

# KNOW YOUR OCCUPATIONAL BENEFITS

## BENEFITS & REQUIREMENTS OF THE \*ILLINOIS WORKERS' COMPENSATION ACT AFTER MAY 1, 2003

### **A Notifying United Management of Injury/Illness**

United (UAL) would like the F/A to report the injury/illness w/in 24 hours. Illinois allows 45 days from the day it is known it is work related. However, the longer the delay in reporting, the longer it will take to process the claim & begin benefits. Make sure the management person notifies the Service Center (S/C) to begin the process. If you don't call in sick immediately, tell the supervisor to change your status to a Lost Time Injury (LTI) at Gallagher Bassett (GB) when you do, GB should call you within 48 of calling in sick. If you are counseled for filing a claim, call your local AFA office immediately.

### **B Completing Paper Work to Begin Your Claim with Gallagher Bassett**

Assist the Supervisor in filing your claim. You are entitled to benefits if you have medical bills or miss work. The Supervisor may not deny your ability to file the claim. Get a copy of all documents & reports from the Supervisor. If there is a delay in accepting your claim, call GB to find out if there is anything you can do to speed it along. Filing a claim with GB will not file a claim with the state of Illinois. Illinois does not want to hear from either party until there is a dispute between the two parties. You have 3 years from the date of injury or 2 years from your last TTD payment to file with Illinois. If you are getting close to either of those dates, contact a lawyer to discuss if you need to contact Illinois.

### **C Filing for Benefits in Illinois or Other Locations with Jurisdictions**

Under Section 29 of our Contract every F/A has the right to file for Workers' Compensation benefits in the state of Illinois & in any other location that has jurisdiction over the claim. For those based in North America this means your domicile state if it is other than Illinois. There may be other states that will have jurisdiction depending on the circumstances of the injury/illness. For F/As based in the International domiciles, Illinois will probably be the only option unless you are eligible under the law of the country in which you are based. If injured while on a layover in the U.S. you might be able to file a claim in that state. For all F/As there will be a presumption that the claim will be filed in Illinois unless you tell UAL that you want to file it elsewhere. The benefits in Illinois are greater than other domicile states so it is usually best to file there first. Filing a claim with GB will not file a claim with the state of Illinois. You have 3 years from the date of injury or 2 years from your last TTD payment to file with Illinois. If there are delays in accepting your claim or it is denied in Illinois or your income for the 12 months prior to the date of injury is below a certain maximum, filing in your domicile state may be available to you. If you ever need an attorney, s/he will need to be from the state in which you filed your claim. If you want to transfer your claim you may do so by calling GB & requesting it. You may also continue to appeal a denial in Illinois while pursuing benefits in another state. You may only collect benefits once; however, you may collect the highest benefits available to you. Call your local AFA Office or your local Occupational Benefits Committee (OBC) if you are considering transferring your claim.

### **D Medical Treatment**

***Your first priority is to get treatment.*** If necessary get medical treatment before completing any reports. If filed in Illinois, you may choose your own doctor. (If filed in another state, this may change; call your local AFA office for info on your domicile state) Take an Employee Status Form (ESF, see "E" below) with you each time you see your treating doctor. Have the doctor complete the ESF. You must fax the ESF to the Service Center by fax. You do not have to see Company Medical unless directed by

UAL. In Illinois, if UAL directs you to see a doctor of their choice UAL will pay for all expenses. You must submit to an examination but do not have to be treated by UAL's choice of doctor. Bring the job description with you to this exam. Your treating doctor may refer you to an unlimited number of specialists that UAL must pay for. If you see another doctor in your chain of referrals, notify GB that you are using a new referral doctor. You may also change treating doctors one time. This 2<sup>nd</sup> doctor may also refer you to an unlimited number of specialists for a 2<sup>nd</sup> chain of referrals. If you change to a 3<sup>rd</sup> treating doctor, UAL is not required to pay for that chain of doctors. For treatment in International Locations: (See **H Medical Bills** below).

## **E Use of the Employee Status Form**

The Employee Status Form (ESF) is a tool to help make the decision as to whether the F/A is able to return to work. It has a list of activities that are needed in the job with a percentage of how often the F/A can do that activity, if at all. This is returned by the F/A to the Service Center by fax. The Service Center will send it to the Supervisor who will compare it to a detailed job description to determine if the F/A can return to work. If there is a dispute the F/A may go to Company Medical for another opinion. If there is still disagreement, the F/A may request a review & then medical arbitration. (See "**X Medical Arbitration**" below).

