

# **RAIL LABOR'S SICK LEAVE PROPOSAL**

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## RAIL LABOR'S PAID SICK LEAVE PROPOSAL CONTAINS THE FOLLOWING PRINCIPAL ELEMENTS:

- **Annual Accrual** – 13 days per year beginning in the first year of employment.
- **Accumulation** – unused days may be accumulated from year-to-year without limitation.
- **Waiting Period** – sick leave is paid from the first workday of illness or injury – i.e., no waiting period.
- **Basis of Pay** – 8 hours per day at the employees' regular straight-time rate.
- **Sick Leave Use** – may use sick leave on an “as needed” basis for their own non-occupational illness or injury.
- **Medical Documentation** – may be required for an absence of more than 3 consecutive workdays.
- **Integration** – sick leave may be used in fractional days to supplement RUIA and Supplemental Sickness benefits up to 8 hours of pay per workday.



## **THERE EXISTS AN ACUTE NEED FOR A PAID SICK LEAVE PROGRAM COVERING RAIL WORKERS**

- **The objective of any wage maintenance program is to replace 100 percent of wages lost due to an absence beyond the employee's control. In the case of non-occupational illness or injury, the current benefit structure in the rail industry fails miserably in this regard. The replacement rate for a 1-to-4-day absence is zero; for a 10-day absence the replacement rate is a mere 30 percent. Even for the most serious illness or injury causing a 6-month absence, the replacement rate never exceeds 50 percent of lost pay.**
- **The inadequacy of the current program was highlighted during the Covid-19 pandemic. Many carriers – recognizing the limitations of RUIA and Supplemental Sickness benefits – voluntarily established ad-hoc plans providing extra compensation for employees who lost time due to a positive Covid-19 test or exposure to Covid at work.**

