

**342.040 Time of payment of income benefits and retraining incentive benefits -- Attorney's fees for recovery of overdue temporary total disability income benefits -- Interest on overdue benefits.**

- (1) Except as provided in KRS 342.020, no income benefits shall be payable for the first seven (7) days of disability unless disability continues for a period of more than two (2) weeks, in which case income benefits shall be allowed from the first day of disability. All income benefits shall be payable on the regular payday of the employer, commencing with the first regular payday after seven (7) days after the injury or disability resulting from an occupational disease, with interest at the rate of six percent (6%) per annum on each installment from the time it is due until paid, except that if the administrative law judge determines that the delay was caused by the employee, then no interest shall be due, or determines that a denial, delay, or termination in the payment of income benefits was without reasonable foundation, then the rate of interest shall be twelve percent (12%) per annum. In no event shall income benefits be instituted later than the fifteenth day after the employer has knowledge of the disability or death. Income benefits shall be due and payable not less often than semimonthly. If the employer's insurance carrier or other party responsible for the payment of workers' compensation benefits should terminate or fail to make payments when due, that party shall notify the commissioner of the termination or failure to make payments and the commissioner shall, in writing, advise the employee or known dependent of right to prosecute a claim under this chapter.
- (2) If overdue temporary total disability income benefits are recovered in a proceeding brought under this chapter by an attorney for an employee, or paid by the employer after receipt of notice of the attorney's representation, a reasonable attorney's fee for these services may be awarded. The award of attorney's fees shall be paid by the employer if the administrative law judge determines that the denial or delay was without reasonable foundation. No part of the fee for representing the employee in connection with the recovery of overdue temporary total disability benefits withheld without reasonable foundation shall be charged against or deducted from benefits otherwise due the employee.
- (3) All retraining incentive benefits awarded pursuant to KRS 342.732 shall be payable on the regular payday of the employer, commencing with the second regular payday after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.
- (4) Upon written request of the employee, all payments of compensation shall be mailed to the employee at his or her last known address.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 40, sec. 3, effective July 14, 2018. -- Amended 2017 Ky. Acts ch. 17, sec. 2, effective June 29, 2017. -- Amended 2010 Ky. Acts ch. 24, sec. 1785, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 514, sec. 4, effective July 14, 2000. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 54, effective December 12, 1996. -- Amended 1996 Ky. Acts ch. ch. 355, sec. 7, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, part 15, sec. 76,

effective April 4, 1994. -- Amended 1990 Ky. Acts ch. 21, sec. 1, effective July 13, 1990; and ch. 515, sec. 1, effective July 13, 1990. -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, effective October 26, 1987. -- Amended 1982 Ky. Acts ch. 7, sec. 1, effective July 15, 1982. -- Amended 1972 Ky. Acts ch. 78, sec. 13. -- Amended 1956 Ky. Acts ch. 77, sec. 4, effective August 1, 1956. -- Amended 1948 Ky. Acts ch. 64, sec. 4. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4887.

**Legislative Research Commission Note (7/14/2018).** This statute was amended in Section 3 of 2018 Ky. Acts ch. 40. Subsection (1) of Section 20 of that Act reads, "Sections 1, 3, and 12 of this Act shall apply to any claim arising from an injury or occupational disease or last exposure to the hazards of an occupational disease or cumulative trauma occurring on or after the effective date of this Act."

**Legislative Research Commission Note (6/29/2017).** 2017 Ky. Acts ch. 17, sec. 5 provided that amendments made to this statute in 2017 Ky. Acts ch. 17, sec. 2 apply to all worker's compensation orders entered or settlements approved on or after June 29, 2017, the effective date of that Act.