



May 13, 2009

Dear Commonwealth Employee:

As the end of the fiscal year approaches, the General Assembly and I are working hard to enact budget before July 1. Experience has taught us, however, that we must prepare for the possibility of an impasse even as we strive to avoid one.

Due to a recent state court decision, the plan for this year is that all employees would continue working as scheduled even if a budget were not enacted by July 1. However, the commonwealth would not be able to pay most employees for work performed in the new fiscal year until a budget is enacted. Health coverage would continue for all employees. Employees paid by special funds that fall outside the executive budget process would continue to receive their pay in a timely manner.

If an impasse were lengthy, employees' paychecks beginning with the July 17 pay day would not include compensation for hours worked after midnight on June 30. Employees would receive back pay as quickly as possible after a new budget is signed. We estimate that employees' back pay would be paid no later than 2-4 weeks after the execution of a signed budget.

You will receive specific information from your agency as to how a potential budget impasse could affect your pay.

As most of you realize, this approach is different from prior years. After last year's budget was enacted, Commonwealth Court ruled that during a budget impasse, the Pennsylvania Constitution **prohibits** the payment of wages to any employee whose funding is subject to the enactment of a signed budget, regardless of the employee's position. The court held that the federal law governing timely payment of wages does not pre-empt the Pennsylvania constitutional requirement that public funds be expended only from appropriations passed by the legislature and approved by the governor. As a result, all employees may continue to work until a budget is passed. However, until the budget is enacted, the commonwealth is authorized to pay only those employees whose funding falls outside of the budget process.

I know that delayed pay would present a significant financial challenge for many of you. I wanted to provide you with as much advance notice as possible so that you might begin planning for this potential disruption.

Please know that I will work diligently with the General Assembly to enact a budget before the June 30, 2009 deadline.

Sincerely,

Edward G. Rendell
Governor



pennsylvania

2009 Potential Budget Impasse Employee FAQ

1. What will happen if there's a budget impasse this year?

All commonwealth employees would continue working even if a budget is not enacted by July 1. There will be no temporary budget impasse furloughs. But, because the commonwealth lacks authority to pay for time worked after the current budget expires at midnight on June 30, there may be delays in pay earned from that point until a new budget is enacted. After a new budget is enacted, employees would receive back pay as quickly as possible and regular pay will resume.

2. Why are we doing things differently this year?

In previous years, the commonwealth believed it only had the legal authority to work and pay employees who provided critical health, safety and welfare services to citizens. Last year, however, the Commonwealth Court held that there is no authority to pay any employee without an authorized budget. The court also reasoned that the federal law which requires timely payment of wages does not pre-empt the Pennsylvania constitution. As a result all employees would continue working should there be a budget impasse.

3. Are any employees eligible to get paid?

Yes, employees paid from funds not appropriated by the General Assembly—including, for example, those paid by Lottery Fund, Vocation Rehabilitation Fund or Clean Air Fund—would continue to be paid on time. Organizations with the greatest number of these employees include the Liquor Control Board, the Department of Labor and Industry, the State Lottery and the Fish and Boat and Game Commissions.

4. By what date must a budget be enacted to avoid the possibility of delayed pay?

If a budget is enacted by July 6, there will be no disruption in employees' pay.

5. What will be the specific impact to my pay?

Employees would receive individual notifications regarding the impact on their pay from their agencies. In general, however, if a budget is not enacted by July 6, employees paid with funds appropriated by the executive budget may not receive full paychecks starting with the July 17 pay date.

There is also the potential that some appropriations may be enacted prior to the overall executive budget. If this occurs, corresponding employees can be paid without disruption. Without being presumptuous, it is important to note that agencies such as the Public Utility Commission, Public School and State Employee Retirement Systems and several licensing boards and commissions have had their appropriations approved prior to the executive budget in the past.

6. What about health benefits?

Health and supplemental benefits, including SEAP, will continue for all employees.

7. Are there tax implications?

It is possible that the deductions for the budget impasse period could be higher than an employee ordinarily pays. But, because payroll will be processed normally and held for disbursement until the budget is enacted, the impact should be minimized.

8. Can I collect unemployment if I'm not being paid?

No. Unemployment compensation is only available when there is no existing work—during an impasse, employees would continue to work. And employees would be made whole for all hours worked and paid as quickly as possible after a budget is passed.

9. How are payroll deductions impacted if my pay is delayed?

Health insurance and retirement contributions would be deducted during an impasse. If the pay is less than the deduction, the remaining balance would be deducted from future pays.

Deferred compensation would be deducted during impasse. If the pay is less than the deduction, the deduction would not be taken and will not be made up. Employees may increase, decrease or stop deferrals by completing a salary deferral agreement, available at www.sers457.com.

Voluntary life, long term care, and long term disability premiums would be deducted during an impasse. If the pay is less than the deduction, the deduction would not be taken and Prudential would send a bill for any amount not paid. Prudential would resume payroll deductions when the impasse is over.

Voluntary home and auto policy premiums will be deducted during an impasse. If the pay is less than the deduction, the deduction would not be taken and Travelers would send a bill. If two full deductions are missed, Travelers would switch employees to monthly billing. Employees must contact Travelers to reinstate payroll deduction.

Voluntary commuter benefits would be deducted during impasse. If the pay is less than the deduction, the deduction would not be taken and would not be made up. Employees are strongly cautioned that some commuter products are time sensitive. Thus, it is possible that once the budget is enacted, deductions may have been earmarked to purchase transit products that have expired. Employees have until the 2nd of the month to make changes effective with the first pay of the following month.

SECA deductions would be deducted during an impasse. If the pay is less than the deduction, the deduction would not be taken and will not be made up.

AFLAC, American General, Hartford, Trustmark, USABLE deductions would also be impacted. Participating employees are urged to contact these vendors directly.

10. Does this impact retirement?

Pension payments for already-retired employees would continue without disruption. However, it is possible that employees who retire on or after July 1 may not receive leave payouts or compensation for hours worked after July 1 until a budget is enacted. In addition, there may be a delay in retirees receiving their first annuity payments from SERS.

Employees would continue to receive credited service for time worked during the impasse.

11. Can I take paid leave during an impasse?

Yes. However, pay for leave would be delayed on the same basis as regular pay.

12. Can I “bump” into special fund position in order to be paid on time?

No. The budget impasse would involve delays in pay, not furloughs, thus collective bargaining furlough provisions are not applicable.

13. What can I do if I can’t make ends meet?

The most important thing you can do is communicate with your creditors and financial institutions. Call them early to personally explain your situation—see if there are options such as deferring payments, making exceptions to minimum balance requirements, waiving late fees or providing short-term loans. In this age of automation, it’s especially important to communicate with those who debit your accounts directly or expect automatic payments.

You can link to the Department of Health’s directory of human services programs across Pennsylvania as well as to utility and mortgage assistance programs from the “Here to Help” section of www.PA.gov.

The Pennsylvania Treasurer has a program called “Better Choice,” through which a number of Pennsylvania’s credit unions make low-dollar, short-term loans. Learn more about the program at www.patreasury.org/betterchoice.htm.

The Pennsylvania Association of Regional Food Banks provides a county-by-county listing of organizations that provide nutritious foods. Learn more at www.pafoodbanks.org/PARF_Site/Get_Help.html.

14. Who do I contact if I have more questions?

Your agency’s human resource office. Additional information will be posted at www.oa.state.pa.us/BudgetImpasse.