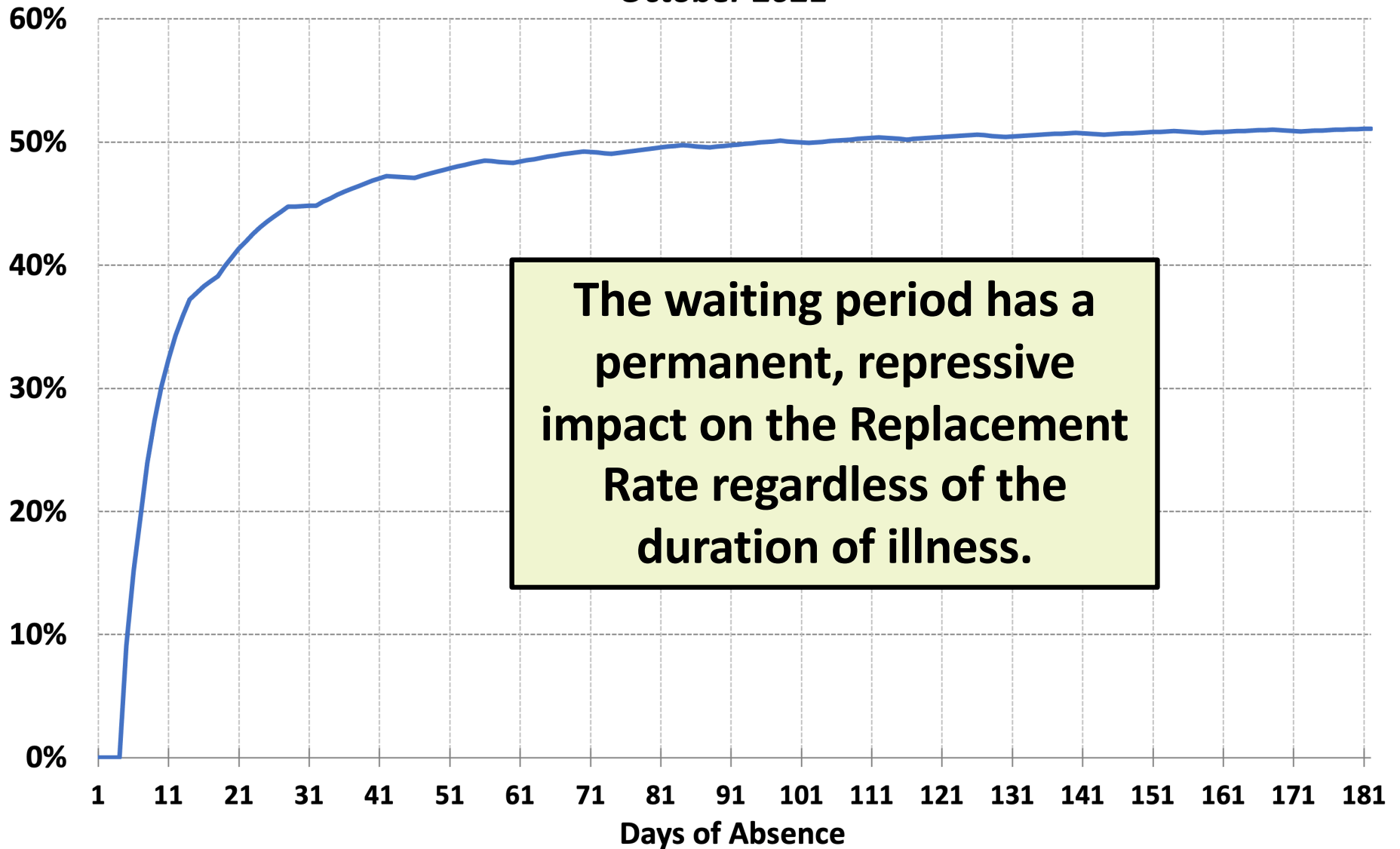


## **THERE EXISTS AN ACUTE NEED FOR A PAID SICK LEAVE PROGRAM COVERING RAIL WORKERS (cont.)**

- **The carriers concede that the absence of paid sick leave is a serious problem. In costing the Organizations' proposal they assume that 100 percent of the population will suffer a non-occupational illness or injury amounting to at least 13 days per year. By itself, this represents a sick epidemic in any population. If the management assumptions are accurate, the industry faces a massive health and welfare problem.**
- **The problem of inadequate wage maintenance for sick absence is a growing concern of public policy makers. Sick leave mandates – requiring employers in the public and private sectors to provide paid sick leave for their employees – have been sweeping across the country. Fifteen states plus the District of Columbia now have such laws on the books. But the carriers have aggressively resisted the application of these statutes to rail workers arguing, successfully, that state statutes are preempted by the RUIA and the dormant Commerce Clause.**
- **Productive negotiations cannot occur without dealing with this critical issue.**

