



**Príomhoifigeach Daoine**

Feidhmeannacht na  
Seirbhísí Sláinte Ospidéal  
Dr. Steevens', Baile Átha  
Cliath 8, D08 W2A8

**Chief People Officer**

Health Service Executive,  
Dr Steevens' Hospital,  
Dublin 8, D08 W2A8

[www.hse.ie](http://www.hse.ie)

[@hselive](https://twitter.com/hselive)

t 01 635 2319

e [nationalhr@hse.ie](mailto:nationalhr@hse.ie)

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**From:** Anne Marie Hoey, Chief People Officer

**Date:** 9<sup>th</sup> August 2024

**Subject:** HR Circular 019/2024 - Department of Social Protection Changes to Illness Benefit and Injury Benefit

*This Circular supersedes HSE HR Circular 004/2024 – Department of Social Protection Changes to Illness Benefit and Injury Benefit*

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Dear Colleagues

I write to advise that since 1 January 2024, Illness Benefit and Injury Benefit is not paid by the Department of Social Protection (DSP) for the first 5 days of illness or injury in a calendar year i.e. 1 January to 31 December. This is due to changes in Statutory Sick Pay (SSP). Further information is available [here](#).

## 1. Overview of changes

The Sick Leave Act 2022 provides for a Statutory Sick Leave scheme for all employees who have been with their current employer for at least 13 weeks. From 1 January 2024 the number of Statutory Sick Leave days increased to 5 days. Please note that under section 9 of the [Sick Leave Act 2022](#), employers with a sick leave scheme that is more beneficial for employees than the Statutory Sick Leave scheme are not required to provide SSP in addition to benefits under the employer's scheme. HSE and Section 38 employees are covered by the Public Service Sick Leave Scheme, which is a more beneficial scheme, and are not entitled to statutory sick pay (SSP).

Social Welfare legislation provides that employees who receive SSP and employees covered by better schemes (such as the Public Service Sick Leave Scheme) are treated the same in terms of the effect on their Illness Benefit and Injury Benefit entitlements. This means that Illness Benefit and Injury Benefit **are not payable** where the person is receiving either:

- payment for Statutory Sick Leave

or

- payment under their employer's scheme (such as the Public Service Sick Leave Scheme), which is exempt from Statutory Sick Leave because it offers better terms (up to a maximum limit of 5 days).

**N.B.** It is important to note that a medical certificate must be provided in order to apply for statutory sick leave. This has a bearing on eligibility for Illness Benefit and Injury Benefit as set out below in section (i).

Any claims made by public health service employees for Illness/Injury Benefit after the exhaustion of the first 5 days of sick leave in the calendar year are subject to the usual 3-day waiting period and Illness/Injury benefit is applied for from day 4 onward. See section 2 for examples.

The following points should be noted:

- i. The online application on [MyWelfare](#) asks: 'How many sick leave days have you taken this year?' The employee is expected to include all instances of **medically certified sick leave** only in the calendar year (January to December). Any one or two-day self-certified sickness absences or any period(s) of sickness absence that are not covered by a medical certificate should be excluded. Employees should

check the number of medically certified sick leave days already taken in the current year, prior to completion of the online form. For HSE areas where HR & Payroll Self-Service is currently implemented, this information is available under 'Absence Reports'. HSE employees who do not have access to HR & Payroll Self-Service should contact their line manager. The paper claim form IB1 (application form for Illness Benefit and Injury Benefit) includes the same questions as the online application.

- ii. If an employee is due to work or ordinarily works on a Sunday, they are entitled to be paid under the Public Service Sick Leave scheme if they are unwell. However, as Illness/Injury Benefit does not recognise Sunday as a day of payment, 5 days of counting sick leave starts on the Monday and Illness/Injury Benefit is not paid until the 7<sup>th</sup> day i.e. the Saturday.
- iii. If Sunday is the only day of sick leave, the employee should not make a claim for Illness/Injury Benefit. If they make a claim to DSP later during the year for a period of medically certified sick leave, they should state the number of medically certified sick leave days already taken in the current year as outlined at (i) above. As Sunday was not a medically certified sick leave day, it is **not** counted as one of the 5 days.
- iv. If an employee has exhausted their sick pay entitlement under the Public Service Sick Leave Scheme and is on unpaid sick leave when their first instance of sick leave commences in the calendar year, they are still regarded as a member of a sick leave scheme that is overall more beneficial than Statutory Sick Leave. They will, therefore, be treated in the same way as if they are receiving SSP and will not be paid Illness/injury Benefit until day 6. The employee should therefore not apply for Illness/Injury Benefit if their sick leave is 5 days or less.

