

**2009 Draft  
STATE OF WISCONSIN  
INCOME CONTINUATION INSURANCE PLAN (ICI)  
STATE EMPLOYEES PLAN**

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## ARTICLE I - DEFINITIONS

The following terms, when used and capitalized in this Income Continuation Insurance plan or any supplements, endorsements or riders, are defined as follows are limited to that meaning only:

- 1.01 "CLAIMANT" means an EMPLOYEE who has applied or been approved for benefits under this Plan, including an EMPLOYEE whose benefit is totally offset by other income sources.
- 1.02 "CONTRACTOR" means the entity that the Group Insurance Board has under contract to administer the provisions of the ICI plan.
- 1.03 "DAYS" means calendar days, unless otherwise specified.
- 1.04 "EMPLOYEE", when referring to the State Income Continuation Insurance Plan means a state EMPLOYEE who satisfies the definition of eligible EMPLOYEE set forth in § 40.02 (25) of the Wisconsin Statutes who has been participating under the Wisconsin Retirement System for a period of at least 6 months, not including any period of leave of absence without pay.
- 1.05 "EMPLOYER", when referring to the State Income Continuation Insurance Plan, means the employing State agency.
- 1.06 "ICI" means Income Continuation Insurance.
- 1.07 "LEAVE OF ABSENCE" means the same as the definition of the leave of absence provided in § 40.02 (40), Wis. Stats., and in addition this means an EMPLOYEE who terminates and is re-employed within thirty (30) calendar days by the State of Wisconsin.
- 1.08 "OBJECTIVE MEDICAL EVIDENCE" means test results (e.g., blood tests, MRI, CAT scan, X-rays, etc.) and PHYSICIAN's notes of regular visits recording the PHYSICIAN's observations of disabling symptoms and conditions. The PHYSICIAN's opinion may rely in part on records of care provided by other medical professionals under the supervision of a PHYSICIAN, including but not limited to nurse practitioners, physician's assistants, midwives, psychologists, and psychotherapists (MSSW).
- 1.09 "PHYSICIAN" means a medical doctor, doctor of osteopath or surgeon licensed to practice by a state within the United States of America. A licensed PHYSICIAN does not include the CLAIMANT. A PHYSICIAN also includes such other licensed medical professional (for example, a podiatrist, dentist, nurse practitioner, physician's assistant, psychologist) who is acting within the lawful scope of his/her license and performs a service which is supervised by a licensed medical doctor, doctor of osteopath or surgeon (not required for D.P.M. or D.D.S.).
- 1.10 "REGULAR CARE AND ATTENDANCE" wherever used in this Plan, means a planned program of observation and treatment requiring the personal attendance of the CLAIMANT by a PHYSICIAN, which once initiated, is continued in accordance with existing standards of medical practice for the condition or conditions rendering the CLAIMANT sick or injured. A CLAIMANT who is under REGULAR CARE AND ATTENDANCE of a medical specialist other than a licensed PHYSICIAN, who was recommended by the initial attending PHYSICIAN, shall qualify under the provisions of this section subject to prior authorization by the DEPARTMENT. However, if care is being provided by someone other than a licensed medical doctor, doctor of osteopath or

surgeon, than all certifications of disability required by the CONTRACTOR or DEPARTMENT shall be approved by a licensed medical doctor, doctor of osteopath or surgeon. Treatment must meet or exceed standards of the medical profession for a condition which is totally disabling as defined in § 1.13.

- 1.11 “RETURN TO FULL TIME EMPLOYMENT” means the CLAIMANT has returned to work, or is certified by a PHYSICIAN as being able to return to work or OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT’s return to work in the same position. If the CLAIMANT, while TOTALLY DISABLED under § 1.13(b), chooses to accept other work for the same number of hours which they worked prior to becoming disabled, then this also shall constitute a RETURN TO FULL TIME EMPLOYMENT. If the CLAIMANT had been employed less than full time prior to approval for disability benefits, a return to work or a release to work at the prior part time level constitutes a release to full time employment. If the CLAIMANT is released to return to work and does not actually return to work, the provisions of § 2.17 of this Plan apply.
- 1.12 “SUBSTANTIAL GAINFUL ACTIVITY” means that the gross earnings for any period of ICI benefits that are paid or payable which are at least equal to the gross ICI benefit, excluding the \$75.00 per month supplement, payable to a CLAIMANT under § 1.13 (b) for the same period of time. This includes increased gross earnings for work performed in a different pay period.
- 1.13 TOTALLY DISABLED means:
- (a) During the first twelve (12) months of disability (short term disability), where the CLAIMANT is under the REGULAR CARE AND ATTENDANCE of a PHYSICIAN, the CLAIMANT’s inability by reason of any medically determinable physical or mental impairment, supported by OBJECTIVE MEDICAL EVIDENCE as defined in § 1.08, to perform the duties of his or her position.
  - (b) After the first twelve (12) months (long-term disability), the CLAIMANT’s complete inability by reason of any medically determinable physical or mental impairment, as supported by OBJECTIVE MEDICAL EVIDENCE as defined in § 1.08, to engage in any SUBSTANTIAL GAINFUL ACTIVITY for which the CLAIMANT is reasonably qualified with due regard to the CLAIMANT’s education, training, and experience.
- House confinement shall not be required as a condition of disability, but a CLAIMANT must be under the REGULAR CARE AND ATTENDANCE of a licensed PHYSICIAN, other than self, during the period of disability.
- 1.14 “UW FACULTY PLAN” means a plan that covers UW faculty and others who have a selected elimination period option other than what is available to State EMPLOYEES.
- 1.15 “MILITARY LEAVE” means:
- (a) The EMPLOYEE is activated on or after January 1, 2003 to serve, or is serving, on military duty in the U.S. armed forces, other than for training purposes.
  - (b) On the date activated, the EMPLOYEE is a member of the Wisconsin National Guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from the inactive reserve status.

- (c) EMPLOYEE has received a military leave of absence under ss. 230.32 (3) (a) or 230.35 (3), Wis. Stats. under a collective bargaining agreement under subch. V of ch. 111, or under rules promulgated by the Office of State Employment Relations or is eligible for reemployment with the state under ss. 45.50, Wis. Stats. after completion of his or her service in the U.S. armed forces.
- (d) The EMPLOYEE has not terminated employment with the insured EMPLOYER.

1.16 "SUPPLEMENTAL COVERAGE means coverage based on the annual salary amount that exceeds \$64,000.00 up to maximum of \$120,000.00.

## **ARTICLE II - ENROLLMENT AND BENEFIT PROVISIONS**

### 2.01 COVERAGE

- (1) The ICI plan authorized by § 40.61, Wis. Stats. shall be an integrated plan of short and long term coverage. Participation under the Plan shall be voluntary for each EMPLOYEE, but each EMPLOYEE who elects to participate shall be insured for both the short and long-term coverage.
- (2) Benefits are paid to an insured EMPLOYEE for covered earnings lost as a result of disability. No benefit is available for earnings which were lost due to disability but which were not included under the provisions of § 2.165.

### 2.02 INITIAL ELIGIBILITY

- (1) Enrollment shall be limited to EMPLOYEES.
- (2) Each EMPLOYEE shall be insured under the Plan without furnishing medical evidence of insurability, provided the EMPLOYEE completes and signs an application furnished by the DEPARTMENT and files it with the employing state agency within thirty (30) calendar days after the initial date of eligibility as determined in accordance with § 40.02 (25) (a) 1 or 2, Wis. Stats. If an EMPLOYEE is employed at more than one employer or falls under a different ICI plan with a different elimination period, the EMPLOYEE must file a separate application for each position held.
  - (a) An EMPLOYEE who meets the initial eligibility while on MILITARY LEAVE must submit an enrollment application for coverage to be received by the EMPLOYER within thirty (30) days after return to work from MILITARY LEAVE.
- (3) An EMPLOYEE whose annual salary as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE as part of the initial eligibility.

- (4) Coverage shall be effective the first day of the calendar month which begins on or after the date the application is received by the EMPLOYER. If the EMPLOYEE files the completed application prior to the initial date of eligibility as determined in accordance with § 40.02 (25) (a) 1 or 2, Wis. Stats., the coverage shall be effective the first day of the calendar month which begins on or after the date of eligibility.

### 2.03 COVERAGE AFTER INITIAL DATE OF ELIGIBILITY

- (1) Any EMPLOYEE, who does not elect to be covered during the initial enrollment period or desires at a later date to change to a shorter elimination period, may complete an application of evidence of insurability furnished by the DEPARTMENT. An application of evidence of insurability, completed more than thirty (30) days prior to the date the DEPARTMENT receives it, will be rejected. The EMPLOYEE shall be required to complete a new application. The evidence of insurability application shall be reviewed by the CONTRACTOR subject to the health underwriting standards approved for the program by the BOARD.
  - (a) An EMPLOYEE who is approved for coverage under evidence of insurability, and whose annual salary as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE.
  - (b) If the EMPLOYEE's application is approved, insurance coverage shall become effective on the first day of the calendar month following the date of approval and premium shall be based on salary and sick leave accumulation then in effect or the selected elimination period for UW faculty. Charges for medical examinations and records, if required, shall be the responsibility of the EMPLOYEE.
  - (c) If the application is denied by the CONTRACTOR due to lack of medical evidence, the CONTRACTOR will notify the EMPLOYEE. If medical evidence is not received within ten (10) days of notice to the EMPLOYEE, the CONTRACTOR shall deny the application.
  - (d) If the application is denied by the CONTRACTOR following review of medical evidence, the EMPLOYEE has the right to request reconsideration of the denial. The CONTRACTOR shall be responsible for the reconsideration of the denied application. To request reconsideration of the initial denial, the EMPLOYEE must submit a written request to the CONTRACTOR which must be received by the CONTRACTOR within ninety (90) days of the date of the initial denial. If the CONTRACTOR upholds the initial denial on reconsideration, the EMPLOYEE has the right to request a subsequent review of the denial. The DEPARTMENT shall be responsible for the subsequent review of the CONTRACTOR's denial and rendering a Departmental Determination. To request a Departmental Determination, the EMPLOYEE must submit a written request which must be received by the DEPARTMENT within ninety (90) days of the date of the CONTRACTOR's reconsideration denial.
  - (e) A new application may not be considered until a period of one (1) calendar year has elapsed from the date of denial of the previous application.
- (2) DEFERRED COVERAGE

- (a) The requirement of submitting evidence of insurability shall be waived for any EMPLOYEE who does not elect to be insured during the initial enrollment period, but who initially becomes eligible for state contribution toward premium or an increase in the premium contribution paid by the state. The EMPLOYEE must complete the application form furnished by the DEPARTMENT and submit it to the EMPLOYER.
  - (b) A deferred coverage application from a UW Faculty EMPLOYEE must be received by the EMPLOYER within thirty (30) days after completing one (1) year of state service. Coverage shall be effective the first of the month which occurs on or following the EMPLOYER's receipt of the application.
  - (c) A deferred coverage application from any other EMPLOYEE shall be received by the EMPLOYER on or before January 30 following the year in which the basis for the change in state contribution occurs. Coverage shall be effective April 1.
  - (d) Any EMPLOYEE, who has a sick leave balance of more than 1040 hours at the end of the calendar year, may be insured by filing an application with the EMPLOYER by January 30 for an April 1 effective date.
  - (e) Premium determinations and eligibility shall be predicated on the accrual or total accumulation of sick leave recorded and credited to the last complete pay period for the previous calendar year.
  - (f) An EMPLOYEE who accumulates sick leave while on MILITARY LEAVE, who initially becomes eligible for state contribution toward premium or an increase in the premium contribution paid by the state, must submit an enrollment application for coverage to be received by the EMPLOYER within thirty (30) days after return to work from MILITARY LEAVE. Coverage shall be effective on the first day of the month that begins after the date the application is received by the EMPLOYER.
  - (g) An EMPLOYEE, who is eligible for deferred coverage, and whose annual salary, as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE.
- (3) EMPLOYEEs who do not elect coverage within thirty (30) days after the initial date of eligibility or during subsequent periods of eligibility provided under sub. (2) (a) may enroll only by submitting evidence of insurability under sub. (1).
- (a) An insured EMPLOYEE who transfers employment from one state agency to another, within thirty (30) days, must file an enrollment application with the new agency within thirty (30) days of hire to prevent coverage from lapsing. The insured EMPLOYEE, under this provision, whose annual salary as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE by giving written notice as indicated in (3).
  - (b) Notwithstanding the conditions outlined in par. (a), coverage will not lapse if premium payroll deductions continue uninterrupted even though an application was not timely filed. Following DEPARTMENT notice of improper enrollment, insurance shall continue in effect for thirty (30) calendar days

during which time proper enrollment shall be completed by the EMPLOYEE. Coverage shall cease after thirty (30) calendar days unless proper enrollment has been completed.