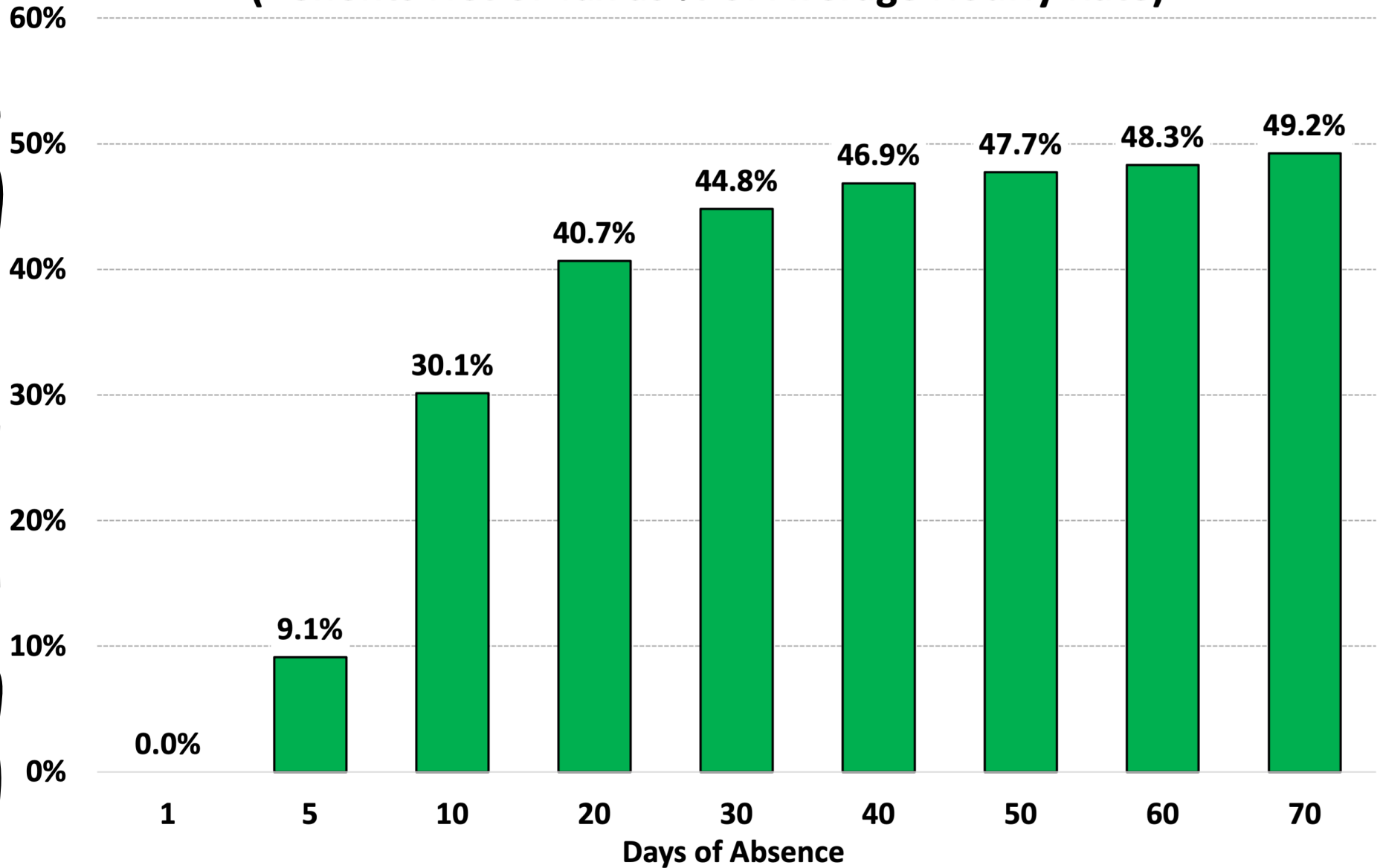
# Wage Replacement Rates by Duration of Illness (Benefits Net of Tax as % of Average Hourly Rate)

*October 2021*



Note: Based on BMWED Supplemental Sickness Plan; and ASTHR for Group 300.

