

Oregon Division of Financial Regulation Bulletin No. DFR 2020-10

TO: All Workers' Compensation Insurers and Employers

DATE: April 10, 2020

RE: Payments to employees of businesses closed due to pandemics to be excluded from workers' compensation premium basis

Purpose

This bulletin provides guidance to workers compensation insurers and employers paying employees furloughed due to pandemic-related closures.

Authority

- ORS 656.005
- OAR 836-042-0055

Background

OAR 836-042-0055 specifies that vacation pay may not be included in payroll reported to insurers for the purposes of calculating the premium basis for workers' compensation insurance.

On March 8, 2020, Gov. Kate Brown declared a state of emergency in Oregon to address the spread of COVID-19. State and federal officials have implemented numerous public health measures to slow the spread of COVID-19 and to protect people who are at highest risk for contracting the disease. These measures include the full or partial closure of certain businesses and prohibiting certain types of employees from accessing their place of work.

Some employers have chosen to continue to pay employees furloughed or placed on administrative leave as a result of pandemic-related public health measures.

Guidance

Payments to employees furloughed or placed on administrative leave as a result of pandemic-related public health measures shall be classified as vacation time and excluded from payroll reported to workers compensation insurers for the for the purposes of calculating the premium basis. Vacation time is not an appropriate classification for sick leave or for employees teleworking or otherwise incurring risk covered by workers' compensation insurance.

Employers will need to separately track furlough payroll in sufficient detail for insurers to perform premium audits, and insurers are required to inform employers of what information is necessary to perform premium audits and develop a plan to help employers comply.

This bulletin is effective upon issuance.

A handwritten signature in black ink, appearing to read "Lou Savage", is written over a horizontal line.

Lou Savage
Administrator
Division of Financial Regulation

April 10, 2020

Date