying your employee's SSP.

Statutory Paternity Pay entitlement

An employee cannot get SSP and Statutory Paternity Pay (SPP) for the same period.

If a father/partner is sick before the start of their SPP leave and pay period they can delay the start of their SPP leave until they are well.

If they become sick during the two weeks of their planned paternity pay period, and qualify to get some SSP, you cannot pay them SPP for any week in which they qualify to get any SSP.

For example, they start their two week SPP pay period on the Monday and are sick from the Tuesday. Their QDs are Monday to Friday and they are still sick a week on Friday. They would get 1 day's SSP for the Friday of the first week and a week's SSP the following week. There would be no SPP entitlement in either week.

Their SPP pay period can be delayed until the two weeks after that as long as this fits into the eight week period within which they can take their paternity leave and pay. This eight week period can't be extended.

For more information about SPP, the eight weeks in which SPP leave must be taken and other conditions, see Employer's Help Book Pay and time off work for parents, E15 or Employer's Help Book Pay and time off work for adoptive parents, E16.

Statutory Adoption Pay entitlement

An employee is not able to get SSP and Statutory Adoption Pay (SAP) for the same period. You cannot pay them SAP for any week in which they are also entitled to SSP. If they are sick during their SAP pay period, you must pay SSP for the whole period they are sick.

If the employee is sick before the start of their SAP leave or pay period they should delay the start of their SAP until they are well. The 26 weeks must then start within the time limits allowed by the normal SAP rules and there is no extension beyond the original 26 week entitlement to SAP in these circumstances.

For more information about SAP leave and conditions and the time in which SAP leave must be taken see Employer's Help Book Pay and time off work for adoptive parents, E16

When do I stop paying?

General

Your liability to pay SSP will usually end because your employee's incapacity for work under the contract ends, for example they return to work or stop sending you doctor's statements.

You do not have to pay SSP for any day after your

- employee's contract of service ends for reasons other than to avoid paying them SSP
- employee has had 28 weeks SSP in a PIW, or series of linked PIWs, including weeks taken from a form SSP1(L).
- employee's linked PIW with you has run for three years
- employee's disqualifying period related to her pregnancy begins
- employee is taken into legal custody
- employee goes outside the UK and you do not have a liability for Class 1 NICs for them, or would not even if the employee's earnings were high enough. Unless they are already getting SSP from you before they leave the UK to work abroad for you. In that case you must continue to pay until that PIW ends.
- employee becomes actively involved in a trade dispute
- employee dies.

Twenty-eight weeks SSP due in a PIW

Each time your employee begins a new PIW that doesn't link, i.e. it is separated from the previous PIW by more than 56 consecutive days, your maximum liability to pay SSP is 28 times the appropriate weekly rate.

If SSP is stopping because your employee is due 28 weeks SSP in the PIW and your employee is still sick, you must give them a form SSP1, or your own computerised version. This allows your employee to claim IB if they wish.

If you know in advance that they will get 28 weeks' SSP from you, you should send form SSP1 out after you have paid for 23 weeks or as soon after that as you know. Your employee will then have a smooth transfer to IB.

You get a leaver's statement form SSP1(L)

If a new employee falls sick for four or more days in a row within eight weeks of first starting work for you, they may give you a leaver's statement, form SSP1(L) completed by their previous employer.

If the period between the first day of the PIW with you and the date at Date 2 on the form is 56 days or less, (that is eight weeks or less) you can reduce your maximum liability in that PIW by the number of weeks of SSP shown on the statement.

A previous employment has no other effect on the new employee's PIW with you. Apply the usual rules about waiting days and average weekly earnings at the start of the PIW with you, unless the employments are treated as continuous under TUPE.

Working out maximum liability when QDs change in a PIW

If your employee had 5 QDs when they first went sick in a series of linked PIWs but changed to 3 QDs after their first spell of sickness you will need to work out when you reach your maximum liability for SSP.

Say your employee has 5 QDs, Monday to Friday for the first linked spells of sickness and you paid 5 weeks and 4 day's SSP. They then change to 3 QDs, Tuesday to Thursday and you pay 4 weeks and one day's SSP.

To work out how many weeks SSP have been paid:

- take each PIW where the QDs are the same and work out how many days SSP you paid, then
- divide this by the number of QDs in the week,
 1. $(5 \times 5) + 4 = 29 \div 5 = 5.8$ weeks
 2. $(4 \times 3) + 1 = 13 \div 3 = 4.3$ weekstotal number of weeks paid = 10.1

So your remaining liability in that PIW is 17.9 weeks SSP.