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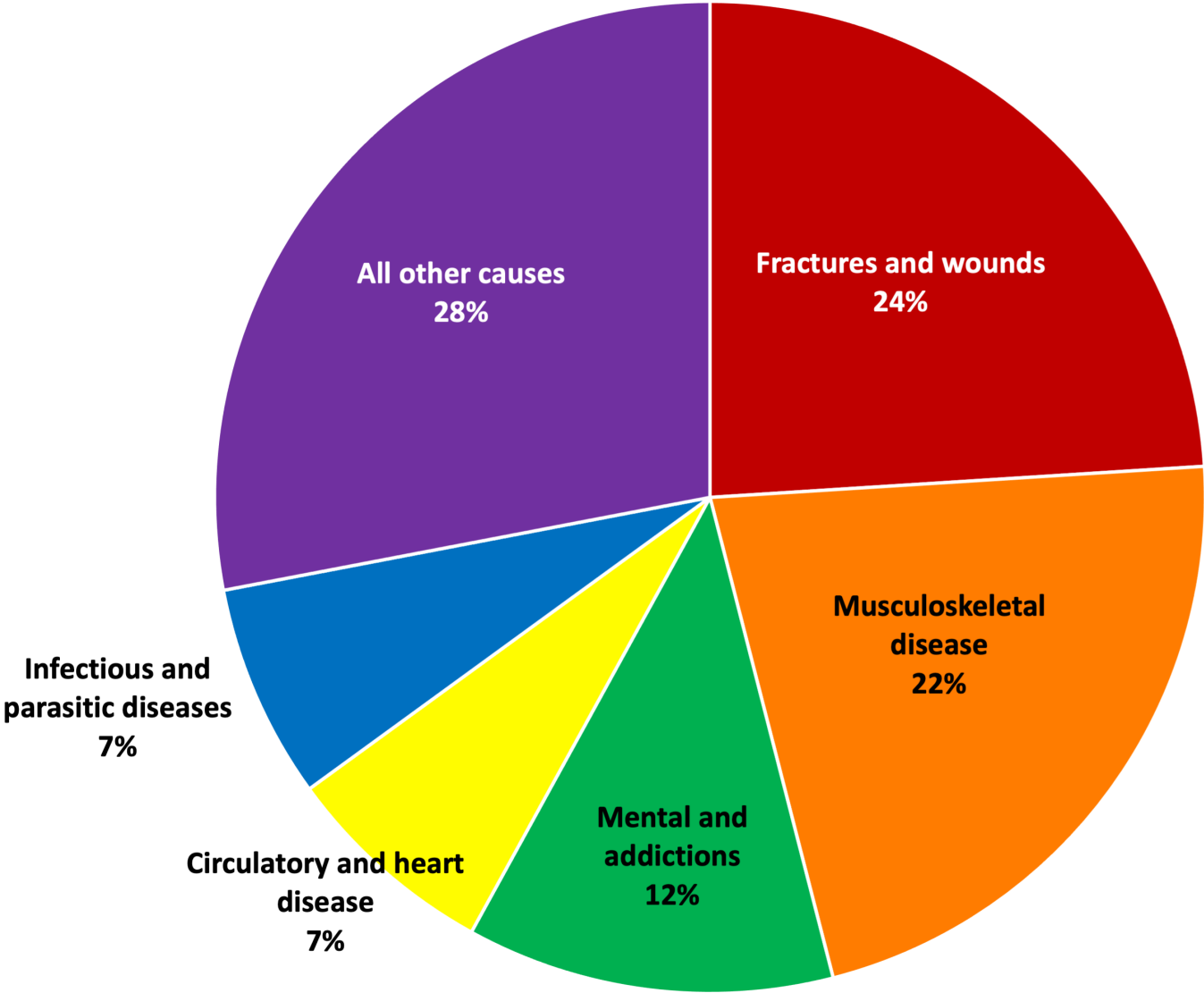
Note: Based on BMWED Supplemental Sickness Plan; and ASTHR for Group 300.

## **SOME FACTS ABOUT SEASONAL INFLUENZA**

- **“Flu is a contagious respiratory illness caused by influenza viruses that infect the nose, throat, and sometimes the lungs. It can cause mild to severe illness, and at times can lead to death.” (Centers for Disease Control and Prevention – “CDC”)**
- **Flu is different than the common cold. Flu usually comes on suddenly. People who have the flu feel some or all of these symptoms: fever/chills, cough, sore throat, runny or stuffy nose, muscle or body aches, headaches, fatigue, vomiting, diarrhea. (CDC)**
- **Flu viruses are spread mainly by tiny droplets made when people with flu cough, sneeze or talk. These droplets can land in the mouth or noses of people who are nearby. Less often, a person might get flu by touching a surface or object that has flu on it and then touching their mouth, nose or eyes. (CDC)**
- **Based on the CDC’s study of flu sickness over the years 2010-2016, the incidence of symptomatic influenza among the population age 18 to 64 was between 7 and 11 percent.**
- **A review of the literature on lost work time due to the common flu (pre Covid-19) revealed that laboratory-confirmed influenza diagnosis resulted in 2 to 5 lost working days per episode. While cases involving physician diagnosed influenza resulted in 4 to 6 lost workdays. (PharmacoEconomics, 2012)**