(4) CANCELLED COVERAGE

An EMPLOYEE, who previously had coverage and who completes an enrollment application to cancel coverage, other than an EMPLOYEE on MILITARY LEAVE is subject to medical evidence of insurability or deferred enrollment should they desire to re-enroll for coverage. An EMPLOYEE on MILITARY LEAVE who completed an enrollment application to cancel coverage may re-enroll, without providing evidence of insurability, by submitting an enrollment application for coverage to be received by the EMPLOYER within thirty (30) days after return to work from MILITARY LEAVE.

(5) EMPLOYER ERROR

- (a) If, as a result of employer error, an eligible employee has not filed an application for ICI or made premium contributions within 60 day after becoming eligible for ICI coverage, the employee is considered not to be insured for that coverage. The employee may become insured by filing a new application within 30 days after the employee receives from the employer written notice of the error. An employee is not required to furnish evidence of insurability to become insured. An employee becomes insured on the first day of the first month beginning after the date on which the employer receives the employee's new application and upon approval by the DEPARTMENT.
- (b) An EMPLOYEE who has been paying premiums for a period of twelve (12) consecutive months, even though not properly enrolled, is deemed to be insured. Following DEPARTMENT notice of improper enrollment, insurance shall continue in effect for thirty (30) days during which time proper enrollment must be completed by the EMPLOYEE. Coverage shall cease after thirty (30) days unless proper enrollment has been completed.

2.04 INITIAL PREMIUMS

When coverage becomes effective, multiple premium contributions may be required to pay premiums on a current basis.

2.05 CONTINUATION OF COVERAGE DURING PERIODS OF AUTHORIZED LEAVE

- (1) An insured EMPLOYEE may continue to be insured for a maximum of thirty-six (36) months during any period of leave specifically authorized by the EMPLOYER, while that person continues to be an EMPLOYEE but receives no earnings from the EMPLOYER. An insured EMPLOYEE on union leave, as defined under § 40.02 (56), Wis. Stats., or on MILITARY LEAVE, may continue to be insured for the duration of that leave.
- (2) The EMPLOYEE must authorize a payroll deduction in an amount sufficient to make the initial premium payment.

- (3) The premium for time periods beyond the initial premium payment shall be received by the EMPLOYER prior to the end of coverage so there is no lapse in coverage.
- (4) The first three (3) months of authorized leave qualify for EMPLOYER contribution. For subsequent months, the EMPLOYEE must pay the gross premium including the amount normally considered state contribution. The gross premium shall remain the same throughout the period of leave. Upon the EMPLOYEE's return to employment, the premium shall be adjusted if there has been an annual premium or salary adjustment in the interim.
- (5) Any insured EMPLOYEE who allows coverage to lapse during a period of unauthorized or authorized leave, or MILITARY LEAVE by not authorizing or making advance premium payments under sub. (2) or (3) may reinstate coverage with the same elimination period and without furnishing medical evidence of insurability by submitting an application to the EMPLOYER within thirty (30) days following the return to active employment or return to active employment after MILITARY LEAVE. Coverage shall be effective on the first day of the month that begins on or after the date the application is received by the EMPLOYER. Premium shall resume in the same amount as before unless there has been an annual premium or salary adjustment in the interim.

#### 2.06 WAIVER OF PREMIUMS

A CLAIMANT who is TOTALLY DISABLED shall pay no premiums for the coverage period which is the first of the month which occurs on or following the date initial payment of ICI benefits become payable. The waiver of premiums shall continue through the last day of the month in which ICI benefits are payable.

#### 2.07 TERMINATION OF COVERAGE

- (1) The insurance coverage of an EMPLOYEE who is not TOTALLY DISABLED shall immediately terminate on the date the EMPLOYEE resigns, is dismissed, terminates, retires, turns age 70, or dies, whichever occurs first. When coverage lapses under § 2.05 (5), coverage terminates the end of the month through which premiums were paid. A full month's premium is required for any month or portion of a month for which earnings are paid.
- (2) An EMPLOYEE may cancel ICI coverage by giving written notice of cancellation to the EMPLOYER on a form provided by the DEPARTMENT. Such notice of cancellation must be forwarded by the EMPLOYER to the DEPARTMENT immediately. Cancellation of coverage shall be effective with the first day of the calendar month which occurs on or after the date the form is received by the EMPLOYER.
  - (a) An EMPLOYEE may elect to cancel the SUPPLEMENTAL COVERAGE only and continue the ICI coverage for the salary under \$64,000.00 by giving written notice as indicated in (2).

#### 2.08 LAPSE OF COVERAGE

ICI coverage shall be deemed to have lapsed if an EMPLOYEE in active employment has not submitted the EMPLOYEE portion of premiums when due. This EMPLOYEE may again obtain coverage only under § 2.03.

## 2.09 GROSS MONTHLY PREMIUMS

- (1) The gross monthly premiums as shown in Table I, IV and IV-A shall be based on the earnings level, accumulated sick leave, and appropriate elimination period.
- (2) The gross monthly premiums for the SUPPLEMENTAL COVERAGE are shown in Table IV and IV-A. The EMPLOYEE must pay the entire premium for the portion of the coverage that exceeds the \$64,000.00.
- (3) Each EMPLOYER shall remit to the DEPARTMENT all the necessary forms and premium payments by the 20th day of the month for the previous month's coverage.
- (4) Late payments shall be subject to interest charges pursuant to § 40.06, Wis. Stats.

## 2.10 EMPLOYER CONTRIBUTIONS

- (1) EMPLOYER contributions toward premium shall be made in accordance with the provisions of § 40.05 (5), Wis. Stats., and the rates established in Table I. The determination of State contribution toward premium shall be made in February of each year, based on the total accumulation of unused sick leave recorded and credited in the last complete payroll period in the previous calendar year. Changes in EMPLOYER contribution toward premiums shall be effective for coverage beginning February 1<sup>st</sup> of each calendar year. (See Section 2.11 to determine average monthly earnings.)
- (2) A permanent record of each EMPLOYEE's accumulated sick leave shall be maintained so that the proper EMPLOYER contribution may be determined in subsequent years, even though an EMPLOYEE's total accumulated sick leave may be less because of increased utilization.
- (3) When an EMPLOYEE returns to employment after a period of disability during which accumulated sick leave hours were diminished or exhausted, the State contribution toward premium shall be reinstated at the rate category which was in effect prior to the date the disability began. However, the gross premium shall be established pursuant to Table I, IV and IV-A.
- (4) Pursuant to § 40.05 (5), Wis. Stats., the following 6 premium categories of sick leave accumulations are established in Tables I, II, and IV. Except for premium category 3 which is prorated for part-time EMPLOYEES, for purposes of § 40.05 (5), Wis. Stats., and this section, a day of sick leave is equal to 8 hours.

Category	Sick Leave Hours
1	Less than 10 working days (80 hours) in the preceding calendar year and less than 23 working days (184 hours) total accumulation.
2	Less than 10 working days (80) hours in the preceding calendar year and 23 to 64 working days (184 to 520 hours) of total accumulation.
3	At least 10 working days (80 hours) in the preceding calendar year but less than 65 working days (520 hours) total accumulation. For purposes of this category only, one day equals 8 hours of sick leave for a full time EMPLOYEE. For a part time EMPLOYEE, the daily equivalent shall be prorated as a percentage of full time, based on the a EMPLOYEE's most recent appointment.
4	65 working days (520 hours) but less than 91 working days (728 hours) total accumulation.
5	91 working days (728 hours) through 130 working days (1040 hours) total accumulation.
6	More than 130 working days (1040 hours) total accumulated sick leave.

- (5) Pursuant to § 40.05 (5), Wis. Stats., permanent part time EMPLOYEES shall pay premiums which will be determined on the total amount of sick leave accumulated for premium categories 2, 4, 5 or 6 above or the prorated accrual of sick leave by said EMPLOYEES for category 3 above. Benefits will be paid according to the provisions of § 2.165.
- (6) There will be no EMPLOYER contributions toward the EMPLOYEE's SUPPLEMENTAL COVERAGE.

## 2.11 EMPLOYEE CONTRIBUTIONS

- (1) EMPLOYEE contributions toward premium shall be made in accordance with the rates established in Table II and III. Premium rates for SUPPLEMENTAL COVERAGE are established in Table IV and IV-A.
- (2) Except as provided in par. (a), the monthly premium shall be determined based on the average monthly earnings and sick leave credits (or the selected elimination period for UW Faculty). The average monthly earnings shall be the total earnings paid to the insured EMPLOYEE by the EMPLOYER during the previous calendar year as reported to the Wisconsin Retirement System, rounded to the next higher thousand and divided by twelve (12).
  - (a) If the prior year earnings represent an interruption extending three (3) consecutive months or more, or the EMPLOYEE is newly hired, the EMPLOYER shall estimate the base salary earnings to be received during

the ensuing twelve (12) months rounded to the next higher thousand and divided by twelve (12) and that projection shall be the basis for establishing average monthly earnings until coverage has been in effect for a full calendar year.

- (b) A new projection shall be made when there is a permanent change in the EMPLOYEE's salary (excluding annual adjustments).
- (c) Annual changes in contributions towards premiums shall be effective for coverage beginning February 1 of each calendar year.

2.12 MAXIMUM DURATION OF BENEFITS

Except as provided in sub. (2) through (4), the maximum duration of benefits for a CLAIMANT shall be as follows:

<u>(1) Age at Disablement</u>	<u>Maximum Duration of Benefits in Years</u>
61 or younger	to age 65
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69	to age 70

- (2) A CLAIMANT who qualifies for ICI benefits will receive the benefits through the end of the month in which the CLAIMANT turns 65, or through the end of the month the maximum duration is reached, whichever is applicable.
- (3) A CLAIMANT who returns to part time employment while receiving ICI benefits will have ICI benefits terminated at the end of the month in which age 65 is reached or the end of the month as indicated in the maximum duration chart in sub. (1) if disability begins after age 61.
- (4) Notwithstanding sub. (1) through (3), ICI benefits shall be terminated the end of the day in which the CLAIMANT dies.