Working out the number of odd days in a fraction of a week

Because not all the possible numbers of QDs in a week convert to exact decimal fractions, you must use these decimal fractions in all cases.

| Qualifying days in a week | Decimal fraction for one day |
|---------------------------|------------------------------|
| 7 | 0.143 |
| 6 | 0.167 |
| 5 | 0.2 |
| 4 | 0.25 |
| 3 | 0.334 |
| 2 | 0.5 |
| 1 | 1.0 |

To work out the number of odd days needed to make up a fraction of a week

1. express one QD as a decimal fraction of a week using the table above
2. divide into the fraction of a week's liability that is left and round up

There are 3 QDs in a week.

In the earlier example you need to convert 17.9 weeks to weeks and days.

One QD = 0.334

$0.9 \div 0.334 = 2.69$ rounded up to 3 days.

17 weeks + 3 days = 18 weeks.

You have a possible maximum liability of 18 weeks left.

Linked PIWs with you have lasted for three years

If your employee has a series of linked PIWs with you that run for longer than three years after the first day of incapacity, your liability to pay SSP stops at the end of the third year even if you have not paid 28 weeks SSP.

The ending of liability after three years applies only to a PIW that has run entirely with you. A PIW with a former employer doesn't count towards the three years, even if you have taken account of any SSP shown on a leaver's statement.

Employees who leave

If your employee leaves your employment issue form SSP1(L), or your own version, only if

- your employee asks you to, and
- SSP was payable for at least one week, bearing in mind the rounding rules, see next paragraph, in the eight weeks, (that is 56 consecutive days), before the date their contract ended.

Rounding odd days of SSP for form SSP1(L)

To round odd days of SSP paid for filling in form SSP1(L)

- divide the number of odd days of SSP payable by the number of QDs in that week
- multiply by seven
- if the answer is
 - more than three days, treat it as a whole week
 - three days or less, take no account of it.

Control of sick absence

Introduction

How you record, monitor and control sickness absence is a matter for you to decide, but reducing sickness absence levels can reduce costs and increase productivity. You know your employees better than anyone else so you are in the best position to know whether repeated short absences for minor illnesses may be masking a more serious problem or some difficulty at work. Employers who have undertaken personnel or management initiatives to address such problems have seen significant reductions in sickness absence levels.

You may have reason to think that an employee who claims to be sick and incapable of work is, in fact, capable of doing their job and should return to work. If so, you may wish to have their incapacity reviewed by a doctor.

Seeking medical advice about lengthy absences

Experience has shown that when a serious illness or injury is diagnosed, for example serious fractures, malignant diseases, pneumonia or an operation, it is unlikely that incapacity for work will be in doubt during the period for which SSP is payable. Control action would not be appropriate in such cases.

On the other hand, illnesses may continue longer than you would expect. The list on page 22 gives some of the diagnoses commonly given by doctors as the cause of incapacity on medical certificates issued by them. Rather than specify every illness or disease, the list

- groups similar illnesses under one heading
- suggests a period of absence from work after which you may wish to consider seeking advice.

For example, using the group 'mouth and throat disorders', if the doctor's diagnosis is tonsillitis it would be reasonable to seek advice after two months. If you wish to ask for Medical Services opinion, you should not do so earlier than two months after the sickness started.

Officers acting on behalf of the Secretary of State use similar guidance when considering the control of IB.

If the employee's incapacity for work lasts longer than would normally be expected you could decide to

- stop paying SSP, but you must explain your reasons to your employee
- continue paying SSP but seek medical advice
- accept the incapacity as genuine and continue paying SSP.

If you decide to seek medical advice, you may

- have your own medical adviser, or
- wish to seek a report from your employee's doctor, or
- seek the help of Inland Revenue's Medical Services.

If your business has its own medical adviser, you should ask them to look into the matter and advise if they accept that the employee is incapable of work or not. The exact arrangements that you have with your medical adviser to deal with these cases are a matter for you to decide.

The Inland Revenue and the DWP have a contract with Medical Services whose main job is to give advice on the medical aspects of claims to State benefits. However, they are able to give Inland Revenue advice about your employees' incapacity for work in connection with SSP.

If you wish us to get advice from our Medical Services, you should write to your nearest Inland Revenue office enclosing:

- your employee's full name, address, date of birth, gender and NI number
- date the present sickness began and the nature of the illness certified by the doctor
- the latest medical certificate submitted by your employee making sure the doctor's name and address are clear
- your employee's written consent, see page 21 for the form of words that must be used
- employee's occupation and main activities involved in doing the job
- reason for requesting an opinion
- outcome of any control action already taken by you during the present spell of sickness.