# ILLNESS AND INJURY CLAIMS UNDER RUIA

2019-2020 BENEFIT YEAR



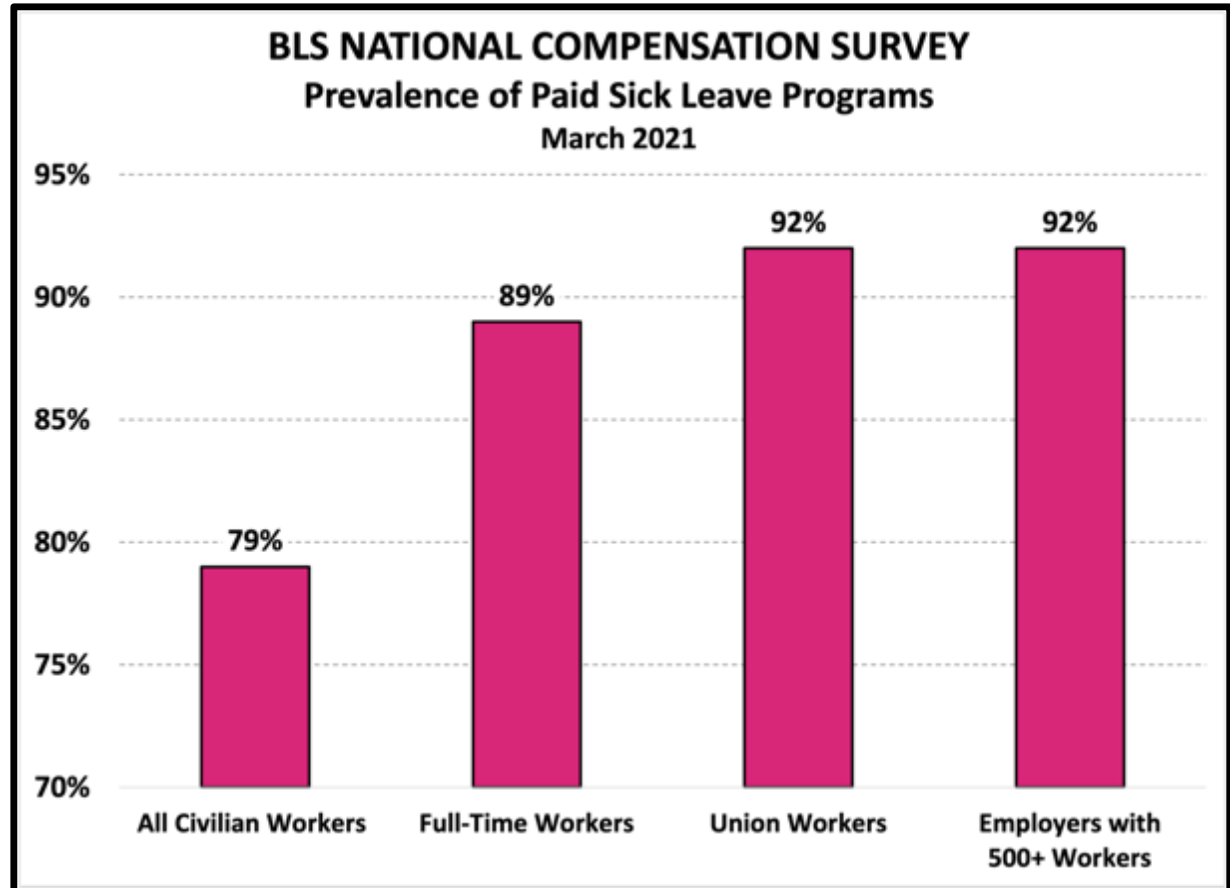


## **PAID SICK LEAVE IS A MATTER OF PUBLIC POLICY**

- **As of 2021, paid sick leave is mandated by 15 states plus the District of Columbia. These programs are separate from Paid Family and Medical Leave Statutes.**
- **13 states cover all employers with 50 or more employees; the 3 others cover only private sector employers, and exempt state and local governments.**
- **The typical plan provides 1 hour of paid sick leave for every 30 to 40 hours worked. The maximum number of paid hours per year is 40; while 5 states provide 48 or more.**
- **All of the programs require paid leave from the first day – there are no waiting periods.**
- **In nearly all cases paid sick leave may be used for the employee's own and family member's health needs, including sick absence from work, as well as diagnostic, treatment and preventive care.**
- **When the Rail labor Organizations with members residing in these 13 jurisdictions sought coverage under the paid sick leave statutes, the carriers intervened arguing that the RUIA and the Dormant Commerce Clause preempt local statutes, and that sick leave benefits were an exclusive matter for collective bargaining. The courts agreed.**

## THE UNIONS ARE PROPOSING A MAINSTREAM BENEFIT

- BLS defines *sick leave* as a paid absence from work if an employee is unable to work because of a non-work-related illness or injury. The employer usually provides all or part of an employee's earnings. Employees commonly receive their regular pay for a specified number of days off per year. Sick leave is provided on a per-year basis, usually expressed in days, and is never insured.

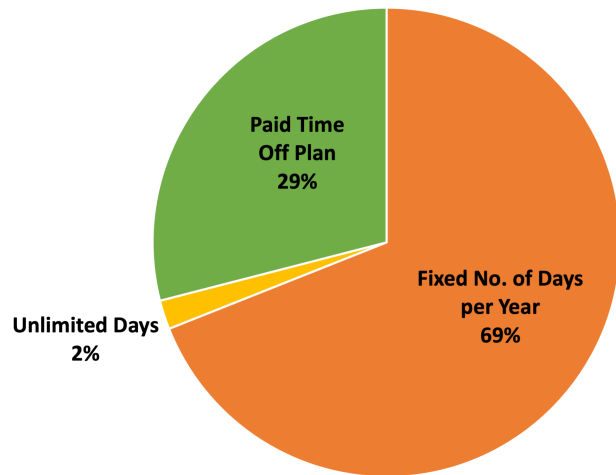


➤ **87% of sick leave plans covering union workers are dedicated to absences due to illness or injury.**

**TYPE OF SICK LEAVE PROGRAM:**

**All Civilian Workers**

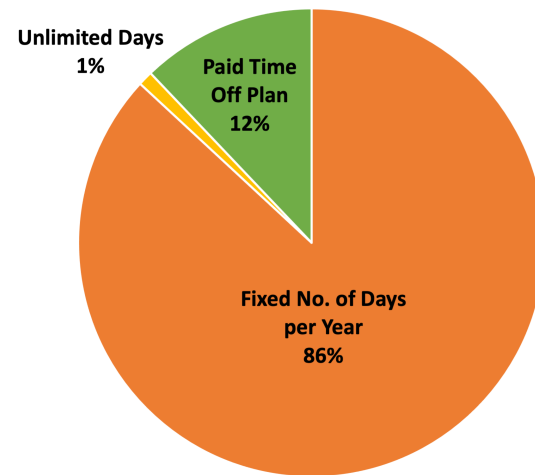
BLS National Compensation Survey - March 2021



