



KEY POINTS FOR SICKNESS ABSENCE MANAGEMENT

Advisory Handbook 2025



When managing sickness absence due to illness, a lot must be considered. As an employer, you need to be aware of the applicable laws and regulations. What must you arrange, when, and by whom? What do you manage yourself, and what do you outsource? How do you handle salary, benefits, and other financial matters? These aspects are covered here.

THE PROCESS: WHAT, WHEN, AND BY WHOM

Contract for Occupational Health Services

The Working Conditions Act (Arbowet) requires businesses to receive expert support for their health and sickness absence management policies. This can be done through an occupational health expert (custom scheme - maatwerkregeling, where the employer, under certain conditions, decides who provides support) or through an occupational health service (arbodienst).

Safety Net Scheme (Vangnetregeling)

If you engage an occupational health service (arbodienst), this is known as a safety net scheme (vangnetregeling). In this case, you enter into a contract with a certified occupational health service.

Tip!

To verify if an occupational health service is certified, visit www.sbca.nl. An occupational health service is responsible for the following tasks:

- Assessing the Risk Inventory and Evaluation (RI&E)
- Providing expert guidance during sickness
- Offering periodic occupational health examinations (PAGO)
- Conducting pre-employment medical examinations if necessary
- Providing a preventive consultation option with the occupational physician

Every occupational health service must employ an occupational physician. This physician has the right to consult with the works council (OR) or employee representative body (PVT) and to visit the workplace. They are also required to report occupational diseases to the Netherlands Centre for Occupational Diseases (www.beroepsziekten.nl). The occupational physician is responsible for guiding sickness absence, supporting reintegration, and, importantly, preventing absence.

Custom Scheme (Maatwerkregeling)

When choosing a custom scheme (maatwerkregeling), there must be at least one occupational physician available for absence guidance, PAGO, and pre-employment medical examinations. This scheme can only be applied with the consent of the works council (OR) or the employee representative body (PVT) and is valid for a period of five years.

Important!

All occupational health service providers must have a complaints procedure for employees who feel they have been mistreated.

COMPANY DOCTOR OR HEALTH AND SAFETY DOCTOR?

A company doctor (bedrijfsarts) is not the same as a health and safety doctor (arboarts). The title of company doctor is legally protected. Company doctors are subject to disciplinary procedures and are registered in the BIG register (Register of Professions in Individual Health Care) as 'physicians' with a specialisation in 'occupational health and medicine'. The BIG register is publicly accessible at:

www.bigregister.nl.

All healthcare providers must actively disclose their BIG registration number, ensuring they can be easily located in the register. Only individuals listed in the BIG register are permitted to use protected professional titles and perform certain reserved tasks independently.

Due to a shortage of company doctors, tasks may be delegated to other qualified professionals under the supervision of the company doctor. This is known as task delegation, where the company doctor assigns specific tasks to other qualified professionals but remains ultimately responsible. Certain tasks, such as preparing a problem analysis and issuing a final decision on a WIA application, must be performed by the company doctor personally.

SECOND OPINION

As an employer, you are required to provide an employee who disagrees with the company doctor's opinion on absence management with the opportunity to request a second opinion at your expense. This must be done through another independent company doctor contracted by you.

The request for a second opinion does not suspend the original assessment. The advice of the primary company doctor remains valid. If the second opinion differs from the initial assessment, an intercollegiate consultation should take place, after which the primary doctor may adjust their opinion. The employee may decide whether to share the second opinion with the primary doctor.

More information is available at:

- www.bedrijfsartsensecondopinion.nl
- www.secondopinionpoli.nl

EXPERT ASSESSMENT (DESKUNDIGENOORDEEL)

A second opinion is not the same as an expert assessment (deskundigenoordeel). Both the employer and the employee can request an expert assessment from the Dutch Employee Insurance Agency (UWV) in the following areas:

- Determining whether an employee is genuinely ill.
- Assessing suitable work options.
- Evaluating the reintegration efforts of the employer or employee.
- Reviewing a case of dismissal due to long-term incapacity for work.

An expert assessment is an advisory opinion rather than a legally binding decision under the General Administrative Law Act (AWB). The UWV generally provides an assessment within two weeks. If this is not possible, the UWV must specify a date by which the assessment will be completed.

Due to capacity issues at the UWV, the organisation has prioritised the processing of expert opinions. An expert opinion will only be processed if there is a conflict or a particularly distressing situation. This is outlined in the UWV's guidance on expert opinions.

If there is no conflict or distressing situation, the application will be processed without priority and added to the work queue. This will be confirmed in writing. If a WIA application has already been submitted, the expert opinion will no longer be processed. From that point onwards, the reintegration efforts related to the gatekeeper assessment and the entitlement to a WIA benefit will be evaluated. In such cases, the WIA application takes precedence over the application for an expert opinion.

For expert opinions concerning suitable work and employer reintegration efforts, it is not necessary for a conflict to be present for the application to be processed.

Costs of an Expert Assessment:

- €100 for employees.
- €400 for employers.

GATEKEEPER IMPROVEMENT ACT (WET VERBETERING POORTWACHTER)

Under the Gatekeeper Improvement Act, employers must follow a series of mandatory steps to manage employee sickness absence:

- Sickness notification
- Problem analysis
- Action plan

Explanation

1. **Sickness Notification:** The employee must report their sickness in accordance with the company's sickness absence policy. This notification must be recorded by the supervisor, who may ask appropriate questions (permitted questions can be found on the Dutch Data Protection Authority website). The sick employee must be reported to the occupational health service/company doctor within the first week of their illness.
2. **Problem Analysis:** The company doctor assesses, no later than six weeks after the start of the illness, whether there is a risk of long-term absence. The company doctor prepares a problem analysis, which outlines the nature of the sickness absence in relation to the tasks the employee is expected to perform. It also indicates whether there are any possibilities for reintegration, and if so, which ones. The problem analysis provided to the employer does not contain any medical information. Instead, it includes advice on how to make the most of or increase the opportunities for recovery and returning to work.
3. **Action Plan:** Based on the problem analysis, the employer and employee must prepare an action plan by the eighth week of absence. This plan specifies the reintegration goals and the steps to achieve them. The action plan must be formally reviewed and updated at least once every six weeks.