Ask the Inland Revenue to obtain an opinion from our Medical Services on whether your employee is incapable of work or not in connection with SSP and their contract with you.

The Inland Revenue will forward the case to Medical Services.

Our Medical Services will write to the doctor who issued the latest certificate asking for a report from them.

If Medical Services reach the opinion, based on the report, that your employee is incapable of work, they will tell the Inland Revenue who will contact you.

However, if Medical Services feel it is necessary for a doctor to examine your employee before they can give an opinion, your employee will be asked to attend for an examination. After the examination, a report is sent to the Inland Revenue.

In the report, the doctor will say whether or not they think your employee is incapable of work. The Inland Revenue will then write to you. You will not be sent a copy of the report.

Seeking medical advice about frequent absences for short periods

There may be some occasions when your employee has repeated short periods away from work and submits either self-certificates or sick notes provided by their doctor.

If your employee has been sick for four or more short periods in a 12-month period, you may decide to seek the help of our Medical Services. You can do this even after your employee has returned to work.

If you wish to get advice from Medical Services, you should write to your nearest Inland Revenue office explaining that you are seeking Medical Services' help regarding your employee having taken repeated short absences from work.

Enclose

- your employee's full name, address, date of birth, gender and NI number
- date the latest period of sickness began and the nature of the illness certified by the doctor
- your employee's written consent, see page 21 for the form of words that must be used
- copies of any medical certificates submitted by your employee over the last 12 months making sure the doctor's name and address are clear
- your employee's occupation and main activities involved in doing the job
- reason for requesting an opinion
- outcome of any control action already taken by you during the present spell of sickness
- dates of any sick absences of at least 4 days over the past 12 months (details of the past 2 years, if known)
- cause of incapacity given on each occasion, and
- the four or more self certificates.

The Inland Revenue will forward the case to Medical Services.

Medical Services will

- ask for a report from your employee's doctor
- if necessary, ask your employee to attend for an examination.

A report will be sent to the Inland Revenue. In addition to giving an opinion as to whether your employee is incapable of work, the doctor will say whether in their opinion there are reasonable grounds for your employee having frequent absences from work for medical reasons. When the Inland Revenue receive the report, they will write to you. You will not be sent a copy of the report.

You may find this information helpful in deciding whether or not you should pay SSP on the next occasion that your employee is sick.

Action when you get the medical advice

If the advice is that your employee is capable of work, the next action is for you to decide.

If you decide to stop paying SSP to your employee, you should explain your decision to them.

If your employee is dissatisfied with your decision, they are entitled to a written statement from you. If they are still dissatisfied, they are entitled to seek a formal decision from the Inland Revenue.

The Inland Revenue will

- ask Medical Services for a copy of the medical reports they have
- reach a decision as to whether or not SSP should be paid
- inform both you and your employee.

Employee refuses to give consent

If your employee refuses to give their written consent for you to seek medical advice, it is up to you to decide what to do next. You could decide that their refusal to provide consent is sufficient grounds for you to doubt that the incapacity is genuine and stop paying SSP.

If you decide to stop paying SSP to your employee, you should explain your decision to them. They are entitled to a written statement from you and to seek a formal decision, on their entitlement to SSP, from the Inland Revenue.

Form of written consent

Name of employer

Full name of employee

Full address of employee

.

I agree that a medical opinion about my incapacity for work may be obtained by you from the Inland Revenue in connection with my entitlement to SSP. I agree that my doctor may give relevant medical information to a doctor acting on behalf of the Inland Revenue and agree that, if necessary, a doctor acting on behalf of the Inland Revenue may medically examine me and send a report in confidence to the Inland Revenue.

Employee’s signature

Date

Control periods, common illnesses and abbreviations

Control periods (in weeks) for common illnesses

(No of weeks)