## **F Investigating the Claim: "Arising Out of & In the Course of Employment"**

GB will investigate all claims to ensure the injury/illness is work related. When completing your report include how your work caused the injury, if applicable. For example, "while reaching for a tray in the cart, I felt a sharp pull in my back" not merely "during the flight I felt a pull in my back." Layover injuries are covered as long as you are doing something that someone would reasonably do while out of town for business, i.e. slipping in the bathtub, tripping while walking to a restaurant, etc. If in doubt file a claim. Cooperate with the investigation including sending documents requested as long as they relate to your injury. You are not required to submit to a tape recording of questions & answers or statements. Benefits can not be denied or held hostage because you refuse to allow a taped statement. You must allow medical reports regarding treatment related to the injury only be sent to GB but you are not required to answer questions about your medical condition and your treating doctor & her/his staff do not have to fill out questionnaires sent by CorVel or GB; however you may allow this if you want.

## **G Medical Records Release Form**

You must allow the release of medical records but only of those associated with the body part(s) that are affected by the injury/illness. GB will send a medical records release form for you to sign. Do not sign this form. AFA has written an amended medical release form that you should use, included in this packet. If you have signed the GB release form, sign the AFA form & send it to GB. Inform any care provider who has treated you that you have signed another form that should be honored.

## **H Medical Bills**

You should not receive any medical bills that result from treatment of your occupational injury/illness once your claim has been accepted. If you are sent a bill, immediately send it to GB & call your claims representative to inform her/him the bill is being sent. If your claim has been denied but you are appealing it, you should submit your bills to Blue Shield, marking the box that asks if it is work-related & send a copy of the denial letter along with the medical bill. For payment in International Locations: Some foreign countries will not provide treatment unless payment is made in advance. UAL has developed procedures for the station/domicile manager to guarantee payment of the bill. If you are having problems with medical treatment payments, contact the domicile/station manager where you live to receive this guarantee. If the treatment provider will not honor the "guarantee" your domicile manager should pay for the treatment in advance. Call John Smolk, WHQHR, or Dorothy Malone, WHQHR, if they won't pay for the treatment in advance.

## **I Managed Medical Care Under the Illinois W.C. Act**

UAL will be using *CorVel* as a managed care vendor to advise GB claims representative about medical treatment. In some cases, GB may refuse to pay for treatment. However, they must pay for any bills incurred until the F/A is notified of the decision to stop payment. CorVel has physicians on staff who will discuss your case with your claims representative. If GB refuses to pay for treatment, your treating physician may call these doctors to discuss this. If your case is assigned a nurse, s/he will contact you to ask you a series of questions about your claim. S/he cannot prescribe treatment. Be courteous but remember this nurse is an employee of UAL & will report any information they receive from you or your doctor to GB & UAL. GB, as UAL's agent, has the right to obtain the existing written records & reports from the medical providers that are related & necessary to their obligation to pay your benefits (See **G** "Medical Records Release Forms" above). The nurse should not ask questions about medical treatment beyond your diagnosis, treatment & progress. Neither you nor your doctor has to respond to written questions sent by GB. You may advise the nurse that you do not want her/him to speak with your doctor or her/his staff beyond diagnosis, treatment & your progress. Your claims representative should not threaten to cut off your benefits if you don't allow the nurse to speak at length with your doctor. Any medical details can be obtained by getting the medical records regarding treatment for your current injury. You can also expect a call from the nurse after each appointment with your treating doctor. You may answer questions as to how your treatment is going. If you want to discuss your case with the nurse you certainly may do so. The CorVel nurse is not part of the treatment for your injury & is not bound by doctor/patient confidentiality. Any information obtained will be given to UAL. Anything you say can be used against you. If your claim continues a field nurse may be assigned to manage your case. S/he will want to meet with you in person and/or go with you to your doctor's appointment. You do not have to meet with the nurse nor let her/him into your home. If you do want to meet with the nurse arrange to meet at a place close to but not in you home. If you do allow the field nurse to speak with your doctor you should be in the room. S/he does not have the right to sit in during the examination.

