

SSP/SMP and furloughed workers

(Lecture P1205 – 22.04 minutes)

This article looks at amendments that have been made as a result of COVID-19 in relation to the operation of SSP and family related statutory payments. Let's start with SSP, currently payable at a rate of £95.85 per week, and remind us ourselves of the normal rules.

SSP in normal times

To be eligible for SSP:

- employees must have average weekly earnings of at least £120 over the eight-week period prior to the first day of sickness;
- there must be a period of incapacity for work (PIW) of at least four day, including bank holidays and weekend days;
- the employee must be sick for more than 3 normal contractual working days before they become entitled to SSP. These first three waiting days (WD) are not eligible.

Example

An employee phones in on a Monday morning saying that they will not be in to work as they have been ill since Saturday. From when are they eligible for SSP?

The four PIW days start running from the Saturday so by the end of Tuesday they will have the required four days to be eligible.

However SSP is not payable until the employee has been off work for three working days. Assuming that they have a standard Monday to Friday working week, three days would take us to Wednesday and so SSP would be payable from Thursday. So if they return to work on:

- Tuesday, Wednesday or Thursday No SSP will be due;
- Friday Entitled to 1 day of SSP (Thursday);
- The following Monday Entitled to 2 days of SSP (Thursday + Friday).

Change from 13 March 2020 due to COVID-19

If an employee is sick or self-isolating due COVID-19, there is no requirement for the employee to satisfy the three WD requirement. SSP is payable from the first working day of absence provided they are off 'sick' for at least four consecutive days.

Change from 16 April 2020 and shielding

If an employee has received an NHS/ GP instructing them to shield for 12 weeks, again there is no requirement for the employee to satisfy the three WD requirement and SSP is payable from the first qualifying day (Standard working day) from 16th April 2020.

Example

In the following scenarios, assuming that employees work a Monday to Friday week, what is the earliest that they can be paid SSP?

Janet phones in sick on Monday 16th March 2020 and says that she has food poisoning:

- Normal rules apply and so SSP cannot be paid before the Thursday.

James phones in sick on Monday 16th March 2020 and says that he is self-isolating as his wife has COVID-19 symptoms:

- SSP can be claimed from 16th March 2020 as off work for more than four days.

On 1st April Debbie informs her employer that she has received an NHS shielding letter covering the next 12 weeks:

- SSP can be paid from 16th April 2020.

SSP Rebate Scheme

This online scheme was launched on 26th May 2020 and applies for small and medium sized employers.

The claim will count as State Aid but is unlikely to take the employer above the State Aid limits under EU Commission Temporary Framework (Euros 800,000 limit).

Under the scheme, provided that the employer is eligible, they can reclaim up to two weeks SSP per employee provided that the amount relates to periods of absence due to COVID-19.

To be eligible to use the SSP Rebate Scheme the employer must have:

- A PAYE scheme set up and started by 28 February 2020;
- Fewer than 250 employees on 28 February 2020.

Where companies and or charities are connected, the 250 employee limit applies to the connected group.

Employees can be full, part time, flexible or zero hour employees as well as employees under agency contracts.

Both employers and their agents can make claims under this scheme and will need the following information:

- PAYE scheme reference number;
- Contact name and phone number to deal with any queries;

- UK bank/ building society account details;
- Total amount of SSP claim due to COVID-19 in the claim period;
- Number of employees covered by the claim
- Start and end date of the claim.

When making the claim, it can be made for multiple pay periods and employees at the same time and claims can be made for periods of sickness starting on or after:

- 13 March 2020 for employees who were off sick because they had the virus or were self isolating; and
- 16 April 2020 where employees were shielding.

Record keeping

Records must be kept for three years after the claim payment is received and include the dates that the employees are off sick, the qualifying days in the period of sickness, the reason that the employee was off work and the employee's national insurance number.

Family related statutory pay

To be eligible for the various types of statutory pay the employee must satisfy the relevant 26-week employment period and average weekly earnings must be at least £120. This average weekly earnings is calculated over the relevant 8 week period before the qualifying week, matching week or, in the case of Statutory Parental Bereavement Pay, the last Saturday before the week of the death or stillbirth of their child.

If statutory leave is due to start on or after 25 April 2020 and the employee has been furloughed for part of the 8 week averaging period, then the employer must ensure that the pay used to calculate to statutory payment is not lower than the employee's normal pay. This means that the employer should use the higher of:

- Furloughed pay actually received from the employer; and
- Pay that would have been received under normal circumstances.

This will be important for employees that receive variable weekly pay to make sure that we get the average weekly earnings right.

Created from a seminar recorded by Alexandra Durrant