## 2.13 ELIMINATION PERIOD

- (1) A CLAIMANT on the UW FACULTY PLAN qualifies for ICI benefits on the day after which the CLAIMANT has not worked and been continuously and TOTALLY DISABLED under §1.13 (a) for the selected elimination period, but no benefit payment may be made while earnings are payable for accumulated sick leave hours. All other CLAIMANTS qualify for ICI benefits on the day after which the CLAIMANT has not worked and been continuously and TOTALLY DISABLED under §1.13 (a) for thirty (30) calendar days, but no benefit payment may be made while earnings are payable for accumulated sick leave hours. All CLAIMANTS are also subject to (2), (3) and (4).
- (2) The first day of the elimination period shall be the day after the last day worked or the day the CLAIMANT becomes continuously and TOTALLY DISABLED, whichever is later. The CLAIMANT must be TOTALLY DISABLED pursuant to § 1.13 (a) and not working during the elimination period unless the CONTRACTOR determines that the performance of incidental work functions does not constitute a return to work.
- (3) The elimination period for benefits for a CLAIMANT who becomes TOTALLY DISABLED under §1.13 (a) while on authorized leave shall be the same period the CLAIMANT would have been required to serve if the CLAIMANT had been in pay status at the time of disability.
- (4) The elimination period or use of sick leave or both shall begin on the first date of disability and continue without a break even if the CLAIMANT has a summer, seasonal or semester break in service.

## 2.135 MAXIMUM USE OF SICK LEAVE

- (1) A CLAIMANT may not be required to use more than 130 working days of accumulated sick leave before benefit payments may begin. If a CLAIMANT elects to continue to receive sick leave beyond 130 working days, benefits under this plan shall be made in accordance with the provisions of § 2.13. For purposes of this section, the number of hours in a day of sick leave is based on the CLAIMANT's appointment percentage, with 8 hours being equivalent to full time.
- (2) This maximum limitation will not apply in those cases where a CLAIMANT is determined to be eligible for disability benefits under § 40.63, Wis. Stats., § ETF 50.40, Wis. Admin. Code and § 40.65, Wis. Stats. Sick leave credits converted to pay health insurance premiums no longer qualify as earnings and will not be taken into consideration in determining the elimination period.

## 2.14 ALTERNATE PROOF OF TOTAL DISABILITY

- (1) A CLAIMANT who is approved for benefits under the disability provisions of the Wisconsin Retirement System (WRS) under § 40.63, Wis. Stats., § ETF 50.40, Wis. Admin. Code, or the United States Social Security Act and has ICI coverage in effect on the effective date of the other disability provisions mentioned, shall not initially be required to furnish further proof that the CLAIMANT meets the definition of TOTALLY DISABLED, but thereafter proof of continued disability may be required pursuant to sub.(3) or pursuit of medically supported vocational rehabilitation may be required pursuant to § 2.18.

- (a) If either a § 40.63, Wis. Stats., WRS disability benefit or § ETF 50.40, Wis. Admin. Code, Long -Term Disability Insurance (LTDI) referenced in sub. (1) is approved, the first date of disability will be the day after the last day worked.
- (b) If a Social Security Disability Insurance Benefit is approved, the first date of disability will be the date the Social Security Administration found the CLAIMANT disabled, but no earlier than the day after the last date worked.
- (c) Par. (b) is not applicable if ICI coverage has lapsed before the effective date of the Social Security Disability Insurance Benefit.

## 2.15 INTEGRATED BENEFITS AND OFFSETS

- (1) The CLAIMANT must apply and complete the application or claim process for all other benefit programs for which the CLAIMANT may be eligible, including, but not limited to, Social Security Disability (through the hearing level if denied initially), Wisconsin Retirement System (WRS) disability and retirement plans; unemployment compensation, and worker's compensation.
  - (a) A CLAIMANT applying for ICI benefits must submit written evidence acceptable to the CONTRACTOR that the CLAIMANT has taken all necessary action to obtain and assign any other benefits available from the sources listed in sub. (2) which the CLAIMANT may be eligible to receive. This includes completion of any necessary records release.
  - (b) If the CONTRACTOR ascertains a CLAIMANT has not acted in a timely fashion to apply, reapply or file all required supporting documents for benefits for which the CLAIMANT is eligible through any applicable process, the CONTRACTOR may reduce the ICI benefits by an estimated amount the DEPARTMENT or CONTRACTOR determines would have been payable from that source. ICI benefit offset shall not be reduced, changed or stopped because of actual or alleged failure on the part of the CONTRACTOR or the DEPARTMENT to notify the CLAIMANT of his or her rights under other benefit programs. The ICI benefit will be reduced by the straight life annuity amount for any disability or retirement benefit available from the Wisconsin Retirement System or the estimated Wisconsin Retirement System Long - Term Disability Insurance (LTDI) monthly benefit, whichever is greater.
- (2) Benefit payments from ICI shall be reduced by benefits paid or payable at the rate of 100% from the following sources, except as specified for the Wisconsin Retirement System (WRS) disability or retirement plan in par. (e):
  - (a) Worker's Compensation Act, any payment except those specifically identified as permanent partial disability (PPD) or permanent total disability (PTD), penalties assessed against EMPLOYERS, medical expenses and attorney fees. Worker's Compensation settlement agreements which do not identify a specific amount, type of benefit or time period shall be offset from the ICI benefit effective the date the Worker's Compensation benefit is paid. The amount by which any such lump sum settlement benefit exceeds the monthly ICI benefit otherwise payable shall be carried over to reduce ICI benefits payable in future months until the amount of the lump sum has been completely offset.

- (b) Any EMPLOYER liability law.
- (c) Any occupational disease law.
- (d) Any benefit from the United States Social Security Act as amended or any similar act of any State or county to which the CLAIMANT is eligible.
- (e) Any WRS disability or retirement plan. WRS periodic disability and retirement payments and lump sum payments will be offset at the equivalent straight life monthly annuity amount using the DEPARTMENT's current actuarial tables. The reduction for the WRS retirement plan will be based on the straight life annuity amount. A CLAIMANT eligible for either a § 40.63, Wis. Stats., benefit or a § ETF 50.40, Wis. Admin. Code, benefit may choose the benefit they preferred.
- (f) Any EMPLOYER sponsored or sanctioned salary continuation plan, including any plan whose premiums are paid or collected via payroll deduction.
- (g) Earnings means the gross amount of wages and salary received from any employment, whether or not it is Wisconsin Retirement System covered employment, for personal service rendered on or after the disability effective date, including any amount which would have been available for payment to the CLAIMANT except for the CLAIMANT's election that part or all of the amount be used for other purposes. The gross amount shall be determined prior to deductions for taxes, insurance premiums, retirement contributions, charitable contributions, etc.

Earnings also include any payment or award for lost wages or lost earnings regardless of whether treated as earnings for purposes of the Wisconsin Retirement System under § 40.02 (22), Wis. Stats., or § ETF 20, Wis. Admin. Code, and regardless of whether received from the employer or a third party, including a third party subrogation or an insurer.

Earnings for personal services rendered also include the net profit of any business enterprise owned, controlled or conducted by the individual, in addition to any salary, wages or other compensation drawn from such a business.

Unless the CLAIMANT has returned to work with the prior EMPLOYER, payments for vacation, holiday time, and compensatory time paid after the elimination period will be offset at 100%

- (h) Unemployment compensation.
- (3) Notwithstanding delays in benefit payments from sources listed under sub. (2), ICI benefits may be made and adjusted, retroactively if necessary, when benefit payments from other sources are actually made or become known to the DEPARTMENT or CONTRACTOR. Any overpayments created due to retroactive approval of sources listed under sub. (2) must be repaid by the CLAIMANT or the CLAIMANT's representative or estate.

- (4) Benefits will be reduced by the gross amount of Social Security (OASDHI) and other applicable WRS benefits. If the claimant elects to receive benefits based on the spouse's account in lieu of the CLAIMANT's own account, the ICI benefit will be reduced by the amount received by the CLAIMANT. Future changes in payments which reflect improvements or cost-of-living adjustments will not alter the amount originally established as an offset with the following exceptions: computation correction errors, late reported earnings, adjusted Long-Term Disability Insurance (LTDI) benefits due to retirement or separation benefit offsets and adjusted duty disability benefits, not including 5% and permanent disability workers compensation benefits.
- (5) The CONTRACTOR, with prior approval from the DEPARTMENT, may hire an advocate or facilitator to assist the CLAIMANT with a disability process. Failure to cooperate with an advocate or facilitator shall result in the suspension or termination of ICI benefits.

If Social Security disability benefits are awarded following an appeal, and the CLAIMANT had retained an attorney, the amount of the attorney fees not considered an offset will be based on the amount of the fees that were approved by the Social Security Administration and paid to the attorney. The CONTRACTOR will require proof of the amount paid to the attorney before any reduction in the overpayment amount will be made.

- (6) If an EMPLOYEE was receiving disability benefits continuously from the WRS or Social Security Administration programs prior to becoming insured, and subsequently becomes TOTALLY DISABLED while insured under this Plan, the disability benefits will be offset only if the amount received from the other program is increased as a result of the subsequent disability and only by the amount of the increase.
- (7) Notwithstanding the provisions of sub. (2), if a CLAIMANT elects not to apply for a disability benefit, although eligible to do so, and applies for a WRS or Social Security retirement or separation benefit, the amount offset under this section shall be set at the greater of the disability, retirement or separation benefit which the CLAIMANT would have been eligible to receive.
- (8) If the CLAIMANT receives a Social Security or WRS retirement benefit based on a reduced benefit due to age, the ICI benefit will be offset by the gross amount received from Social Security or the straight life amount from the WRS. A CLAIMANT's ICI benefit shall be offset by a regular retirement benefit from the Social Security program if the benefit would be paid or payable without reducing the amount because of age. The CLAIMANT's ICI benefit shall also be offset by a WRS retirement benefit if the annuity under the formula computation is based on the normal retirement age for the CLAIMANT's employment category.
- (9) Benefits listed in sub. (2) that began on or after the ICI coverage effective date will be offset against the ICI benefit.

## 2.16 BENEFIT PAYMENTS

- (1) Benefit payments shall be based on 75% of the CLAIMANT's earnings as determined under § 2.165 less offsets as provided in section 2.15.
- (2) ICI benefits may be denied, suspended or terminated if information necessary to determine such benefits is not received within ninety (90) days of the date of request.
- (3) The BOARD has approved the following maximum monthly benefit(s) for a TOTALLY DISABLED CLAIMANT.
  - (a) The maximum monthly benefit for standard coverage is \$4,000.00 per month, not including any add-on approved by the Board.
  - (b) The maximum monthly benefit with SUPPLEMENTAL COVERAGE is \$7,500.00 per month, not including any add-on approved by the Board.
- (4) An additional amount of \$75.00 per month is payable to those CLAIMANTS receiving benefits under § 1.13 (b)
- (5) ICI benefits may be terminated if medical evidence shows that the CLAIMANT no longer meets the definition of TOTALLY DISABLED. If the CLAIMANT had a medical condition while employed which was accommodated by the EMPLOYER, and that condition has not significantly changed, that condition is not considered in determining whether the EMPLOYEE is capable of returning to their own position.
- (6) ICI benefits will be paid monthly with checks dated the first of the month for the previous month's benefit period, and at one-thirtieth (1/30) of the monthly benefit for each day of the benefit period which is less than one month.
- (7) ICI benefits received by the CLAIMANT due to error, mistake, fraud or misrepresentation shall be repaid to the ICI plan by the CLAIMANT or the CLAIMANT's legal representative or estate, or through withholding of funds per §40.08 (4), Wis. Stats.

## 2.165 EARNINGS DEFINED FOR DETERMINATION OF BENEFIT PAYMENTS

- (1) The average monthly earnings shall be the total earnings paid to the insured EMPLOYEE by the EMPLOYER during the previous calendar year as reported to the Wisconsin Retirement System, rounded to the next higher thousand and divided by twelve (12).
  - (a) If the prior year earnings represent an interruption extending three (3) consecutive months or more, or the EMPLOYEE is newly hired, the EMPLOYER shall estimate the base salary earnings to be received during the ensuing twelve (12) months rounded to the next higher thousand and divided by twelve (12) and that projection shall be the basis for establishing average monthly earnings until coverage has been in effect for a full calendar year.