## 2. Examples

### A. Process for first 5 days of sickness absence in a calendar year

For the first 5 days only of sickness absence in each calendar year an employee is not required to apply for Illness Benefit/Injury Benefit. The exception is employees with less than 13 weeks' service – see section C.

**Scenario 1:** You become sick for the first time in the calendar year and are sick for 6 calendar days. For the first 5 days you are not eligible to apply for Illness Benefit/Injury Benefit but must apply to DSP for the benefit for the remaining 1 day of **medically certified sick leave**. **Note:** Sunday is not counted as a waiting day and Illness Benefit/Injury Benefit is not paid for Sundays.

If your first instance of medically certified sickness absence in the year is less than 5 days, the remaining days will be applied to any subsequent instance(s) of medically certified sickness absence, up to a maximum of 5 medically certified days in a calendar year.

Once you have reached 5 days' absence due to medically certified sick leave, you must apply to the DSP for Illness Benefit/Injury Benefit.

**Scenario 2:** You become sick for a second time in the calendar year, after availing of 1 medically certified sick day previously, and are sick for longer than 4 days in your second instance. For the first 4 days you are not eligible to apply for Illness Benefit/Injury Benefit but must apply for Illness Benefit/Injury Benefit from day 5 onward of your medically certified sick leave. **Note:** Sunday is not counted as a waiting day and Illness Benefit/Injury Benefit is not paid for Sundays.

#### **B. Process after the first 5 days of sick leave**

After your first 5 calendar days of **medically certified sick leave** have been reached in a calendar year, the following process should be followed for Illness Benefit/Injury Benefit applications thereafter.

If you are off work sick for more than 3 days of medically certified sick leave, you must apply to DSP for Illness Benefit/Injury Benefit.

Your Illness Benefit/Injury Benefit starts from day 4 for each period of medically certified sickness absence for the remainder of the calendar year.

**Scenario 3:** You have exhausted your first 5 days of medically certified sick leave in the calendar year and have a further instance of medically certified sickness absence in the same calendar year. You must apply for Illness Benefit/Injury Benefit after day 3 of your medically certified sick leave, as your Illness Benefit/Injury Benefit for the remainder of the calendar year begins on day 4.

#### **C. Process for employees who have less than 13 weeks' service**

If you have less than 13 weeks' service with your employer<sup>1</sup> but have sufficient PRSI contributions to qualify for Illness/Injury Benefit, you must apply for the benefit from day 4 of your medically certified sick leave.

**Note:** If the 'Declared certified from date' on the DSP application form is 13 weeks or more from the start date of employment, the employee will be paid Illness/Injury Benefit from day

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<sup>1</sup>Employees with less than 13 weeks' service do not qualify for Statutory Sick Pay and therefore only serve the 3 day waiting period. The same rule applies to public health service employees with less than 13 weeks' service.

6 of their medically certified sick leave. If it is less than 13 weeks, the employee will be paid Illness/Injury Benefit from day 4 of their medically certified sick leave. If the employee then subsequently attains 13 weeks' service during that instance of sick leave, their Illness/Injury Benefit claim for medically certified sick leave will not be affected. If the employee subsequently goes on medically certified sick leave and they have more than 13 weeks' service at that time, the 5-day count commences at that time.

### **3. Public Service Sick Leave and Illness/Injury Benefit**

HSE and Section 38 employees who have the necessary contributions to qualify for Illness Benefit/Injury Benefit are required to submit a claim to the DSP for medically certified sick leave, as payment under the Public Service Sick Leave scheme is inclusive of Illness Benefit/Injury Benefit payments. Section 6 of [HSE HR Circular 24/2023](#) provides as follows:

#### **4. Sick pay and Department of Social Protection Illness/Injury Benefit payments**

Sick pay at full pay, half pay, and during TRR at the flat rate of 37.5% is inclusive of any Illness Benefit (IB) or Occupational Injury Benefit that may be payable to an employee by the Department of Social Protection. Where an employee is eligible for such payments, they must apply to the Department of Social Protection with the appropriate documentation, and they must continue the custom and practice that exists in the employing organisation, be that;

- mandating any Illness Benefit/Occupational Injury Benefit payments to the employing organisation, or
- advise the employing organisation of the rate of Illness Benefit/Occupational Injury Benefit they are in receipt of.