**TYPE OF SICK LEAVE PROGRAM:**

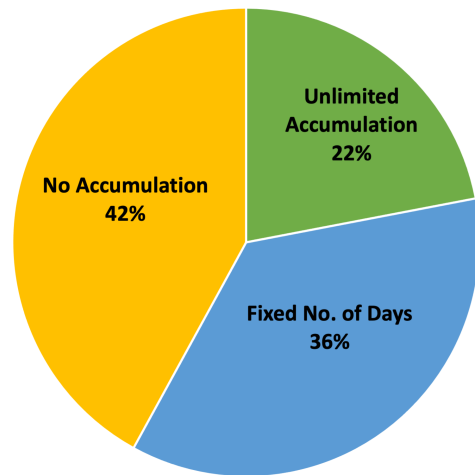
**Union Workers**

BLS National Compensation Survey - March 2021

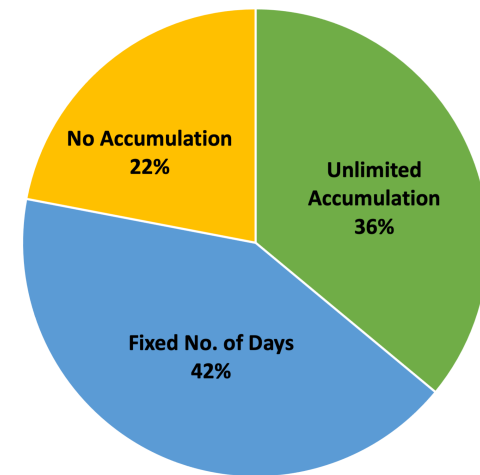


➤ **78% of sick leave plans covering union workers permit carry-over of unused sick leave from year-to-year.**