- (b) A new projection shall be made when there is a permanent change in the EMPLOYEE's salary (excluding annual adjustments).

## 2.17 CONTINUED PROOF OF DISABILITY

- (1) After satisfaction of the elimination period as provided in § 2.13, benefits under §1.13 (a) shall be payable commencing at the end of the elimination period and continuing until the end of the twelve (12) month period subsequent to the first date of disability.
  - (a) Successive periods of disability under § 1.13 (a) due to the same or related medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least fourteen (14) consecutive calendar days during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.
  - (b) Successive periods of disability under §1.13 (a) due to unrelated medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least one (1) day the CLAIMANT is scheduled to work and does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.
- (2) ICI benefits under §1.13 (b) shall begin after the twelve (12) month period specified in sub. (1) if the CLAIMANT meets the disability definition as indicated in § 1.13 (b).
  - (a) Successive periods of disability under §1.13 (b) due to the same or related medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least six (6) consecutive months during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT, or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT or the ICI benefit was terminated due to the CLAIMANT earning or capable of earning wages equivalent to the SUBSTANTIAL GAINFUL ACTIVITY.
  - (b) Successive periods of disability under § 1.13 (b) due to unrelated medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least fourteen (14) consecutive calendar days during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.
- (3) A PHYSICIAN's certification that a CLAIMANT is able to return to work cannot be retroactive. The certification must take effect on the date written or on a future effective date.

- (4) Rehabilitative employment, as provided under §2.18, shall not be considered a RETURN TO FULL TIME EMPLOYMENT under subs. (1) and (2).
- (5) If a TOTALLY DISABLED CLAIMANT does RETURN TO FULL TIME EMPLOYMENT as defined in § 1.11, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT for the periods specified in subs. (1) and (2) benefit payments shall be terminated. If the CLAIMANT is subsequently TOTALLY DISABLED again, it shall be considered a new disability and the elimination period established under § 2.13 shall apply.
- (6) Benefit payments will terminate if the CLAIMANT is capable of returning to SUBSTANTIAL GAINFUL ACTIVITY.
- (7) No benefits shall be payable for any period after the date of CLAIMANT'S death.
- (8) ICI benefits may be denied, suspended or terminated if information necessary to determine such benefits cannot be obtained within ninety (90) days of the date of the request.
- (9) If a CLAIMANT is certified by a PHYSICIAN or the CLAIMANT is supported by the OBJECTIVE MEDICAL EVIDENCE as being able to return to less than full time work, but the CLAIMANT does not return to work, the ICI benefit will be reduced by an estimated earnings offset. Pursuant to § 2.175 (1) and § 2.18 (4), estimated earnings shall be offset at the rate of 75% if the CLAIMANT was in a DEPARTMENT approved rehabilitation plan, or the DEPARTMENT would have approved a rehabilitation plan under § 2.18 (2).
  - (a) The estimated offset for an employee who has not returned to work will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate the CLAIMANT was earning when the CLAIMANT first became TOTALLY DISABLED.
  - (b) The estimated offset for an employee who returned to part time work but does not work the number of hours released or ceases employment will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate in effect at the time the CLAIMANT ceased or reduced the part-time employment.
- (10) In consultation with the DEPARTMENT, the CONTRACTOR may initially and at reasonable intervals require the CLAIMANT to furnish proof that the claimant is TOTALLY DISABLED and may require independent medical examinations by a

licensed PHYSICIAN or other medical specialist of the CONTRACTOR's or DEPARTMENT's choosing, participation in a functional capacity assessment, participation in a vocational assessment, a labor market survey, work with a Social Security facilitator or other services as directed by the DEPARTMENT.

- (a) If a CLAIMANT is receiving both Wisconsin Retirement System (WRS) disability (§ 40.63, Wis. Stats., or LTDI benefits) and Social Security disability benefits, continued proof of disability will not be required. If the WRS or Social Security disability benefit is terminated for any reason, medical evidence will be required to support continued ICI payments.

#### 2.175 RETURN TO WORK WITH PRIOR EMPLOYER

- (1) Gross earnings without regard to taxes or other deductions, earned by a CLAIMANT who returns to work for less than full time with the CLAIMANT's prior EMPLOYER shall be offset, based on the check or payment date, at the rate of 75%. Sick leave earned will be offset at 100%.
  - (a) The estimated offset for an employee who has not returned to work will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate the CLAIMANT was earning when the CLAIMANT first became TOTALLY DISABLED.
  - (b) The estimated offset for an employee who returned to part time work but does not work the number of hours released or ceases employment will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate in effect at the time the CLAIMANT ceased or reduced the part-time employment.
- (2) OBJECTIVE MEDICAL EVIDENCE shall be obtained at least on a quarterly basis to substantiate continued benefits. If the OBJECTIVE MEDICAL EVIDENCE indicates that the CLAIMANT does not meet the definition of TOTALLY DISABLED, benefit payments will terminate pursuant to § 2.17.

#### 2.18 REHABILITATIVE TRAINING

- (1) The DEPARTMENT must approve in writing in advance any individualized rehabilitative plan. A plan will only be approved if the DEPARTMENT or the Wisconsin Division of Vocational Rehabilitation determines that rehabilitative training will aid the CLAIMANT to return to SUBSTANTIAL GAINFUL ACTIVITY. Benefits will terminate upon completion of the plan and the CLAIMANT is determined to be capable of SUBSTANTIAL GAINFUL ACTIVITY. A rehabilitative plan must be in writing and include specific goals and dates for meeting those goals

which are agreed to by the CLAIMANT and approved in advance by the DEPARTMENT.

- (2) A rehabilitative plan may include:
  - (a) An education program which has as its primary purpose the training or retraining of a CLAIMANT so that the CLAIMANT may engage in SUBSTANTIAL GAINFUL ACTIVITY. A rehabilitation plan need not be limited to formal vocational rehabilitative training.
  - (b) Any on-the-job training or retraining from any source.
  - (c) Return to less than full time employment in a position other than with the CLAIMANT's prior EMPLOYER, whether or not the employer is a Wisconsin Retirement System covered EMPLOYER, if such employment is approved by the DEPARTMENT as rehabilitative.
  - (d) A return to full time employment at an hourly rate that is less than what would be considered SUBSTANTIAL GAINFUL ACTIVITY, whether or not the employer is a Wisconsin Retirement System covered EMPLOYER, if OBJECTIVE MEDICAL EVIDENCE or rehabilitative specialist supports such employment.
- (3) ICI benefits shall not be reduced because the CLAIMANT is participating in an educational program provided under sub. (2) (a), if the CLAIMANT receives no earnings from such program. Benefits may be increased by an amount equal to any reduction in the CLAIMANT's income from sources listed under § 2.15 to the maximum benefit payable to the CLAIMANT, if such reduction is caused by the CLAIMANT's participation in the educational program. Supplemental benefits shall be available to pay all or part of the reasonable cost of educational programs including tuition, course fees, books and other necessary materials not available from other sources.
- (4) ICI benefits shall be reduced by an amount equal to 75% of the gross earnings that a CLAIMANT receives or is capable of earning from rehabilitative training provided under sub. (2) and by 100% of any payable sick leave. The DEPARTMENT may waive all or part of the offsets under this paragraph in order to promote the return to SUBSTANTIAL GAINFUL ACTIVITY for a period not to exceed nine (9) months. The DEPARTMENT will apply the following guidelines in determining whether the waiver is appropriate:
  - (a) The CONTRACTOR and the DEPARTMENT will review the CLAIMANT's job related expenses that are incurred due to the CLAIMANT's medical condition, which are over and above the normal expenses, and are not covered by other sources. The CLAIMANT must receive prior approval from the DEPARTMENT before waiving the offset of earnings because of the CLAIMANT's medical condition.
  - (b) The CONTRACTOR and the DEPARTMENT will only consider expenses directly related to accommodating a CLAIMANT's needs in getting to work and/or having an appropriate workstation. Such items as childcare, gasoline, bus fare, etc., will not be considered covered job related expenses. Such expenses must be thoroughly documented.

- (c) The ICI plan will require appropriate documentation (receipts, tax returns, etc.) to support expenses claimed under par. (b). Any expenses for a caregiver will be considered only if the care is provided by a properly trained caregiver and approved in advance by the DEPARTMENT.
- (5) Earnings received from employment or training which has not been approved as rehabilitative will be offset at an amount equal to 100% of the gross earnings.
- (6) If a CLAIMANT is determined to be physically and mentally capable of rehabilitative training but refuses to participate or continue to participate in such a program, or does not work the number of hours indicated by a PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), the DEPARTMENT may authorize the termination or suspension of disability benefit payments or may authorize the offset of benefits by the amount of earnings the CLAIMANT could have received if engaged in rehabilitative employment.
- (7) Earnings received from rehabilitative training, employment or training not approved as rehabilitative training shall be offset from the ICI benefit based on the check or payment date.
- (8) Return to work with the prior EMPLOYER in the same or equivalent position is not considered rehabilitation.

#### 2.19 WORLDWIDE COVERAGE

An insured EMPLOYEE shall not be denied coverage solely because of travel or residency in any geographic location.

#### 2.20 LIMITATIONS

Benefits shall not be payable for total disability which begins prior to the effective date of coverage or disability which is:

- (1) The direct result of war, declared or undeclared. The fact of war shall be determined by the BOARD.
- (2) The direct or indirect result of intentional self-inflicted injury for monetary gain.
- (3) The direct or indirect result of participation in the commission of a crime other than a misdemeanor.
- (4) The direct or indirect result of cosmetic surgery.

#### 2.21 CLAIMS PROCEDURE

- (1) An Income Continuation Insurance Claim form (ET-5352) and Income Continuation Insurance (ICI) Medical Report form (ET-5350) prescribed by the DEPARTMENT shall be available to the CLAIMANT if they wish to file a paper claim from the EMPLOYER or from the DEPARTMENT. The CLAIMANT may file an ICI claim via telephone according to CONTRACTOR procedures.

- (2) An ICI claim (either claim form ET-5352 received by the DEPARTMENT or through telephone initiation with the CONTRACTOR) must be completed by the CLAIMANT or the CLAIMANT's representative. In no event will a paper or telephone claim be approved if received more than twelve (12) months from the claimed first date of disability as determined by the CONTRACTOR. In no event will benefits be payable for the period which is more than ninety (90) days prior to the date the DEPARTMENT receives the paper claim or the CONTRACTOR receives the telephone claim. A claim may be submitted up to thirty (30) days prior to the last day worked; however, no benefits will be payable until after the last day worked based on the first date of disability determined by the CONTRACTOR and subject to the CLAIMANT's elimination period.
- (3) An Income Continuation Insurance Medical Report form (ET-5350) must be signed by a PHYSICIAN or health care provider meeting the definition under § 1.09 of the plan if submitted as part of the claim process. The CONTRACTOR may obtain medical information to make a benefit determination by contacting the CLAIMANT's PHYSICIAN or health care providers by telephone in lieu of the Income Continuation Insurance medical report.
- (4) After an Income Continuation Insurance claim is received (either ET-5352 or telephone-initiated), the CONTRACTOR will request that the CLAIMANT's EMPLOYER complete an Income Continuation Insurance Employer Statement (ET-5351) either on paper or electronically. This information must be received by the DEPARTMENT and processed by the CONTRACTOR before any benefits are payable.
- (5) Administrative Review Process
  - (a) The CLAIMANT has the right to request in writing the reconsideration of an approval, denial, termination, or other benefit determination by the CONTRACTOR, but it must be received by the CONTRACTOR no later than ninety (90) days after the date of the CONTRACTOR's letter which contains the denial, termination or other benefit determination.
  - (b) The CLAIMANT may provide any additional information as part of the request for reconsideration, but it must be received by the CONTRACTOR no later than ninety (90) days after the date of the CONTRACTOR's letter which contains the approval, denial, termination or other benefit determination.
  - (c) If the CLAIMANT does not agree with the CONTRACTOR's reconsideration decision, the CLAIMANT has the right to request in writing a Departmental Determination of the approval, denial, termination, or other benefit determination by the CONTRACTOR, but it must be received by the DEPARTMENT no later than ninety (90) days after the date of the CONTRACTOR's reconsideration letter.
  - (d) The CLAIMANT may provide any additional information as part of the request for a Departmental Determination, but it must be received by the DEPARTMENT no later than ninety (90) days after the date of the CONTRACTOR's reconsideration letter.

