Good afternoon,

On February 9, 2022, Governor Newsom signed into law Senate Bill (SB) 114. [SB 114](https://protect-us.mimecast.com/s/689FClYWOACo8nTGkeDp?domain=leginfo.legislature.ca.gov) reinstates COVID-19 Supplemental Paid Sick Leave (SPSL) for all employers that have more than 25 employees. The mandated leave is retroactive to January 1, 2022, and is effective until September 30, 2022, with the requirements going into effect as of February 19, 2022.

While SB 114 addresses general leave requirements for COVID-19, there is potential for overlap with workers’ compensation benefits as previously defined in [SB 1159](https://protect-us.mimecast.com/s/ItIACmZWwBC53JhO7Xbc?domain=leginfo.legislature.ca.gov), which states that mandated COVID-19 SPSL be exhausted prior to issuance of temporary disability or Labor Code 4850 benefits on presumptive claims filed for COVID-19.

**Workers’ Compensation Benefits and SB 114:**

1. For non-presumptive COVID-19 claims – If payment for temporary disability was issued, those payments made from the claim file will remain.

* 1. Note: Under SB 114, for those claimants that received temporary disability benefits and were paid less than they would receive if working, the employee can request from their employer supplemental COVID-19 leave to make them whole with their normal wage. This supplemental pay is not charged to the claim file.

1. For presumptive COVID-19 claims (SB 1159 applies) – if payment was made for temporary disability or Labor Code 4850 benefits, the payments will need to be adjusted as SB 1159 requires that COVID-19 leave be exhausted prior to issuance of those benefits off the claim file. This DOES NOT require any request from the employee.

* 1. Note: If your entity has had loss time benefits paid off of a presumptively compensable workers’ compensation claim as of January 1, 2022, meeting the qualification requirements under SB 114, you will receive further communication from your claims examiner to retroactively address those loss time benefits that are now to be classified under SB 114’s required SPSL.
  2. For as long as this SPSL is in effect, you will need to notify your claims examiner when a claimant has exhausted their leave, so that it can be determined if further benefits are due to be paid off the claim file.

1. As a reminder, if loss time benefits are to be paid from the claim file, written medical verification documenting a specific period of disability is required to determine if temporary disability or Labor Code benefits are due.

Employers will need to determine how to retroactively address the SPSL so that it is applied in accordance with the new requirements. It is recommended that you consult with your human resources or legal counsel or the California Labor Commission to address compliance.

Thank you,

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