

OFFICE OF THE INSPECTOR GENERAL

School District of Philadelphia

Investigative Report Synopsis

Introduction

The Office of Inspector General (OIG) for the School District of Philadelphia (District) received information that alleged an employee was abusing the wage continuation benefit offered by the District and secured supplemental employment while utilizing the benefit. The OIG investigation included a review of the employee's attendance and leave records, witness interviews, and physical surveillance. The investigation ultimately substantiated that the employee did engage in outside employment while utilizing the wage continuation benefit in violation of District policy. This investigation further uncovered numerous discrepancies in the employee's attendance records that resulted in inaccurate leave reporting, which allowed the employee to remain in wage continuation status for approximately six months longer than the benefit otherwise permitted and erroneously collect salary and benefits for multiple pay periods, causing financial losses to the District in the amount of \$35,389.

Applicable Policies

Wage Continuation Benefit

The School District offers extended personal illness leave through the wage continuation benefit to all employees. If an employee elects to enroll in the benefit, they are eligible to receive 75% of their regular wage contingent on certain prerequisites. The benefit requires an employee to first exhaust their accrued sick days and complete an unpaid "corridor" period before they are able to collect the wages. The "corridor" is a period where the employee is excused from work, but unpaid, before they are able to formally enter the wage continuation period.

The length of the wage continuation benefit afforded employees, either 26 or 52 weeks, varies depending on whether the employee is represented or non-represented. PFT, CASA, SPAP, Local 634, and non-represented employees are entitled to a maximum of 26 weeks of wage continuation benefits. Local 1201 employees, also known as 32BJ, are entitled to a maximum of 52 weeks of wage continuation benefits.

If an employee is out of work on extended sick leave under wage continuation and returns to work, there is a "re-establishment period" an employee must complete before they can again utilize either their full 26 weeks or 52 weeks of wage continuation benefits. The length of the leave and whether the employee is represented or non-represented dictates the required re-establishment period. The re-establishment period is only required if the employee wishes to restart their 26 or 52 weeks of time. Otherwise, an employee can continue to utilize wage continuation until they have exhausted the remainder of their available time.

REPORT FRAUD, WASTE, AND ABUSE

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According to Employee Health Services, while an employee is on wage continuation leave, they must comply with certain District requirements to continue utilizing the benefit. Prior to the COVID-19 pandemic (COVID), if an employee was out for an extended period of time, the employee was required to either be periodically evaluated by the District physician in person or submit documentation from their own doctor to the District physician for approval. Since COVID, no one has been meeting with the District physician in person. All employees are instead required to submit documentation from their treating physician to the District for approval. The frequency of the evaluations is set on a case-by-case basis. Before an employee is permitted to return to work from an extended sick leave, they must receive approval from Employee Health Services. Furthermore, the employee is prohibited from engaging in any remunerative or non-remunerative activity during the period of their sick leave.

Outside Employment by District Employees

The District's Code of Ethics (Code) includes guidance specifically addressing outside employment by current employees. The Code states that employees "must not misuse District time by conducting non-District business during assigned work hours, or allowing other employees to do so." The Code defines "non-District business" as "attending to personal or family matters, performing or promoting services compensated by any person or entity other than the District[.]" "Violations of the Code may result in administrative or disciplinary action up to and including dismissal, as well as referral to appropriate authorities for civil action and/or criminal prosecution." The Code requires that employees "[avoid] any form of fraud, falsification, misrepresentation, or deception in the statements [they] make and the records [they] keep while doing [their] jobs."

Particularly as the policy is applied to employees on wage continuation, "[a]ll employees who are on approved sick leave and are being compensated by either sick leave or wage continuation benefits are not permitted to engage in any paid occupation for the duration of the sick leave." Non-compliance with this District policy is considered "significant grounds for dismissal from service."

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OIG Investigation and Findings

The investigation substantiated that the employee performed outside work while utilizing the District's wage continuation program.

The OIG received an anonymous complaint alleging that an employee was actively abusing the wage continuation benefit offered by the District. The complaint stated that the employee had been on wage continuation from approximately June 2019 to June 2020 while working another job. Based on this information, the OIG initiated an investigation and established a physical surveillance on the employee. During the course of the surveillance, the employee was seen working at their second job while absent from the District and being paid on wage continuation.