- (e) If the CLAIMANT does not agree with the DEPARTMENT's Departmental Determination, the CLAIMANT has the right to request in writing an appeal to the Group Insurance Board, but it must be received by the DEPARTMENT's Board Coordinator no later than ninety (90) days after the date of the Departmental Determination letter.

## 2.22 ASSIGNMENT OF BENEFITS.

Benefits payable under this Plan are non-assignable.



ATTACHMENT B

**WISCONSIN PUBLIC EMPLOYERS  
INCOME CONTINUATION INSURANCE PLAN (ICI)  
LOCAL EMPLOYEES PLAN**

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## ARTICLE I - DEFINITIONS

The following terms, when used and capitalized in this Income Continuation Insurance Plan or any supplements, endorsements or riders are defined as follows are limited to that meaning only:

- 1.01 "CLAIMANT" means an EMPLOYEE who has applied or been approved for benefits under this Plan, including an EMPLOYEE whose benefit is totally offset by other income sources.
- 1.02 "CONTRACTOR" means the entity that the Group Insurance Board has under contract to administer the provisions of this ICI plan.
- 1.03 "DAYS" means calendar days, unless otherwise specified.
- 1.04 "EMPLOYEE", when referring to the Wisconsin Public Employers Income Continuation Insurance Plan means the same as prescribed in § 40.02 (46) of the Wisconsin Statutes and for the Wisconsin Public Employers Income Continuation Insurance Plan; an eligible employee who has been participating under the Wisconsin Retirement System for a period of at least 6 months and who is not on leave of absence at the time of enrollment; except that elected officials who meet the requirements of § 40.02 (46), Wis. Stats. are immediately eligible.
- 1.05 "EMPLOYER", when referring to the Wisconsin Public Employers Income Continuation Insurance Plan means the local government participating under § 40.61 (3), Wis. Stats.
- 1.06 "ICI" means Income Continuation Insurance.
- 1.07 "LEAVE OF ABSENCE" means the same as the definition of the leave of absence provided in § 40.02 (40), Stats. and in addition this means an EMPLOYEE who terminates and is re-employed within thirty (30) calendar days by the same EMPLOYER.
- 1.08 "OBJECTIVE MEDICAL EVIDENCE" means test results (e.g. blood tests, MRI, CAT scan, X-rays, etc.) and PHYSICIAN's notes of regular visits recording the PHYSICIAN's observations of disabling symptoms and conditions. The PHYSICIAN's opinion may rely in part on records of care provided by other medical professionals under the supervision of a PHYSICIAN, including but not limited to nurse practitioners, physician's assistants, midwives, psychologists, and psychotherapists (MSSW).
- 1.09 "PHYSICIAN" means a licensed medical doctor, doctor of osteopath or surgeon licensed to practice by a state within the United States of America. A licensed PHYSICIAN does not include the CLAIMANT. A PHYSICIAN also includes such other licensed medical professional (for example, a podiatrist, dentist, nurse practitioner, physician's assistant, psychologist) who is acting within the lawful scope of his/her license and performs a service which is supervised by a licensed medical doctor, doctor of osteopath or surgeon (not required for D.P.M. or D.D.S.).
- 1.10 "REGULAR CARE AND ATTENDANCE" wherever used in this Plan means a planned program of observation and treatment requiring the personal attendance of the CLAIMANT by a PHYSICIAN, which once initiated, is continued in accordance with existing standards of medical practice for the condition or conditions rendering the CLAIMANT sick or injured. A CLAIMANT who is under REGULAR CARE AND ATTENDANCE of a medical specialist other than a licensed PHYSICIAN, who was

recommended by the initial attending PHYSICIAN, shall qualify under the provisions of this section subject to prior authorization by the DEPARTMENT. However, if care is being provided by someone other than a licensed medical doctor, doctor of osteopath or surgeon, than all certifications of disability required by the CONTRACTOR or DEPARTMENT shall be approved by a licensed medical doctor, doctor of osteopath or surgeon. Treatment must meet or exceed standards of the medical profession for a condition which is totally disabling as defined in § 1.13.

- 1.11 “RETURN TO FULL TIME EMPLOYMENT” means the CLAIMANT has returned to work, or is certified by a PHYSICIAN as being able to return to work or OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT’s return to work in the same position. If the CLAIMANT, while TOTALLY DISABLED under §1.13 (b), chooses to accept other work for the same number of hours which they worked prior to becoming disabled, then this also shall constitute a RETURN TO FULL TIME EMPLOYMENT. If the CLAIMANT had been employed less than full time prior to approval for disability benefits, a return to work or a release to work at the prior part time level constitutes a release to full time employment. If the CLAIMANT is released to return to work and does not actually return to work, the provisions of § 2.17 of this Plan apply.
- 1.12 “SUBSTANTIAL GAINFUL ACTIVITY” means that the gross earnings for any period for which ICI benefits that are paid or payable which are at least equal to the gross ICI benefit, excluding the \$75.00 per month supplement, payable to a CLAIMANT under § 1.13 (b) for the same period of time. This includes increased gross earnings for work performed in a different pay period.
- 1.13 “TOTALLY DISABLED ” means:
- (a) During the first twelve (12) months of disability (short term disability), where the CLAIMANT is under the REGULAR CARE AND ATTENDANCE of a PHYSICIAN, the CLAIMANT’s inability by reason of any medically determinable physical or mental impairment, supported by OBJECTIVE MEDICAL EVIDENCE as defined in § 1.08, to perform the duties of his or her position.
  - (b) After the first twelve (12) months (long-term disability), the CLAIMANT’s complete inability by reason of any medically determinable physical or mental impairment, as supported by OBJECTIVE MEDICAL EVIDENCE as defined in § 1.08, to engage in any SUBSTANTIAL GAINFUL ACTIVITY for which the CLAIMANT is reasonably qualified with due regard to the CLAIMANT’s education, training, and experience.
- House confinement shall not be required as a condition of disability, but a CLAIMANT must be under the REGULAR CARE AND ATTENDANCE of a licensed PHYSICIAN, other than self, during the period of disability.
- 1.14 “MILITARY LEAVE” means:
- (a) The EMPLOYEE is activated on or after January 1, 2003 to serve, or is serving, on military duty in the U.S. armed forces, other than for training purposes.
  - (b) On the date activated, the EMPLOYEE is a member of the Wisconsin National Guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from the inactive reserve status.

- (c) EMPLOYEE has received a military leave of absence under ss. 230.32 (3) (a) or 230.35 (3), Wis. Stats. under a collective bargaining agreement under subch. V of ch. 111, or under rules promulgated by the Office of State Employment Relations or is eligible for reemployment with the state under ss. 45.50, Wis. Stats. after completion of his or her service in the U.S. armed forces.
- (d) The EMPLOYEE has not terminated employment with the insured EMPLOYER.

1.15 "SUPPLEMENTAL COVERAGE means coverage based on the annual salary amount that exceeds \$64,000.00 up to maximum of \$120,000.00, with the EMPLOYEE paying the entire premium for the portion of the coverage that exceeds the salary over \$64,000.00.

## **ARTICLE II - ENROLLMENT AND BENEFIT PROVISIONS**

### **2.01 COVERAGE**

- (1) The ICI Plan authorized by § 40.61, Wis. Stats., shall be an integrated plan of short and long-term coverage. Participation under the plan shall be voluntary for each EMPLOYEE, but each EMPLOYEE who elects to participate shall be insured for both the short and long term coverage.
- (2) Benefits are paid to an insured EMPLOYEE for covered earnings lost as a result of disability. No benefit is available for earnings which were lost due to disability but which were not included under the provisions of § 2.165.

### **2.015 RESOLUTIONS FOR EMPLOYER PARTICIPATION**

- (1) The governing body of an EMPLOYER shall adopt a resolution for coverage under this Plan in the form prescribed by the DEPARTMENT. The effective date of coverage shall be the first of the calendar month which begins on or after ninety (90) days following receipt by the DEPARTMENT of the resolution, unless the resolution specifies a later effective date. Coverage shall always be effective on the first day of a calendar month. The EMPLOYER shall transmit all enrollment applications so they are received by the DEPARTMENT thirty (30) days prior to the effective date. If those applications represent less than 65% of all eligible EMPLOYEES, the resolution shall become void, unless the EMPLOYER is granted a temporary waiver of the 65% participation requirement by the DEPARTMENT. The waiver may be extended by the DEPARTMENT, if deemed appropriate and necessary.
- (2) If participation under the Plan is initially approved in accordance with the minimum requirements established under sub. (1) and subsequent participation drops below the minimum participation percentage, the BOARD may terminate the EMPLOYER's participation under the Plan. If the BOARD terminates such participation, the termination shall be effective at the end of the calendar year. The DEPARTMENT shall notify a local EMPLOYER by October 1 of the decision to terminate participation at the end of the calendar year, otherwise termination shall be effective at the end of the following calendar year.
- (3) Provided that the EMPLOYER has been in the Plan for a minimum of twelve (12) months, the EMPLOYER may withdraw from the Plan at the end of any calendar year by filing a resolution with the DEPARTMENT by October 1 of that year.

## 2.02 INITIAL ELIGIBILITY

- (1) Enrollment shall be limited to EMPLOYEES.
- (2) Subsequent to the EMPLOYER's effective date of participation, each EMPLOYEE shall be insured under the Plan without furnishing medical evidence of insurability, provided the EMPLOYEE completes and signs an application furnished by the DEPARTMENT and files it with the EMPLOYER within thirty (30) calendar days after the initial date of eligibility as determined in § 40.02 (25), Wis. Stats. If an EMPLOYEE is employed at more than one employer or falls under a different elimination period, the EMPLOYEE must file a separate application for each position held.
  - (a) An EMPLOYEE who meets the initial eligibility while on MILITARY LEAVE must submit an enrollment application for coverage to be received by the EMPLOYER within thirty (30) days after return to work from MILITARY LEAVE.
- (3) An EMPLOYEE whose annual salary as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE as part of the initial eligibility.
- (4) Coverage shall be effective the first day of the calendar month which begins on or after the date the application is received by the EMPLOYER. If the EMPLOYEE files the completed application prior to the initial date of eligibility as determined in accordance with § ETF 50.10, Wis. Admin. Code, the coverage shall be effective the first day of the calendar month which begins on or after the date of eligibility.

## 2.03 COVERAGE AFTER INITIAL DATE OF ELIGIBILITY

- (1) Any EMPLOYEE, who does not elect to be covered during the initial enrollment period or desires at a later date to change to a shorter elimination period, may complete an application of evidence of insurability furnished by the DEPARTMENT. An application of evidence of insurability, completed more than thirty (30) days prior to the date the DEPARTMENT receives it, will be rejected. The EMPLOYEE shall be required to complete a new application. The evidence of insurability application shall be reviewed by the CONTRACTOR subject to the health underwriting standards approved for the program by the BOARD.
  - (a) An EMPLOYEE, who is approved for coverage under evidence of insurability, and whose annual salary as determined under § 2.11 exceeds \$64,000.00 may also apply for SUPPLEMENTAL COVERAGE.
  - (b) If the EMPLOYEE's application is approved, insurance coverage shall become effective on the first day of the calendar month following the date of approval. Premiums will be based on the selected elimination period and the earnings reported to the Wisconsin Retirement System for the previous calendar year rounded to the next higher thousand and divided by twelve (12). For a new EMPLOYEE, premiums will be based on a projected annual base salary rounded to the next higher thousand and divided by twelve (12).