## **J Disability Pay, Temporary Total Disability Pay, Paid directly to you by GB**

Your workers' compensation disability pay, called temporary total disability pay (TTD), is based on your pay for the 12 months prior to your injury. First, your average weekly wage (AWW) is calculated by dividing all the money you earned in those 12 months by the number of weeks worked. Every penny you're paid, except cleaning & taxi cab reimbursements, is included in this calculation. If you earned \$45,000 the 12 months prior to the injury, it would be divided by 52 weeks to get your AWW. If you took ANP, RDO, GWOP or were on a leave of absence (LOA) this time should be subtracted from the calculation. For example, if you made \$45,000 but took 30-day ANP (WOP) you would divide the \$45,000 by 48 weeks not 52. This is multiplied by .6667 to calculate your TTD. In the above example (\$45,000)  $48 = \$937.50 \times .6667 = \$625.03$  TTD per week. No two F/As will have the same TTD since no two F/As make exactly the same amount of money in each month. TTD is not taxable. It is very important that it is calculated correctly initially. Call GB to determine what they have calculated as your AWW & TTD. Your TTD payment, the majority of your total disability pay, will come directly from GB. Because of this it is very important that you monitor GB to make sure they are paying you correctly & in a timely fashion.

## **K Section 12 Examination (Formerly Independent Medical Examination/Examiner)**

UAL does have the right to have you examined (but not treated) by a doctor of their choice at their expense. It is usually referred to as an Independent Medical Examination (Section 12 Exam). This doctor cannot prescribe treatment. You will probably be sent to Chicago for the Sec. 12 Exam. The reason for this is if there is a need to have a hearing before the Illinois Workers' Compensation Commission (WCC), it is easier to admit the opinions of an Illinois doctor before the WCC. This does not mean your treating doctor's opinions will not be accepted, in fact, there is a presumption that the treating doctor's opinion is correct if there is a dispute between your doctor & UAL's doctor. In some

cases, the Sec. 12 Exam may state you can return to work (RTW) while Company Medical will not release you to RTW. UAL will place you on personal S/L because GB will terminate your Workers' Comp benefits based on the Section 12 Exam. You will probably need an attorney to reinstate your benefits. GB might ask for a Sec. 12 Exam if there is dispute in your claim or if you have reached maximum medical improvement (MMI). MMI is when you have improved as much as you can after medical treatment. It does not always mean you are 100%. -At this point the Sec. 12 Exam will be used to determine your percentage of disability if any. UAL must pay for all reasonable expenses associated with the Sec. 12 Exam before the appointment. If you are sent for a Sec. 12 Exam you must be notified of the appointment at least 10 days before the date. If you are not or if the date is inconvenient call GB & the Sec. 12 doctor to reschedule the appointment. Do not ignore the request. UAL should make arrangements for a hotel room if you need one & travel arrangements, usually a BP3 pass if you must travel by air. If you commute request the ticket be written from your home. They should issue a check prior to your going to cover most expenses. If it is not received or not enough to cover most of your expenses, you may reschedule your appointment. Call GB before you do that. Keep all receipts & submit an expense report to prove how much was spent. You do not have to attend a Sec. 12 Exam on a day off if you are back to work. You must attend these appointments or your benefits could be discontinued until you are examined. Take the job description with you when you go & take good notes during the exam. If you are physically unable to attend, you may reschedule the appointment with a doctor's note or request a local doctor; although there is no guarantee you'll be allowed to go to a local doctor.

## **CONTRACTUAL OCCUPATIONAL BENEFITS**

### **L Occupational Sick Leave**

Whether you are on occupational S/L or non-occupational S/L you will draw sick leave from the same bank. You will accrue 4 hours per month up to a maximum of 950 hours. That is approximately a year of S/L for an average of 77 hours per month. The TTD to which you are entitled will be paid directly to you from GB. You may then augment your disability pay by using your personal S/L. You may use your S/L with the options of Section 19A of the F/A Agreement; bid a line of flying & be paid the difference between your TTD and the hours of the line, opt for the quarterly maximum or opt for 6 hour minimum, again with the difference between your TTD & hours chosen paid out of your S/L bank. If you chose the 65 hour option and your TTD is greater than the 65 hour amount, you will be placed on a medical leave of absence immediately & will not be allowed to return to sick leave status until you have one day of active status. Be very careful of choosing this option. Try to calculate your TTD before you make the decision to use the 65 hour minimum. You may also opt to go on a medical LOA & save your S/L. However, if you cannot return to one day of active status you may not use your S/L. Great care should be made in making the decision as to whether you want to go on a medical LOA and not use your S/L. Under the Restructuring Agreement the medical LOA is for 3 years only. If you use both your S/L & then the medical LOA you will have more time to recuperate to return to flying.