| | |
|--|-----------|
| Addiction (drugs or alcohol) | 10 |
| Anaemia (other than in pregnancy) | 4 |
| Anorexia | 10 |
| Arthritis (unspecified) | 10 |
| Back and spinal disorders (PID, sciatica, spondylitis) | 10 |
| Concussion | 4 |
| Debility, cardiac, nervous, post-op, post-partum | 10 |
| Other | 4 |
| Fainting | 4 |
| Fractures of lower limbs | 10 |
| Fractures of upper limbs | 10 |
| Gastro-enteritis, gastritis, D&V | 4 |
| Giddiness | 4 |
| Haemorrhage | 4 |
| Headache, migraine | 4 |
| Hernia (strangulated) | 10 |
| Inflammation and swelling | 4 |
| Insomnia | 10 |
| Investigation | 10 |
| Joint disorders other than arthritis and rheumatism | 10 |
| Kidney and bladder disorders, cystitis, UTI | 4 |
| Menstrual disorders, menorrhagia, D&C | 10 |
| Mouth and throat disorders | 4 |
| NAD | immediate |
| Nervous illnesses | 10 |
| NYD | 4 |
| Obesity | immediate |
| Observation | 4 |
| Post natal conditions | 10 |
| Respiratory illness: | |
| asthma | 10 |
| cold, coryza, URTI, influenza | 4 |
| bronchitis | 4 |
| Skin conditions, dermatitis, eczema | 10 |
| Sprains, strains, bruises | 4 |
| Tachycardia | 10 |

| | |
|---------------------------|----|
| Ulcers (perforated) | 10 |
| peptic, gastric, duodenal | 4 |
| varicose | 10 |
| corneal | 4 |

| | |
|--|---|
| Wounds, cuts, lacerations, abrasions, burns, blisters, splinters, FB | 4 |
|--|---|

Common abbreviations used on sick notes

| | |
|----------------|--|
| CAT | coronary artery thrombosis |
| CHD | coronary heart disease |
| COAD | chronic obstructive airways disease |
| CVA | cerebrovascular accident |
| D&C | dilation and curettage |
| DS | disseminated (multiple) sclerosis |
| DU | duodenal ulcer |
| D&V | diarrhoea and vomiting |
| FB | foreign body |
| GU | gastric ulcer |
| IDK(J) | internal derangement of the knee (joint) |
| IHD | ischaemic heart disease |
| LIH | left inguinal hernia |
| MI | myocardial infarction |
| MS | multiple sclerosis |
| NAD | no abnormality detected |
| NYD | not yet diagnosed |
| OA | osteoarthritis |
| PID | prolapsed intervertebral disc |
| PUO | pyrexia of unknown origin |
| RIH | right inguinal hernia |
| URTI | upper respiratory tract infection |
| UTI | urinary tract infection |
| VVs | varicose veins |

Your employee disagrees with your decision on their SSP entitlement

Written statement

If you decide not to pay SSP for a QD, for whatever reason, you should explain your decision to your employee.

If they do not agree, they have the right to ask for a written statement from you about

- which, if any, days in the period concerned you regard as days for which SSP is payable
- how much SSP you consider your employee is entitled to for each of these days
- why you do not regard yourself as liable to pay SSP for other days in the period.

An employee can ask for a written statement at any time, and if the request is reasonable you must supply the statement within reasonable time, for example within seven days of the request.

Formal decisions about SSP entitlement

If your employee doesn't agree with your decision about their SSP entitlement, they can ask the Inland Revenue to make a formal decision. Only an employee, an officer of DWP on behalf of their Secretary of State or an officer of the Inland Revenue can ask for a formal decision on entitlement.

The Board of Inland Revenue is the first of the authorities who decide questions on entitlement to SSP. In practice, such decisions are given judicially by authorised officers acting on behalf of the Board of Inland Revenue. Their decisions are given strictly in accordance with the facts and the law.

Before asking for a formal decision from the Board of Inland Revenue, your employee will be expected to have asked for a written statement about their SSP position. Perhaps they will also have discussed the problem with you.

Both you and your employee will be asked for observations in writing. Neither of you will be asked to appear before the officer making the decision. You can both give supporting evidence. In the event of an appeal, your evidence will be copied to your employee and vice versa.

The officer making the decision will send the formal decision to you both. If the decision is that your employee is entitled to SSP, the decision will give the time limit by which you must pay the SSP. You will be given full details of your appeal rights, including the time limit, with the notice decision.

If either of you appeals, the Inland Revenue will notify the other party. If you appeal, the officer making the decision will try to discuss the case with you so that the appeal can be decided by agreement between you, the officer and your employee.

Any agreement reached about the payment or otherwise of SSP must comply with the appropriate legislation.

If all parties are unable to agree, Tax Commissioners will consider the appeal. You both have the right to appear in person and/or be represented at the hearing.

Commissioner's decisions are final, except that you can appeal on a point of law, with leave, to the Court of Appeal, or in Scotland, to the Court of Session.

If new facts come to light which affect the decision, the decision will be reviewed and, if appropriate, a revised decision will be issued. There are new appeal rights against this decision. It is in everyone's interest to put all the facts before the officer making the decision, in the first place.

This leaflet gives general guidance only and should not be treated as a complete and authoritative statement of the law.

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