Charges for medical examinations and records, if required, shall be the responsibility of the EMPLOYEE.

- (c) If the application is denied by the CONTRACTOR due to lack of medical evidence, the CONTRACTOR will notify the EMPLOYEE. If medical evidence is not received within ten (10) days of notice to the EMPLOYEE, the CONTRACTOR shall deny the application.
  - (d) If the application is denied by the CONTRACTOR following review of medical evidence, the EMPLOYEE has the right to request reconsideration of the denial. The CONTRACTOR shall be responsible for the reconsideration of the denied application. To request reconsideration of the initial denial, the EMPLOYEE must submit a written request to the CONTRACTOR which must be received by the CONTRACTOR within ninety (90) days of the date of the initial denial. If the CONTRACTOR upholds the initial denial on reconsideration, the EMPLOYEE has the right to request a subsequent review of the denial. The DEPARTMENT shall be responsible for the subsequent review of the CONTRACTOR's denial and rendering a Departmental Determination. To request a Departmental Determination, the EMPLOYEE must submit a written request which must be received by the DEPARTMENT within ninety (90) days of the date of the CONTRACTOR's reconsideration denial.
  - (e) A new application may not be considered until a period of one (1) calendar year has elapsed from the date of denial of the previous application.
- (2) **CANCELLED COVERAGE.** An EMPLOYEE, who previously had coverage and who completes an enrollment application to cancel coverage, other than an EMPLOYEE on MILITARY LEAVE is subject to medical evidence of insurability should they desire to re-enroll for coverage. An EMPLOYEE on MILITARY LEAVE who completed an enrollment application to cancel coverage may re-enroll, without providing evidence of insurability, by submitting an enrollment application for coverage to be received by the EMPLOYER within thirty (30) days after return to work from MILITARY LEAVE.
- (3) **EMPLOYER ERROR**
- (a) If, as a result of employer error, an eligible employee has not filed an application for ICI or made premium contributions within 60 day after becoming eligible for ICI coverage, the employee is considered not to be insured for that coverage. The employee may become insured by filing a new application within 30 days after the employee receives from the employer written notice of the error. An employee is not required to furnish evidence of insurability to become insured. An employee becomes insured on the first day of the first month beginning after the date on which the employer receives the employee's new application and upon approval by the DEPARTMENT.
  - (b) An EMPLOYEE who has been paying premiums for a period of twelve (12) consecutive months, even though not properly enrolled, is deemed to be insured. Following DEPARTMENT notice of improper enrollment, insurance shall continue in effect for thirty (30) days during which time proper

enrollment must be completed by the EMPLOYEE. Coverage shall cease after thirty (30) days unless proper enrollment has been completed.

#### 2.04 INITIAL PREMIUMS

When coverage becomes effective, multiple premium contributions may be required to pay premiums on a current basis.

#### 2.05 CONTINUATION OF COVERAGE DURING PERIODS OF AUTHORIZED LEAVE

- (1) An insured EMPLOYEE may continue to be insured for a maximum of thirty-six (36) months during any period of leave specifically authorized by the EMPLOYER, while that person continues to be an EMPLOYEE but receives no earnings from the EMPLOYER. An insured EMPLOYEE on union leave, as defined under § 40.02 (56), Wis. Stats., or on MILITARY LEAVE, may continue to be insured for the duration of that leave.
- (2) The EMPLOYEE must authorize a payroll deduction in an amount sufficient to make the initial premium payment.
- (3) The premium for time periods beyond the initial premium payment shall be received by the EMPLOYER prior to the end of coverage so there is no lapse in coverage.
- (4) The gross premium shall remain the same throughout the period of leave. Upon the EMPLOYEE's return to employment, the premium shall be adjusted if there has been an annual premium or salary adjustment in the interim.
- (5) Any insured EMPLOYEE who allows coverage to lapse during a period of unauthorized or authorized leave, or MILITARY LEAVE by not authorizing or making advance premium payments under sub. (2) or (3) may reinstate coverage with the same elimination period and without furnishing medical evidence of insurability by submitting an application to the EMPLOYER within thirty (30) days following the return to active employment or return to active employment after MILITARY LEAVE. Coverage shall be effective on the first day of the month which begins on or after the date the application is received by the EMPLOYER. Premium shall resume in the same amount as before unless there has been an annual premium or salary adjustment in the interim.

#### 2.06 WAIVER OF PREMIUMS

A CLAIMANT who is TOTALLY DISABLED shall pay no premiums for the coverage period which is the first of the month which occurs on or following the date initial payment of ICI benefits become payable. The waiver of premiums shall continue through the last day of the month in which ICI benefits are payable.

#### 2.07 TERMINATION OF COVERAGE

- (1) The insurance coverage of an EMPLOYEE who is not TOTALLY DISABLED shall immediately terminate on the date the EMPLOYEE resigns, is dismissed, terminates, retires, turns age 70, or dies, whichever occurs first. When coverage lapses under § 2.05 (5), coverage terminates the end of the month through which

the premiums were paid. A full month's premium is required for any month or portion of a month for which earnings are paid.

- (2) Whenever a participating EMPLOYER withdraws from the program pursuant to § 2.015 (3) or is terminated under § 2.015 (2), coverage for EMPLOYEES covered thereunder shall terminate at the end of that calendar year. Termination of coverage shall not apply to those EMPLOYEES who become TOTALLY DISABLED on or before the date the EMPLOYER withdrawal or termination is effective.
- (3) An EMPLOYEE may cancel ICI coverage by giving written notice of cancellation to the EMPLOYER on a form provided by the DEPARTMENT. Such notice of cancellation must be forwarded by the EMPLOYER to the DEPARTMENT immediately. Cancellation of coverage shall be effective with the first day of the calendar month which occurs on or after the date the form is received by the EMPLOYER.
  - (a) An EMPLOYEE may elect to cancel the SUPPLEMENTAL COVERAGE only and continue the ICI coverage for the salary under \$64,000.00 by giving written notice as indicated in (3).

#### 2.08 LAPSE OF COVERAGE

ICI coverage shall be deemed to have lapsed if an EMPLOYEE in active employment has not submitted the EMPLOYEE portion of premiums when due. This EMPLOYEE may again obtain coverage only under § 2.03.

#### 2.09 GROSS MONTHLY PREMIUMS

- (1) The gross monthly premiums shall be based on the average monthly earnings as determined under § 2.11 (2) and the selected elimination period as shown in Table I.
- (2) The EMPLOYEE must pay the entire premium, as established in Table II-A, for the portion of the coverage that exceeds the \$64,000.00.
- (3) Each participating EMPLOYER shall remit to the DEPARTMENT all the necessary forms and premium payments by the 20th day of the month for the following month of coverage.
- (4) Late payments shall be subject to interest charges pursuant to § 40.06, Wis. Stats.
- (5) The annual premium adjustment shall be determined effective March 1<sup>st</sup> of each year.

#### 2.10 EMPLOYER CONTRIBUTIONS

The minimum EMPLOYER contributions shall be the gross premium rate for the 180 day elimination period option shown in Table I. An EMPLOYER may elect to contribute a greater amount toward the gross premium for any other elimination period selected by the EMPLOYEE. There will be no EMPLOYER contributions toward the EMPLOYEE's SUPPLEMENTAL COVERAGE. (See 2.11 to determine average monthly earnings.)

#### 2.11 EMPLOYEE CONTRIBUTIONS

- (1) EMPLOYEE contributions toward premium shall be made in accordance with the rates established in Table I, less the contribution made by the EMPLOYER. Premium rates for SUPPLEMENTAL COVERAGE are established in Table II-A.

(2) Except as provided in par. (a), the monthly premium shall be determined based on the average monthly earnings and the selected elimination period. The average monthly earnings shall be the total earnings paid to the insured EMPLOYEE by the EMPLOYER during the previous calendar year as reported to the Wisconsin Retirement System, rounded to the next higher thousand and divided by twelve (12). (a) The prior year earnings represent an interruption extending three (3) consecutive months or more, or the EMPLOYEE is newly hired, the EMPLOYER shall estimate the base salary earnings to be received during the ensuing twelve (12) months rounded to the next higher thousand and divided by twelve (12) and that projection shall be the basis for establishing average monthly earnings until coverage has been in effect for a full calendar year.

(b) A new projection shall be made when there is a permanent change in the EMPLOYEE's salary (excluding annual adjustments).

(c) Annual changes in contributions toward premiums shall be effective for coverage beginning March 1 of each calendar year.

## 2.12 MAXIMUM DURATION OF BENEFITS

Except as provided in sub. (2) through (4), the maximum duration of benefits for disabled insured EMPLOYEES shall be as follows:

(1) <u>Age at Disablement</u>	<u>Maximum Duration of Benefits in Years</u>
61 or younger	to age 65
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69	to age 70

(2) A CLAIMANT who qualifies for ICI benefits will receive the benefits through the end of the month in which the CLAIMANT turns 65, or through the end of the month the maximum duration is reached, whichever is applicable.

(3) A CLAIMANT who returns to part time employment while receiving ICI benefits will have ICI benefits terminated at the end of the month in which age 65 is reached or the end of the month as indicated in the maximum duration chart in sub. (1) if disability begins after age 61.

(4) Notwithstanding sub. (1) through (3), ICI benefits shall be terminated the end of the day in which the CLAIMANT dies.

## 2.13 ELIMINATION PERIOD

- (1) A CLAIMANT qualifies for ICI benefits on the day after which the CLAIMANT has not worked and been continuously and TOTALLY DISABLED under §1.13 (a) for the elimination period selected under Table I, but no benefit payment may be made while payments for sick leave, vacation, holiday time, and compensatory time are paid to the EMPLOYEE by the EMPLOYER after the elimination period.
- (2) The first day of the elimination period shall be the day after the last day worked or the day the CLAIMANT becomes continuously and TOTALLY DISABLED, whichever is later. The CLAIMANT must be TOTALLY DISABLED pursuant to § 1.13 (a) and not working during the elimination period unless the CONTRACTOR determines that the performance of incidental work functions does not constitute a return to work.
- (3) The elimination period for benefits for a CLAIMANT who becomes TOTALLY DISABLED under § 1.13 (a) while on authorized leave shall be the same period the CLAIMANT would have been required to serve if the CLAIMANT had been in pay status at the time of disability.
- (4) The elimination period shall begin on the first date of disability and continue without a break even if the CLAIMANT has a summer, seasonal or semester break in service.

#### 2.14 ALTERNATE PROOF OF DISABILITY

- (1) A CLAIMANT who is approved for benefits under the disability provisions of the Wisconsin Retirement System (WRS) under § 40.63, Wis. Stats., § ETF 50.40, Wis. Admin. Code, or the United States Social Security Act and has ICI coverage in effect on the effective date of the other disability provisions mentioned, shall not initially be required to furnish further proof that the CLAIMANT meets the definition of TOTALLY DISABLED, but thereafter proof of continued disability may be required pursuant to sub. (3) or pursuit of medically supported vocational rehabilitation may be required pursuant to § 2.18.
  - (a) If either § 40.63, Wis. Stats., WRS disability benefit or § ETF 50.40, Wis. Admin. Code, Long-Term Disability Insurance (LTDI) referenced in sub. (1) is approved, the first date of disability will be the day after the last day worked.
  - (b) If a Social Security Disability Insurance Benefit is approved, the first date of disability will be the date the Social Security Administration found the CLAIMANT disabled, but no earlier than the day after the last date worked.
  - (c) Par. (b) is not applicable if ICI coverage has lapsed before the effective date of the Social Security Disability Insurance Benefit.

