

Q+A Continued payment of wages during illness

Does your employer continue to pay your wages while you are sick?

Your employer will continue to pay your wages for a maximum of two years if you are ill. You will receive at least 70 percent of your wage while you are ill. Please note: the daily wage that is used for the calculation is subject to a maximum limit. After you have been ill for two years, you will be subject to an assessment to see if you are entitled to an occupational disability benefit on the basis of the Work and Income according to Labour Capacity Act (WIA).

No employer; sickness benefit

If you fall ill and have no employer (if you are a flexiworker for example (an employee with a flexible employment contract), or work through a temporary employment agency), you can receive sickness benefit under the Sickness Benefits Act. You may also receive sickness benefit if you are ill owing to pregnancy or childbirth. You can apply for sickness benefit at the Institute for Employee Benefit Schemes (the UWV). The UWV is also responsible for absence supervision and for assisting with your reintegration in the employment process.

Self-employed persons or those who run their own business are not entitled to sickness benefit.

What should you and your employer do if you fall ill?

If you fall ill it is important that you and your employer do all you can to get you back to work. Together, you make agreements about how this can be done as quickly as possible. For example, you could work temporarily on a part-time basis, or be given alternative tasks to carry out. If there really is no alternative, you may be able to accept a different position or a job with another employer. For the first two years, you and your employer are jointly responsible for your reintegration in the employment process – your employer may invite a reintegration company to help. The costs of this are payable by your employer.

In brief, the rules for returning to work are as follows:

- if the company doctor or health and safety service anticipates that your illness is going to last for a long time, they will advise, no later than six weeks after the start of your illness, on your options for returning to work;
- no later than the eighth week, draw up a recovery and reintegration plan together with your employer. Together, you select a case manager who will supervise the plan;
- your employer may invite a reintegration company to help with the implementation of the plan. Your employer will keep a reintegration file for the purpose of recording what has been agreed and done. Examine the file on a regular basis to see how everything is going and to determine whether any alterations need to be made to the plan;
- to help your recovery and get you back to work, keep a record yourself of what you have done in addition to what has been agreed with your employer in the plan;
- after being ill for a year, you are obliged to have an evaluation moment with your employer, at which you look at how the past year has gone. Together, you set out the reintegration outcome you wish to achieve during the second year and how you propose to do this;
- if you are not fully back at work after twenty months, your employer will draw up a reintegration report in consultation with you that will list everything that has been agreed upon as well as the concrete results of the planned resumption of work;
- after your sickness has lasted around twenty months, you will receive information from the Institute for Employee Benefit Schemes (UWV) about applying for occupational disability benefit. On the basis of the reintegration report the UWV will determine whether you and your employer have done enough to try to get you back to work. If your employer has not done enough, the UWV may decide that he must continue to pay you 70 percent of your wages for another year (the maximum). On the other hand, your employer may decide to stop paying your wages temporarily during the first two years of your illness if you yourself do not sufficiently cooperate in efforts aimed at getting you back to work. Ultimately, failure to cooperate sufficiently can result in your being dismissed.

What happens if you and your employer cannot agree on your illness or reintegration?

If you and your employer have different opinions about your illness and/or your efforts at reintegration, you or your employer can in many cases use arbitration. You present the reasons for your disagreement to an independent expert. Your collective labour agreement (CAO) will state whether or not such an arbitration scheme exists for your company or branch of industry.

You can always consult the Institute for Employee Benefit Schemes (UWV) for an expert opinion (a second opinion). The party that applies for this, you or your employer, pay a fee for the service.

If you do not agree with the opinion of the expert, you can take your case to court.

How much do you get paid when you are ill?

During the first year of sickness you will receive at least 70 percent of your wages, but no less than the minimum wage. Please note: the daily wage that is used for the calculation is subject to a maximum limit – €188.88 gross, from 1 January 2011.

Second year of sickness

In the second year of sickness, too, your employer will pay you at least 70 percent of your wages, although he is no longer obliged to pay at least the minimum wage. If your family income falls below the guaranteed minimum income level as a result, you can apply to the Institute for Employee Benefit Schemes (UWV) for an allowance under the terms of the Supplementary Benefits Act.

Maximum 170 percent

During the course of the two years of sickness, your employer will have paid, including any additions, a maximum of 170 percent of the wages you were earning when you first reported sick. The collective labour agreement (CAO) will in many cases determine how this is made up.

How long do you continue to receive your wages if you fall ill?

Your employer will pay you for a maximum of two years if you fall ill. After two years, it will be assessed whether you are eligible for occupational disability benefit under the terms of the Work and Income according to Labour Capacity Act (WIA).