Failure to do so may result in an under or overpayment.

#### **5. HSE Process for deduction of Illness/Injury Benefit from Sick Pay**

Under the Public Service Sick Leave Scheme, the Illness Benefit/Occupational Injuries Benefit payment which HSE employees (Class A/Class D PRSI) are eligible to claim from DSP in respect of medically certified sick leave is deducted at source from their sick pay. Please refer to HSE HR circular 005/2018 [here](#). Compliance with these requirements is mandatory and will avoid under or overpayments of sick pay to employees who are on medically certified sick leave. Failure to comply and provide the DSP information required may result in an employee's sick pay being discontinued/withheld.

DSP pays Illness/Injury Benefit directly to employees. HSE Time Returning/Payroll/HR Areas at site/location level should deduct a corresponding amount at source from the

employee's sick pay to account for Illness/Injury Benefits that they are entitled to receive from DSP for medically certified sick leave. As the amount of Illness/Occupational Injury Benefit to which an employee is entitled will vary from a standard amount to an increased amount due to adult and/or child dependants, and in some instances may be less than the standard amount, Time Returning/Payroll/HR Areas at site/location level require the amount that each employee is eligible to receive from DSP. This will ensure that local payroll (Time Returning/HR/Payroll) at site/location level deducts the correct amount from the employee's sick pay and will prevent over or underpayments of sick pay.

All HSE employees are reminded of the requirement to:

1. Inform the HSE (Time Returning/Payroll/HR Area at site/location level) of the amount of Illness Benefit/Occupational Injury Benefit they are eligible to receive from DSP during periods of medically certified absences. This can be done using the attached Finance Shared Services (FSS) National Finance Division (NFD) Payroll Notification Form or the information can be submitted via email if the employee does not have the form.
2. Provide a copy of the DSP Notification Statement to Time Returning/Payroll/HR Area at site/location level when it is received by the employee in order to verify the exact amount of benefit paid in respect of medically certified sick leave.

The attached HSE FSS NFD Notification Form provides full details to support HSE employees to comply with these requirements. This includes how to obtain information on the amount they are eligible to receive from DSP, contact details for DSP and HSE FSS National Finance Division Payroll Services (Helpdesks), and how to obtain a statement from DSP after the Illness/Injury Benefit payment is made. Employees should seek to obtain the information on the amount they are eligible to receive from DSP as soon as possible after their medically certified sick leave commences. Completed forms with this information should be submitted by employees to the Time Returning/Payroll/HR Area at site/location level or the information can be submitted via email if the employee does not have the form. As outlined above, employees should also submit a copy of their DSP Notification Statement to their local Time Returning/HR/Payroll offices at site/location level. Line managers should be able to provide the relevant contact details of Time Returning/Payroll/HR Area at site/location level to employees for this purpose. Payroll Departments can also provide guidance on related queries and can be contacted through the Payroll Areas listed on the attached Notification form.

Line managers should assist employees to comply with these notification requirements for any period of medically certified sick leave. In accordance with their obligations under the HSE Managing Attendance Policy and Procedure [here](#), all line managers should inform employees at induction and at regular intervals of the requirements during medically

certified sick leave. Line managers should provide employees with a copy of the attached Notification Form while at work so that they are familiar with it. A copy of the form is available at these links:

<https://healthservice.hse.ie/staff/pay/>

<https://healthservice.hse.ie/staff/benefits-and-services/hr-forms/>

Please ensure that this Circular is brought to the attention of all relevant managers in your area of responsibility. HSE line managers should also bring the attached form to the attention of employees in their area of responsibility.

### **Queries**

Queries from individual employees or managers should be referred to local HR Departments/Employee Relations Departments. Please note that the National HR Help Desk is also available to take queries on 1800 444 925 or email: [ask.hr@hse.ie](mailto:ask.hr@hse.ie)

Queries from HR Departments may be referred to National Employee Relations, HR Directorate, 63-64 Adelaide Road, Dublin 2 Tel: 01 6626966, Email: [info.t@hse.ie](mailto:info.t@hse.ie)

Yours sincerely



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**Anne Marie Hoey**  
**Chief People Officer**