#### 2.15 INTEGRATED BENEFITS AND OFFSETS

- (1) The CLAIMANT must apply and complete the application or claim process for all other benefit programs for which the CLAIMANT may be eligible, including, but not limited to Social Security Disability (through the hearing level if denied initially); Wisconsin Retirement System (WRS) disability and retirement plans; unemployment compensation, and worker's compensation.

- (a) A CLAIMANT applying for ICI benefits must submit written evidence acceptable to the CONTRACTOR that the CLAIMANT has taken all necessary action to obtain and assign any other benefits available from the sources listed in sub. (2) which the CLAIMANT may be eligible to receive. This includes completion of any necessary records release.
  - (b) If the CONTRACTOR ascertains a CLAIMANT has not acted in a timely fashion to apply, reapply or file all required supporting documents for benefits for which the CLAIMANT is eligible through any applicable process, the CONTRACTOR may reduce the ICI benefits by an estimated amount the DEPARTMENT or CONTRACTOR determines would have been payable from that source. ICI benefit offset shall not be reduced, changed or stopped because of actual or alleged failure on the part of the CONTRACTOR or the DEPARTMENT to notify the CLAIMANT of his or her rights under other benefit programs. The ICI benefit will be reduced by the straight life annuity amount for any disability or retirement benefit available from the Wisconsin Retirement System or the estimated Wisconsin Retirement System Long-Term Disability (LTDI) monthly benefit, whichever is greater.
- (2) Benefit payments from ICI shall be reduced by benefits paid or payable at the rate of 100% from the following sources, except as specified for the Wisconsin Retirement System (WRS) disability or retirement plan in par. (e):
- (a) Worker's Compensation Act, any payment except those specifically identified as permanent partial disability (PPD) or permanent total disability (PTD), penalties assessed against EMPLOYERS, medical expenses and attorney fees. Worker's Compensation settlement agreements which do not identify a specific amount, type of benefit or time period shall be offset from the ICI benefit effective the date the Worker's Compensation benefit is paid. The amount by which any such lump sum settlement benefit exceeds the monthly ICI benefit otherwise payable shall be carried over to reduce ICI benefits payable in future months until the amount of the lump sum has been completely offset.
  - (b) Any EMPLOYER liability law.
  - (c) Any occupational disease law.
  - (d) Any benefit from the United States Social Security Act as amended, or any similar act of any State or county to which the CLAIMANT is eligible.
  - (e) Any WRS disability or retirement plan. WRS periodic disability and retirement payments and lump sum payments will be offset at the equivalent straight life monthly annuity amount using the DEPARTMENT's current actuarial tables. The reduction for the WRS retirement plan will be based on the straight life annuity amount. A CLAIMANT eligible for either a § 40.63, Wis. Stats., benefit or a § ETF 50.40, Wis. Admin. Code, benefit may choose the benefit they preferred.
  - (f) Any EMPLOYER sponsored or sanctioned salary continuation plan, including any plan whose premiums are paid or collected via payroll deduction.

- (g) Earnings means the gross amount of wages and salary received from any employment, whether or not it is Wisconsin Retirement System covered employment, for personal service rendered on or after the disability effective date, including any amount which would have been available for payment to the CLAIMANT except for the CLAIMANT's election that part or all of the amount be used for other purposes. The gross amount shall be determined prior to deductions for taxes, insurance premiums, retirement contributions, charitable contributions, etc.

Earnings also include any payment or award for lost wages or lost earnings regardless of whether treated as earnings for purposes of the Wisconsin Retirement System under § 40.02 (22), Wis. Stats., or § ETF 20, Wis. Admin. Code, and regardless of whether received from the employer or a third party, including a third party subrogation or an insurer.

Earnings for personal services rendered also include the net profit of any business enterprise owned, controlled or conducted by the individual, in addition to any salary, wages or other compensation drawn from such a business.

The use of sick leave, vacation time, etc., after the elimination period shall be at the CLAIMANT's option, subject to personnel rules or policy. Any earnings paid for sick leave, vacation pay, etc., after the elimination period will be offset from the ICI benefit at 100%. If the CLAIMANT has returned to work with the prior EMPLOYER and payments for vacation, holiday time and compensatory time are paid, the offsets will be applied pursuant to §2.175.

- (h) Unemployment compensation.
- (3) Notwithstanding delays in benefit payments from sources listed under sub. (2), ICI benefits may be made and adjusted, retroactively if necessary, when benefit payments from other sources are actually made or become known to the DEPARTMENT or CONTRACTOR. Any overpayments created due to retroactive approval of sources listed under sub. (2) must be repaid by the CLAIMANT or the CLAIMANT's representative or estate.
- (4) Benefits will be reduced by the gross amount of Social Security (OASDHI) and other applicable WRS benefits. If the CLAIMANT elects to receive benefits based on the spouse's account in lieu of the CLAIMANT's own account, the ICI benefit will be reduced by the amount received by the CLAIMANT. Future changes in payments which reflect improvements or cost-of-living adjustments will not alter the amount originally established as an offset with the following exceptions: computation correction errors, late reported earnings, adjusted Long-Term Disability Insurance (LTDI) benefits due to retirement or separation benefit offsets and adjusted duty disability benefits, not including 5% and permanent disability workers compensation benefits.
- (5) The CONTRACTOR, with prior approval from the DEPARTMENT, may hire an advocate or facilitator to assist the CLAIMANT with a disability process. Failure to cooperate with an advocate or facilitator shall result in the suspension or termination of ICI benefits.

If Social Security disability benefits are awarded following an appeal, and the CLAIMANT had retained an attorney, the amount of the attorney fees not considered an offset will be based on the amount of the fees that were approved by the Social Security Administration and paid to the attorney. The CONTRACTOR will require proof of the amount paid to the attorney before any reduction in the overpayment amount will be made.

- (6) If an EMPLOYEE was receiving disability benefits continuously from the WRS or Social Security Administration programs prior to becoming insured, and subsequently becomes TOTALLY DISABLED while insured under this Plan, the disability benefits will be offset only if the amount received from the other program is increased as a result of the subsequent disability and only by the amount of the increase.
- (7) Notwithstanding the provisions of sub. (2), if a CLAIMANT elects not to apply for a disability benefit, although eligible to do so, and applies for a WRS or Social Security retirement or separation benefit, the amount offset under this section shall be set at the greater of the disability, retirement or separation benefit which the CLAIMANT would have been eligible to receive.
- (8) If the CLAIMANT receives a Social Security or WRS retirement benefit based on a reduced benefit due to age, the ICI benefit will be offset by the gross amount received from Social Security or the straight life amount from the WRS. CLAIMANT's ICI benefit shall be offset by a regular retirement benefit from Social Security program if the benefit would be paid or payable without reducing the amount because of age. The CLAIMANT's ICI benefit shall also be offset by a WRS retirement benefit if the annuity under the formula computation is based on the normal retirement age for the CLAIMANT's employment category.
- (9) Benefits listed in sub. (2) that began on or after the ICI coverage effective date will be offset against the ICI benefit.

## 2.16 BENEFIT PAYMENTS.

- (1) Benefit payments shall be based on 75% of the CLAIMANT's earnings as determined under § 2.165 (2) less offsets as provided in section 2.15.
- (2) ICI benefits may be denied, suspended or terminated if information necessary to determine such benefits is not received within ninety (90) days of the date of request.
- (3) The BOARD has approved the following maximum monthly benefit(s) for a TOTALLY DISABLED CLAIMANT.
  - (a) The maximum monthly benefit for standard coverage is \$4,000.00 per month, not including any add-on approved by the Board.
  - (b) The maximum monthly benefit with SUPPLEMENTAL COVERAGE is \$7,500.00 per month, not including any add-on approved by the Board.
- (4) An additional amount of \$75.00 per month is payable to those CLAIMANTS receiving benefits under § 1.13 (b).

- (5) ICI benefits may be terminated if medical evidence shows that the CLAIMANT no longer meets the definition of TOTALLY DISABLED. If the CLAIMANT had a medical condition while employed which was accommodated by the EMPLOYER, and that condition has not significantly changed, that condition is not considered in determining whether the CLAIMANT is capable of returning to their own position.
- (6) ICI benefits will be paid monthly with checks dated the first of the month for the previous month's benefit period, and at one-thirtieth (1/30) of the monthly benefit for each day of the benefit period which is less than one month.
- (7) ICI benefits received by the CLAIMANT due to error, mistake, fraud or misrepresentation shall be repaid to the ICI plan by the CLAIMANT or the CLAIMANT's representative or estate, or through withholding of funds per §40.08 (4), Wis. Stats.

#### 2.165 EARNINGS DEFINED FOR DETERMINATION OF BENEFIT PAYMENTS

- (1) The average monthly earnings shall be the total earnings paid to the insured EMPLOYEE by the EMPLOYER during the previous calendar year as reported to the Wisconsin Retirement System, rounded to the next higher thousand and divided by twelve (12).
  - (a) If the prior year earnings represent an interruption extending three (3) consecutive months or more, or the EMPLOYEE is newly hired, the EMPLOYER shall estimate the base salary earnings to be received during the ensuing twelve (12) months rounded to the next higher thousand and divided by twelve (12) and that projection shall be the basis for establishing average monthly earnings until coverage has been in effect for a full calendar year
  - (b) A new projection shall be made when there is a permanent change in the EMPLOYEE's salary (excluding annual adjustments).
  - (c) Annual changes in contributions toward premiums shall be effective for coverage beginning March 1 of each calendar year.

#### 2.17 CONTINUED PROOF OF DISABILITY

- (1) After satisfaction of the elimination period as provided in § 2.13, benefits under § 1.13 (a) shall be payable commencing at the end of the elimination period and continuing until the end of the twelve (12) month period subsequent to the first date of disability.
  - (a) Successive periods of disability under § 1.13 (a) due to the same or related medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least fourteen (14) consecutive calendar days during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.
  - (b) Successive periods of disability under § 1.13 (a) due to unrelated medically determinable physical or mental impairments shall be considered one

disability unless the periods of disability are separated by at least one (1) day the CLAIMANT is scheduled to work and does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.

- (2) ICI benefits under § 1.13 (b) shall begin after the twelve (12) month period specified in sub. (1) if the CLAIMANT meets the disability definition as indicated in § 1.13 (b).
  - (a) Successive periods of disability under § 1.13 (b) due to the same or related medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least six (6) consecutive months during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT, or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT or the ICI benefit was terminated due to the CLAIMANT earning or capable of earning wages equivalent to the SUBSTANTIAL GAINFUL ACTIVITY.
  - (b) Successive periods of disability under §1.13 (b) due to unrelated medically determinable physical or mental impairments shall be considered one disability unless the periods of disability are separated by at least fourteen (14) consecutive calendar days during which the CLAIMANT does RETURN TO FULL TIME EMPLOYMENT, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT.
- (3) A PHYSICIAN's certification that a CLAIMANT is able to return to work cannot be retroactive. The certification must take effect on the date written or on a future effective date.
- (4) Rehabilitative employment, as provided under § 2.18, shall not be considered a RETURN TO FULL TIME EMPLOYMENT under subs. (1) and (2).
- (5) If a TOTALLY DISABLED CLAIMANT does RETURN TO FULL TIME EMPLOYMENT as defined in § 1.11, or is certified by a PHYSICIAN as being able to RETURN TO FULL TIME EMPLOYMENT or the OBJECTIVE MEDICAL EVIDENCE supports the CLAIMANT's RETURN TO FULL TIME EMPLOYMENT for the periods specified in subs. (1) and (2) benefit payments shall be terminated. If the CLAIMANT is subsequently TOTALLY DISABLED again, it shall be considered a new disability and the elimination period established under § 2.13 shall apply.
- (6) Benefit payments will terminate if CLAIMANT is capable of returning to SUBSTANTIAL GAINFUL ACTIVITY.
- (7) No benefits shall be payable for any period after the date of a CLAIMANT's death.
- (8) ICI benefits may be denied, suspended or terminated if information necessary to determine such benefits cannot be obtained within ninety (90) days of the date of the request.