**SICK LEAVE PROGRAM CARRY-OVER PROVISIONS: All Civilian Workers**  
BLS National Compensation Survey - March 2021

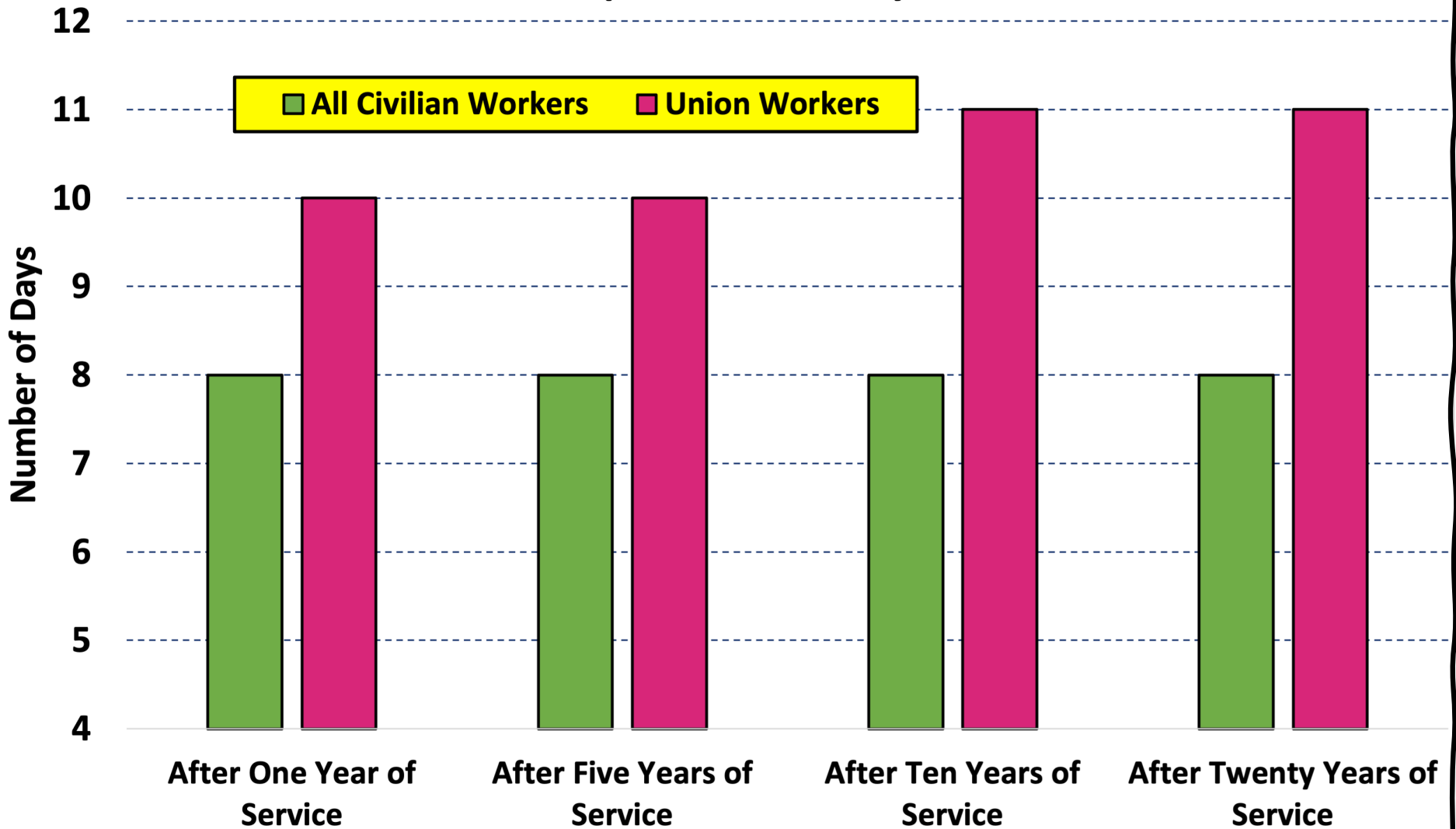


**SICK LEAVE PROGRAM CARRY-OVER PROVISIONS: Union Workers**  
BLS National Compensation Survey - March 2021



# AVERAGE NUMBER OF PAID SICK LEAVE DAYS PER YEAR\*

BLS National Compensation Survey - March 2021



*\*Plans with fixed number of days per year*

**PREVALENCE OF PAID SICK LEAVE PROGRAMS**  
**International Foundation of Employee Benefit Plans**  
***2020 Employee Benefits Survey***  
**Part-Time & Full-Time employees**

- **Paid sick leave was provided by 84.4% of Corporations and 96.6% of Public Employers**
- **The average number of days per year provided - under plans with a fixed number - was 8.4 days by Corporations and 13.3 days by Public Employers.**
- **86% of Corporations provided short-term disability benefits and 90% provided long-term disability benefits. STD and LTD plans are provided separately from paid sick leave.**



# CSX TRANSPORTATION

## Short-Term and Long-Term Disability Benefits

*Non-Contract Employees: 2021*

### Short-Term Disability:

Length of Service	100% of Earnings	75% of Earnings
Less than 1 year	4 weeks	None
1 but less than 4	12 weeks	None
4 but less than 7	16 weeks	10 weeks
7 but less than 10	20 weeks	6 weeks
10 or more years	26 weeks	None

### Long-Term Disability:

- 60% of pre-disability earnings
- \$25,000 maximum monthly benefit
- 182-day elimination period
- Non-contributory

