

BULLETIN 89-3

TO: All Auto Insurers

FROM: Insurance Commissioner

**SUBJECT: Loss of Income Benefit Under Personal Injury Protection Coverage,
Section 31A-22-307(1)(b)(i), U.C.A.**

Since the insurance code was redrafted in 1986, the various companies paying loss-of-income benefits under personal injury protection have calculated that benefit in different ways. The largest variation has been calculation of the benefit where there is only a partial loss of income. Some insurers have taken the position that if, after a partial loss of income, a claimant still has \$250 per week remaining in gross income, then no benefit is payable. The Commissioner believes this is an erroneous and inequitable interpretation of the statute. The insurer must pay either 85% of any loss of income or \$250 per week, whichever is less irrespective of the amount a claimant earns after a partial loss of income.

Example:

- A person earns \$1,000 per week and must restrict work activities resulting in a loss of \$500 per week. Even though that person still earns \$500 there is a \$500.00 loss of income. The benefit payable is \$250 per week; it is less than 85% of \$500.

Another area of some confusion occurs when an individual is released to return to work but is unable to continue the job and requests a resumption of benefits. The Utah Code does not address this situation except by stating that an insurer must pay a claim when liability therefor is reasonably clear [31A-26-303(3)(h)]. The type of proof required of a claimant must be governed by the concepts of reasonableness, good faith, and fair dealing.

The above-noted guidelines shall be applied in settling all claims pending as of the effective date of this bulletin and shall be applied from the effective date by all auto insurers in this state.

DATED this 21st day of July, 1989.

Insurance Commissioner

[\[Back to Top\]](#)