- (9) If a CLAIMANT is certified by a PHYSICIAN or the CLAIMANT is supported by the OBJECTIVE MEDICAL EVIDENCE as being able to return to less than full time work, but the CLAIMANT does not return to work, the ICI benefit will be reduced by an estimated earnings offset. Pursuant to § 2.175 (1) and § 2.18 (4), estimated earnings shall be offset at the rate of 75% if the CLAIMANT was in a DEPARTMENT approved rehabilitation plan, or the DEPARTMENT would have approved a rehabilitation plan under § 2.18 (2).
  - (a) The estimated offset for an employee who has not returned to work will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate the CLAIMANT was earning when the CLAIMANT first became TOTALLY DISABLED.
  - (b) The estimated offset for an employee who returned to part time work but does not work the number of hours released or ceases employment will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate in effect at the time the CLAIMANT ceased or reduced the part-time employment.
- (10) In consultation with the DEPARTMENT, the CONTRACTOR may initially and at reasonable intervals require the CLAIMANT to furnish proof that the claimant is TOTALLY DISABLED and may require independent medical examinations by a licensed PHYSICIAN or other medical specialist of the CONTRACTOR's or DEPARTMENT's choosing, participation in a functional capacity assessment, participation in a vocational assessment, a labor market survey, work with a Social Security facilitator or other services as directed by the DEPARTMENT.
  - (a) If a CLAIMANT is receiving both Wisconsin Retirement System (WRS) disability (§ 40.63, Wis. Stats., or LTDI benefits) and Social Security disability benefits, continued proof of disability will not be required. If the WRS or Social Security disability benefit is terminated for any reason, medical evidence will be required to support continued ICI payments.

#### 2.175 RETURN TO WORK WITH PRIOR EMPLOYER

- (1) Gross earnings without regard to taxes or other deduction, earned by a CLAIMANT who returns to work for less than full time with the CLAIMANT's prior EMPLOYER shall be offset, based on the check or payment date, at the rate of 75%. Sick leave paid will be offset at 100%.
  - (a) The estimated offset for an employee who has not returned to work will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL

EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate the CLAIMANT was earning when the CLAIMANT first became TOTALLY DISABLED.

- (b) The estimated offset for an employee who returned to part time work but does not work the number of hours released or ceases employment will be based on the number of hours indicated by the PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), multiplied by the hourly rate in effect at the time the CLAIMANT ceased or reduced the part-time employment.
- (2) OBJECTIVE MEDICAL EVIDENCE shall be obtained at least on a quarterly basis to substantiate continued benefits. If the OBJECTIVE MEDICAL EVIDENCE indicates that the CLAIMANT does not meet the definition of TOTALLY DISABLED, benefit payments will terminate pursuant to §2.17.

#### 2.18 REHABILITATIVE TRAINING

- (1) The DEPARTMENT must approve in writing in advance any individualized rehabilitative plan. A plan will only be approved if the DEPARTMENT or the Wisconsin Division of Vocational Rehabilitation determines that rehabilitative training will aid the CLAIMANT to return to SUBSTANTIAL GAINFUL ACTIVITY. Benefits will terminate upon completion of the plan and the CLAIMANT is determined to be capable of SUBSTANTIAL GAINFUL ACTIVITY. A rehabilitative plan must be in writing and include specific goals and dates for meeting those goals which are agreed to by the CLAIMANT and approved in advance by the DEPARTMENT.
- (2) A rehabilitative plan may include:
  - (a) An education program which has as its primary purpose the training or retraining of a CLAIMANT so that the CLAIMANT may engage in SUBSTANTIAL GAINFUL ACTIVITY. A rehabilitation plan need not be limited to formal vocational rehabilitative training.
  - (b) Any on-the-job training or retraining from any source.
  - (c) Return to less than full time employment in a position other than with the CLAIMANT's prior EMPLOYER, whether or not the employer is a Wisconsin Retirement System covered EMPLOYER, if such employment is approved by the DEPARTMENT as rehabilitative.
  - (d) A return to full time employment at an hourly rate that is less than what would be considered SUBSTANTIAL GAINFUL ACTIVITY, whether or not the employer is a Wisconsin Retirement System covered EMPLOYER, if OBJECTIVE MEDICAL EVIDENCE or rehabilitative specialist supports such employment.

- (3) ICI benefits shall not be reduced because the CLAIMANT is participating in an educational program provided under sub. (2) (a), if the CLAIMANT receives no earnings from such program. Benefits may be increased by an amount equal to any reduction in the CLAIMANT's income from sources listed under §2.15 to the maximum benefit payable to the CLAIMANT, if such reduction is caused by the CLAIMANT's participation in the educational program. Supplemental benefits shall be available to pay all or part of the reasonable cost of educational programs including tuition, course fees, books and other necessary materials not available from other sources.
- (4) ICI benefits shall be reduced by an amount equal to 75% of the gross earnings that a CLAIMANT receives or is capable of earning from rehabilitative training provided under sub. (2) and by 100% of any paid sick leave. The DEPARTMENT may waive all or part of the offsets under this paragraph in order to promote the return to SUBSTANTIAL GAINFUL ACTIVITY for a period not to exceed nine (9) months. The DEPARTMENT will apply the following guidelines in determining whether the waiver is appropriate:
  - (a) The CONTRACTOR and the DEPARTMENT will review the CLAIMANT's job related expenses that are incurred due to the CLAIMANT's medical condition, which are over and above the normal expenses, and are not covered by other sources. The CLAIMANT must receive prior approval from the DEPARTMENT before waiving the offset of EARNINGS because of the CLAIMANT's medical condition.
  - (b) The CONTRACTOR and the DEPARTMENT will only consider expenses directly related to accommodating a CLAIMANT's needs in getting to work and/or having an appropriate workstation. Such items as childcare, gasoline, bus fare, etc., will not be considered covered job related expenses. Such expenses must be thoroughly documented.
  - (c) The ICI Plan will require appropriate documentation (receipts, tax returns, etc.) to support expenses claimed under par. (b). Any expenses for a caregiver will be considered only if the care is provided by a properly trained caregiver and approved in advance by the DEPARTMENT.
- (5) Earnings received from employment or training which has not been approved as rehabilitative will be offset at an amount equal to 100% of the gross earnings.
- (6) If a CLAIMANT is determined to be physically and mentally capable of rehabilitative training but refuses to participate or continue to participate in such a program, or does not work the number of hours indicated by a PHYSICIAN, or substantiated by the OBJECTIVE MEDICAL EVIDENCE or an independent medical examination authorized under § 2.17 (10), the DEPARTMENT may authorize the termination or suspension of disability benefit payments or may authorize the offset of benefits by the amount of earnings the CLAIMANT could have received if engaged in rehabilitative employment.
- (7) Earnings received from rehabilitative training, employment or training not approved as rehabilitative training will be offset from the ICI benefit based on the check or payment date.

- (8) Return to work with the prior EMPLOYER in the same or equivalent position is not considered rehabilitation.

## 2.19 WORLDWIDE COVERAGE

An insured EMPLOYEE shall not be denied coverage solely because of travel or residency in any geographic location.

## 2.20 LIMITATIONS

Benefits shall not be payable for total disability which begins prior to the effective date of coverage or disability which is:

- (1) The direct result of war, declared or undeclared. The fact of war shall be determined by the BOARD.
- (2) The direct or indirect result of intentional self-inflicted injury for monetary gain.
- (3) The direct or indirect result of participation in the commission of a crime other than a misdemeanor.
- (4) The direct or indirect result of cosmetic surgery.

## 2.21 CLAIMS PROCEDURE.

- (1) An Income Continuation Insurance Claim form (ET-5352) and Income Continuation Insurance (ICI) Medical Report form (ET-5350) prescribed by the DEPARTMENT shall be available to the CLAIMANT if they wish to file a paper claim from the EMPLOYER or from the DEPARTMENT. The CLAIMANT may file an ICI claim via telephone according to CONTRACTOR procedures.
- (2) An ICI claim (either claim form ET-5352 received by the DEPARTMENT or through telephone initiation with the CONTRACTOR) must be completed by the CLAIMANT or the CLAIMANT's representative. In no event will a paper or telephone claim be approved if received more than twelve (12) months from the claimed first date of disability as determined by the CONTRACTOR. In no event will benefits be payable for the period which is more than ninety (90) days prior to the date the DEPARTMENT receives the paper claim or the CONTRACTOR receives the telephone claim. A claim may be submitted up to thirty (30) days prior to the last day worked; however, no benefits will be payable until after the last day worked based on the first date of disability determined by the CONTRACTOR and subject to the CLAIMANT's elimination period.
- (3) An Income Continuation Insurance Medical Report form (ET-5350) must be signed by a PHYSICIAN or health care provider meeting the definition under § 1.09 of the plan if submitted as part of the claim process. The CONTRACTOR may obtain medical information to make a benefit determination by contacting the CLAIMANT's PHYSICIAN or health care providers by telephone in lieu of the Income Continuation Insurance medical report.
- (4) After an ICI claim is received (either ET-5352 or telephone-initiated), the CONTRACTOR will request that the CLAIMANT's EMPLOYER complete an Income Continuation Insurance Employer Statement (ET-5351) either on paper or electronically. This information must be received by the DEPARTMENT and processed by the CONTRACTOR before any benefits are payable.

(5) Administrative Review Process

- (a) The CLAIMANT has the right to request in writing the reconsideration of an approval, denial, termination, or other benefit determination by the CONTRACTOR, but it must be received by the CONTRACTOR no later than ninety (90) days after the date of the CONTRACTOR's letter which contains the denial, termination or other benefit determination.
- (b) The CLAIMANT may provide any additional information as part of the request for reconsideration, but it must be received by the CONTRACTOR no later than ninety (90) days after the date of the CONTRACTOR's letter which contains the approval, denial, termination or other benefit determination.
- (c) If the CLAIMANT does not agree with the CONTRACTOR's reconsideration decision, the CLAIMANT has the right to request in writing a Departmental Determination of the approval, denial, termination, or other benefit determination by the CONTRACTOR, but it must be received by the DEPARTMENT no later than ninety (90) days after the date of the CONTRACTOR's reconsideration letter.
- (d) The CLAIMANT may provide any additional information as part of the request for a Departmental Determination, but it must be received by the DEPARTMENT no later than ninety (90) days after the date of the CONTRACTOR's reconsideration letter.
- (e) If the CLAIMANT does not agree with the DEPARTMENT's Departmental Determination, the CLAIMANT has the right to request in writing an appeal to the Group Insurance Board, but it must be received by the DEPARTMENT's Board Coordinator no later than ninety (90) days after the date of the Departmental Determination letter.

2.22 ASSIGNMENT OF BENEFITS.

Benefits payable under this Plan are non-assignable.

**TABLE I  
PREMIUM AS A PERCENT OF EARNINGS**

Calendar Day <u>Eliminating</u> <u>Period</u>	Monthly Premium as a % of Average Monthly Earnings		
	Total	Employer	Employee
30	1.00%	.25%	.75%
60	.775%	.25%	.525%
90	.625%	.25%	.375%
120	.475%	.25%	.225%
180	.25%	.25%	0.0%