# THE CARRIER'S "BENCHMARKING"

- The Carriers report that, according to the BLS, in March 2020 the average employer in the private sector spent \$.35 per hour on sick leave and another \$.07 on STD. But for its health care benchmarking the carriers consistently include public sector employers. The BLS reports that for all civilian workers – private and public – the average cost was \$.45 plus \$.07 for STD and \$.05 for LTD – which the carriers ignore. All told, \$.57 for non-occupational illness and injury.
- In comparing its cost to the BLS data the carriers mistakenly use the July 2021 Supplemental Sickness Plan rates for the Rail Industry and the March 2020 data for others. The increase on July 2021 rates for the Rail Industry reflects a spike entirely due to the Covid-19 claims experience and temporary enhancements under the CARES Act which are not reflected in the BLS data.
- In the same year (2020) the Class I carriers spent \$39.94 per month on BMWED Supplemental Sickness and \$16.39 on RUIA contributions. However, according to Railroad Retirement Board data, 55% of benefit expense under RUIA was for sickness benefits; the balance for unemployment claims (based on FY 17 and 18). Thus, the sickness benefit expenditure under RUIA is not more than \$9.02 per month.
- The carrier's total cost of \$56.33 per month, or \$.32 per hour, in 2020 is 44% below the typical employers' cost.
- In any event, the cost-based approach employed by the carriers is inconclusive. Unlike fixed-cost benefits such as health insurance, sick leave is payroll based and the cost is variable with wage levels. Thus, the cost is driven by the wage rate level and not necessarily by the design or terms of the sick leave program.