

## **Salary Supplement Under NJ Workers' Compensation (NJSA 40A:9-7)**

NJSA 40A:9-7 specifically states that a municipality may pay an employee injured on the job full salary or wages for "up to one calendar year" as provided in 18A:30-2.1 to supplement any workers' compensation payments provided such action is agreed to by ordinance. Since a number of our MEL Members supplement temporary total disability benefits payable under Workers' Compensation, we have asked the MEL's General Counsel to comment on discontinuing the salary supplement after the 12 month period.

In a legal opinion rendered on March 3, 2009 John Dorsey, the MEL's General Counsel, indicated the following:

*"NJSA 18A:30-2.1 permits a municipality the ability to supplement worker's compensation payments for a period of one year. As I read the statute, there is no provision in it for an extension **beyond** the one year period in which the municipality may provide full pay to the injured employee. The municipality does not have the authority to make those payments other than that provided for in the statute. I do not believe that a municipality, by way of a collective bargaining agreement, should agree to grant benefits which it is not permitted to grant under the statute."*

*"We have determined that there is a similar statute that provides such a benefit to employees of Boards of Education, but we do not find any statute that would extend this benefit to MUAs or Housing Authorities."*

Therefore, if your municipality has a program in place to supplement temporary total disability benefits under workers compensation for an employee injured on the job for up to one year; and there has been an overpayment, it is important that you alert your local Joint Insurance Fund's third party claims administrator of the amount of any overpayment. If the claims administrator is aware of the overpayment, they can then advise defense counsel assigned to protect the interests of the municipality to seek a credit for the overpayment at the time the matter is fully adjudicated in the Courts.

In addition, members should be aware of this provision during the collective bargaining negotiation process.