### **M Family & Medical Leave of Absence (FMLA)**

The Family & Medical Leave Act (FMLA) was developed to allow employees time off for their own medical needs or those of their family without worrying about losing their jobs. Although F/As do not qualify under the Federal statute, UAL has extended the policy to us. UAL's policy does not require you to use FMLA concurrently with your occupational S/L, but you might consider doing so under certain circumstances. You should never use FMLA in place of filing an occupational claim. Use of FMLA cannot be used in discipline so if you use FMLA with you occupational S/L it will not be counted as an absence for dependability issues. This should only be considered if you are in discipline since an occupational absence should never be used as the triggering incident for discipline. You might also consider using it in increments if your injury is chronic & causes you to miss work periodically. Call your local AFA Office for more information on the use of FMLA.

## **N ANP (WOP) & Special Leaves of Absence**

While you are on occupational status if you have requests for a special leaves of absence or 30-ANP (WOP) you should consider removing them until you return to active status. These requests will be granted which could lead to consequences you did not intend. If you have a request for a special LOA or for 2 consequences months of 30-ANP (WOP) these will be granted. Once you have been placed on a different LOA you will not be allowed to transfer back to occupational status without one day of active status. In other words, you must be released from S/L & be qualified to fly a trip before you may be placed back on occupational status. The consequences are that you will no longer be able to use occupational S/L, accrue seniority after 180 days, have medical insurance, accrue S/L or vacation or use travel benefits after 90 days. You will merely be allowed to remain on the LOA for 3 years at which point you will be terminated if you do not qualify for retirement. Even if you think your injury/illness is minor consider removing the requests until you have returned to active status. If your transfer goes through & you can not accept it, it will be considered refused; however, you will not be inhibited from submitting another transfer request at any time.

## **O Tax Refund**

TTD is not taxable for Federal, State or FICA taxes. Since you will receive the TTD directly, there will be no tax refund except under very limited circumstances. After the initial 6 months of disability, you should have no social security taken out of any payments including personal S/L.

## **P Vacation During the Occupational S/L**

If your vacation falls within your occupational S/L, you will be paid for your vacation (at 2.6 hours per vacation day, 3.57 hours for reserves) in addition to your receiving your TTD for that time period. If you will be on occupational S/L for the majority of your vacation you may defer your vacation then interim bid for a different vacation using the procedures of Sec. 18 of the Contract. Speak to a Supervisor about keeping you on occupational S/L status instead of vacation. If you are on occupational S/L or LOA during the annual vacation bid period (Oct. 29 - Dec. 11) you must bid for a vacation for the following year or you will be assigned one. Arrange for someone to send the vacation bid packet

## **Q Using Personal Sick Leave or Medical Leave of Absence**

You may stay on a medical LOA for 3 years. If you cannot return to work at that time you will either be terminated or retire if you qualify. If you want to save your S/L you may use the option of 65 hours which would allow you to use very little of your S/L bank if any and still have the benefits of active status. Again, be very careful of using the 65-hour minimum as you may be placed on an occupational medical LOA.

## **R Buying Back Sick leave with TTD**

If you choose to use personal S/L the TTD will be sent directly to you so it will no longer be used to buy back S/L. The only time it would be used to buy back S/L is if your claim is not immediately accepted. You will be placed on personal S/L until it is accepted. The TTD that would have been sent to you will be used to buy back S/L you used while you were waiting for your claim to be accepted.

## **S Settlement for Permanent Partial Disability (PPD) Benefits**

When you reach maximum medical improvement if you have suffered some permanent injury, however minor, you will probably be entitled to a lump sum settlement. This would be one instance where you might be requested to go for a Sec 12 Exam. This doctor will determine how much of a disability you have. This is called a disability rating & is measured as a percentage of the use of that body part. For example, if you injured your elbow & do not have as much flexibility as you did prior to the injury, you could be given a disability rating of 15%. This does not mean your whole body is 15% disabled, only your elbow. Therefore, a 15% disability rating of your elbow will be less than a 15% disability rating of your back. You might want to contact an attorney. AFA has a list of Illinois

attorneys who know our contract & our occupation. After you sign a release form, your local AFA Office will send the list. Once you are paid a settlement your TTD will end. Depending on your disability you may be entitled to permanent partial disability or permanent total disability. There is no requirement that you resign or retire in order to receive a settlement for your PPD. If your lawyer and UAL cannot agree on a settlement you may have a hearing before the Illinois WCC to determine your PPD benefits.