Unwaged qualifying days

In principle, you will continue to receive your wages from the first day of sickness. Sometimes, though, you will have unwaged qualifying days, which means that you will not be paid at all for the first two days (maximum) of sickness. This is permitted by law, but the arrangements must be set down in writing in the contract of employment or collective labour agreement (CAO).

Qualifying days do not apply every time somebody reports sick. If you have been ill and then fall ill again within four weeks, you will be paid from the first day on the second occasion.

Combining periods of sickness

If you report sick on more than one occasion within a period of less than four weeks, the periods of sickness will be counted together and considered as a single period of sickness.

Do you continue to receive your wages when you are ill if you have a temporary contract?

If you have a temporary contract and fall ill, your employer will continue to pay you at least 70 percent of your wages for a maximum of two years. If, during the period when you are receiving your wages, your temporary contract expires, the Institute for Employee Benefit Schemes (UWV) will take over responsibility for paying you from the date your contract expires until the end of the second year of your sickness. The UWV will then also be responsible for absence supervision and assisting with your reintegration.

Reintegration report

If you have been ill for longer than six weeks at the time your temporary contract expires, you and your employer draw up a reintegration report. You will need this report if you want to apply to the Institute for Employee Benefit Schemes (UWV) for sickness benefit. The report should contain what you and your employer have done in order to get you back to work. If the UWV is of the opinion that you and your employer have not done enough to get you reintegrated, the UWV may impose a sanction: for example, it may claim the sickness benefit back from your employer or decide to reduce your level of sickness benefit.

Do you continue to be paid if you fall ill while working through a temporary employment agency?

If as a temporary employment agency worker you do not have a contract with the agency, then you are entitled to sickness benefit under the terms of the Sickness Benefits Act.

You are entitled to 70 percent of your last wages. You must report sick to the agency where you are registered and the company where you work.

Continued receipt of wages via a temporary employment agency

If you have been working for the agency for a long time, it may be that the agency will continue to pay your wages. This will be determined using the so-called phase-system. The collective labour agreement (CAO) for temporary employment agency workers contains provisions for the continuation of pay in the case of illness. Ask your agency for more information.

Do on-call employees get paid if they fall ill?

If, as an on-call employee, you fall ill, you will in some cases be entitled to continue receiving your wages, and in others you will receive sickness benefit from the Institute for Employee Benefit Schemes (UWV). It depends on the kind of on-call contract that you have.

On-call contract with pre-agreement

- Ill while being called in? Your employer must pay you at least 70 percent of your wages over the period that had been agreed you would be working. If this works out to be less than the minimum wage applicable to you, you will receive the minimum wage.
- Still ill after being called in? If the work is over, your temporary employment contract has ended too. Your employer does not have to pay you any more wages. You may be eligible for sickness benefit according to the Sickness Benefits Act. You can apply for sickness benefit at the Institute for Employee Benefit Schemes (UWV).
- Ill when not on-call? At the time you become ill, you have no employment contract, so you do not receive wages.

In principle you are not entitled to sickness benefit either, except in the following cases:

- you have worked for (almost) two months continuously. You become ill within one month of your last working day;
- you have worked for at least sixteen days in two consecutive months. You become ill within eight days of your last working day;
- you are receiving a benefit under the Unemployment Insurance Act (WW).

Zero-hour contract

- Ill while being called in? Your employer must pay you at least 70 percent of your wages over the period that had been agreed you would be working. If this works out to be less than the minimum wage applicable to you, you will receive the minimum wage.
- Still ill after being called in? You have a continuous employment contract, but you are only paid for the hours you work. After the work is over you do not receive any wages, not even if you are still ill. As long as your employment contract is running, you are also not entitled to sickness benefit. You will only receive sickness benefit when your employment contract ends. You can apply for sickness benefit at the Institute for Employee Benefit Schemes (UWV).
- Ill when not on-call? During the period you are not called in, you are not entitled to any wages. That remains so if you become ill during this period. As long as your contract is still running, you are also not entitled to sickness benefit. You will only receive sickness benefit when your contract ends. You can apply for sickness benefit at the UWV.

Min-max contract

You will in all cases be paid at least 70 percent of your wages over your guaranteed hours. If this works out less than the minimum wage applicable to you, you will receive the minimum wage.

After your employment contract ends you may be eligible for sickness benefit. You can apply for sickness benefit at the Institute for Employee Benefit Schemes (UWV).

More information

If you cannot find an answer to your question on this website, you can ask the Postbus 51 Information Service by calling free number 0800 8051. The service is available on working days from 08.00 to 20.00 hrs. If you are calling from abroad, the number is +31 77 4656767 and the regular rate will apply. Your question will usually be answered immediately, though sometimes you will be referred to another government or non-government agency.