During an interview with the OIG, the employee expressed confusion about whether they were allowed to work and earn income from another job while on wage continuation. The employee was shown a letter from Employee Health Services stating “[e]mployees who are on sick leave are ***not*** permitted to engage in any remunerative or non-remunerative occupation during the duration of their sick leave . . . Non-compliance with this policy will be a basis for disciplinary action.”

While the employee denied receiving such a letter from the District, the employee confirmed that the address on the letter was their residence and agreed that an appointment slip provided to the OIG with the letter also had their signature. Nonetheless, the employee acknowledged that they worked at a second job while collecting wage continuation.

The investigation substantiated that the employee's attendance and leave records contained numerous discrepancies that allowed the employee to remain in wage continuation status for 127 days – or more than six months – beyond the permitted time period, and erroneously collect their salary and benefits for the duration of that time.

OIG investigators reviewed the employee's attendance records for the period between July 2018 and October 2020. Errors in recording the employee's time meant that the employee was not recorded correctly and their Absence Report was not accurate. Time and attendance calculations are of particular importance given that the wage continuation benefit is only offered for a limited window of time for each employee. Once the wage continuation benefit is exhausted, the employee must return to work for a prescribed amount of time in order to re-establish eligibility for future benefits under the program.

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The employee was eligible for 52 weeks of wage continuation time in a given year as a function of their labor contract. Employees can expend that time in consecutive or intermittent periods and re-establishment periods vary based on how the wage continuation time is used. Based on the employee's attendance records, they were on wage continuation for approximately six months longer than the 52 weeks contractually allowed.

The OIG investigation revealed that the employee's wage continuation benefit was calculated incorrectly as it should have expired on March 27, 2020, but it did not. Contributing to this miscalculation were compounded coding errors and inaccuracies in the employee's timekeeping. For example, the employee was improperly recorded as working from October 7 to October 11, 2019, because attendance forms were not submitted to payroll that week. Thus, the positive pay system recorded the employee as working, and they received 100% of their salary for that week despite being out on wage continuation. As a result, the employee received their full pay for that time.

Then, from April 27, 2020, to June 22, 2020, the employee's use of wage continuation failed to be coded correctly due to the COVID-19 shutdown. Between April and June 2020, some employees were not being charged leave time that otherwise would have been charged during this period. Specifically, this employee was not charged any leave time though they remained out of work and had not been cleared to return to work by a physician. The employee was not charged leave time for the 41 days they did not report to work between April 27, 2020, and June 22, 2020, and received 100% of their salary.

The employee was medically cleared to return to work on June 29, 2020. However, just two weeks after returning to work, the employee again went out on wage continuation starting on July 13, 2020. At that time, they employee was given a new return to work date of October 19, 2020, due to the supposed expiration of their wage continuation. However, by July 13, 2020, the employee had used 327 days of wage continuation without entering a re-establishment period. It is unclear exactly how the employee was able to exceed the 52-week maximum for wage continuation. By the time of the employee's return date of October 19, 2020, they had used a total of 388 days of wage continuation, exceeding the 261-day maximum by more than six months. After meeting with OIG investigators on October 27, 2020, the employee requested to resign from the District the next day.

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As an aside, the OIG contacted Employee Health Services and Payroll regarding the leave code errors for the employee from April 27, 2020, to June 22, 2020. Payroll indicated that the employee's leave balances would be updated to reflect unpaid sick leave during this time period. However, at the time of this writing, neither Health Services nor Payroll made any adjustments.

In total, the employee erroneously received a salary of \$21,988, benefits worth \$12,027, and retirement contributions of \$1,374 for the more than six-month period from March 27, 2020, through October 28, 2020, totaling \$35,389.

Conclusions and Recommendations

The OIG recommends that the District increase accuracy of absence reporting so that payroll, leave balances, and wage continuation are calculated correctly.

Additionally, the District should restart their timekeeping auditing program to improve the accuracy and efficiency for tracking time and attendance. The audit process will add an extra and valuable layer of accountability so that issues, like the one presented here, can be caught much sooner or possibly never be permitted to occur.

Employee Health Services should continue to work alongside IT to improve accuracy in the analysis of employees' leave coding and calculations of wage continuation expiration dates. This will ensure fewer employees abuse the benefit in the future by remaining in wage continuation status longer than permitted.

Since the employee has already left the District, they cannot be subject to disciplinary action. However, the District should pursue appropriate restitution of all salary and benefits the employee erroneously received, including payments to the Public School Employee Retirement System (PSERS) made on their behalf during that time.

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