## **T Vocational Rehabilitation**

Depending on the amount of time you are out of work & the nature of your injury/illness you might be offered vocational rehabilitation (voc rehab). This usually happens when a doctor (probably after a Section 12 Exam) states you are “permanently disabled from doing your job”. Under the Illinois statute you are to work in conjunction with the voc rehab specialist to develop a training program. This training should be an extension of your interests, ability and previous training. However, in some cases, it might merely involve job placement if you possess marketable skills. Participating in voc rehab will not jeopardize any of your contractual benefits such as the 3-year occupational medical LOA or your ability to return to work as a F/A. Even if you are retrained & take a position elsewhere (or within UAL) you are allowed to remain on the 3-year medical LOA. You do not have to resign to take another job. You must cooperate with the voc rehab specialist or your benefits may be cut off. If you are not physically capable of participating in training you should tell the voc rehab specialist that it should be postponed until you are MMI. You will continue to receive payments in the same amount as your TTD; however they are referred to as “maintenance” throughout your training in addition to other expenses paid. To continue receiving this payment you must prove you are actively seeking employment.

## **U Long Term Disability Insurance**

If you have the Long Term Disability (LTD) insurance apply for it 6-8 weeks before you qualify which is 271 days after your last day worked. You must also apply for social security benefits & send in the denial letter or there will be a presumption that you qualify & it will be deducted from you benefit amount. You will receive 50% of your 75 hour pay. You must apply for the benefits within 12 months of your last day worked or you may forfeit the benefit for that absence. TTD will off-set the LTD benefit; however, you must apply when you first qualify or you will not be allowed to collect the benefit even if your TTD is terminated.

## **V Return to Work/Medical Arbitration**

The supervisor will look at your ESF to determine if you can return to work. If there is a dispute as to whether you may or must return to work, you may consult Company Medical & ask for a review. If there is still a dispute you may request medical arbitration under Section 20D of the Contract. For there to be a valid dispute you must have a doctor support your position. During the arbitration you will be placed on ANP status until it is resolved. If you prevail, you will receive back S/L (if you have hours in your S/L bank) or back pay if you are returned to work. AFA has developed a step-by-step procedure to guide you through this process. There are time limits for this process so it is best to call AFA as soon as you know there is a dispute to receive guidance. If you are sent for a Section 12 examination this doctor may write in her/his report to GB that you may return to flying status. It is very important that you determine your status with UAL. Make an appointment with a Company Medical doctor (not the nurse practitioner) to determine if you will be returned to flying (RTW). If you and your doctor agree that you should not return & Company medical states you should RTW, ask the Company Doctor for a review of her/his decision. This begins the medical arbitration process. You will then have 40 days to be examined again by a doctor of your choice & have her/him send a report to Company medical. If Company medical will not make a decision, call your Administrative supervisor to determine your status. If UAL has placed you on non-occupational S/L or medical LOA, you will need

to provide detailed documents to UAL medical to prove your need to remain on S/L or medical LOA. Do not assume since you have not heard from UAL or GB about your status that you may remain on S/L or medical LOA. You may be charged with job abandonment.

## **W Contacting a Workers' Compensation Attorney**

You should wait to contact an attorney until every other avenue has been tried. Once you hire an attorney GB will not be able to speak to you directly, everything must go through your attorney. Although in some cases having an attorney is essential, do not be too quick to retain one. If you have problems your first recourse is to speak with the Administrative Supervisor who is handling occupational benefits at your domicile. If you cannot get satisfaction from her/him call Dorothy Malone, Staff Representative for Workers' Compensation, WHQHR or John Smolk, Manager of Workers' Compensation, WHQHR. If you are having problems with your claims representative at GB, call Roberto Azcui, 877-643-7516, Manager of United's Workers' Compensation Claims at GB. There is a list of people to call in the Info packet.

## **X Contacting AFA for Assistance**

If you have any questions about any of these procedures feel free to contact your local AFA Office or your local Occupational Benefits Committee. Although most of these benefits are legal benefits we are happy to try to guide you through the maze even if it is to tell you it is time to contact an attorney.

## **Y The CAUSE Foundation & Pegasus**

If you find yourself in a financial bind because of problems with your Occupational claim, there are programs that can assist you. The *CAUSE* Foundation was established by United F/As for United F/As to help if there are financial problems. Call your local AFA office for information on this very helpful enterprise. *Pegasus* is also a program established to assist all AFA F/As in times of financial crisis. Contact the International AFA Office for more information regarding this program.

\* If you file your claim in a state other than Illinois call your local AFA office for information regarding the requirements of that state.