CASEMANAGER

A case manager is responsible for coordinating all process steps related to reintegration. This role can be fulfilled internally by the employee's supervisor or an HR/personnel representative. Alternatively, it can be outsourced to a professional case manager with expertise in sickness absence regulations.

The case manager's responsibilities may include:

- Developing a reintegration vision and report.
- Providing management with reports on reintegration progress and compliance.
- Participating in the social-medical team (SMT) for case discussions.
- Identifying available subsidies.

FIRST-YEAR EVALUATION: INTERNAL (ROUTE 1) OR EXTERNAL (ROUTE 2) REINTEGRATION

Around the first year of sickness absence, a first-year evaluation must take place between the employer and the employee. This is also known as the "review point." The evaluation assesses the current status of reintegration. Typically, the company doctor will prepare an employability profile, which serves as the basis for deciding on further reintegration options:

- Route 1: Reintegration within the company.
- Route 2: External reintegration.

Initiating Route 2

A Route 2 reintegration process must begin within six weeks of the first-year evaluation unless:

- There are no available reintegration options.
- There is a realistic prospect of the employee returning to work within three months in a suitable position within the company, whether in their current role, an adjusted role, or another appropriate role that aligns with their functional capabilities.

Documenting the First-Year Evaluation

The first-year evaluation must be documented in writing and should include:

- A review of the past year.
- The evaluation results.
- The agreed objective for the second year of sickness.
- The actions agreed upon to achieve this objective.
- Any activities already undertaken in Route 2 or the decision to initiate Route 2 based on the results of an occupational health assessment conducted around this period.

Employers may manage Route 2 reintegration internally or engage a specialised reintegration company. For more information, visit www.reintegratiekiezen.nl.

SALARY DURING SICKNESS

Under Dutch law, employers must continue paying at least 70% of the employee's salary during sickness, based on the (maximum) daily wage. In the first year of sickness, this payment must not fall below the statutory minimum wage. Many collective agreements (CAO) or employment contracts provide for a higher percentage, up to 100%.

The salary payment obligation lasts for a maximum of 104 weeks, commonly referred to as the "waiting period". This period is better referred to as the "reintegration period" because the focus should be on ensuring the employee's optimal reintegration, either within your organisation (Route 1) or externally (Route 2).

SICKNESS BENEFIT (ZW) – MINIMISING EMPLOYER COSTS

Employees may qualify for a sickness benefit (ZW) from the UWV, which can be paid to you and offset against your wage payment obligation. This applies in the following situations:

- If the employee is an organ donor.
- If sickness is caused by pregnancy or childbirth.
- If the employee has a status of structurally functionally impaired (SFB).

For the first two categories, the ZW benefit is 100% of the (maximum) daily wage. For employees with SFB status, the ZW benefit may also be 100% in the first year, depending on your wage payment obligations. In the second year of sickness, the ZW benefit is 70% of the (maximum) daily wage, even if you are required to pay a higher percentage.

NO-RISK POLICY FOR SFB EMPLOYEES

The category of SFB employees is covered under the No-Risk Policy, which applies to those who:

- Are entitled to one of the following benefits:
 - WIA (Work and Income Act).
 - WAO (Disability Insurance Act).
 - WAZ (Self-Employed Persons Disability Act).
 - Wajong (Young Disabled Persons Act).
- Were assessed as 0-35% incapacitated within five years before starting employment with you and could not be reassigned by their previous employer.
- Have an indication for WSW (Sheltered Employment).
- Experienced difficulties in education due to illness or disability and joined your company within five years after completing their education.
- Work in a sheltered workplace under the Participation Act (Participatiewet) after January 1, 2015.
- The employee is part of the Job Agreement target group.

Application of the No-Risk Policy

The no-risk policy applies if the employee becomes ill within five years of starting employment. Even if an employee is receiving a WIA benefit but continues working for you, they are still entitled to a Sickness Benefits Act (ZW) payment. This payment is administered through you as the employer if the agreed work has been modified under a new contract. In that case, you have a renewed obligation to continue wage payments for 104 weeks, from which the ZW payment can be deducted.

If the terms of the agreed work have not changed, you are not required to continue wage payments. However, your employee will still be entitled to a ZW benefit, which will be offset against their WIA benefit. If the ZW benefit is paid to the employee through you as their employer, it is provided without an additional holiday allowance.

HOLIDAYS

An employee who is unwell is still entitled to take holidays if they are fit to benefit from them. In this case, they are exempt from their reintegration obligations. The company doctor must determine whether the sick employee is fit to take holidays, after which you, as the employer, must give your approval.

Note!

During the period of their holiday, the employee is entitled to receive 100% of their wages, even if they receive a lower percentage as sick pay.

If a sick employee works part-time but takes holidays, a full holiday day is still deducted.

The Supreme Court has ruled that a sick employee can only take holidays if they have active reintegration options available. In such cases, they are exempt from reintegration obligations. If there are no reintegration options, no holidays can be deducted, and the expiration period for statutory holiday days does not apply.

SELF-INSURANCE (EIGENRISICODRAGERSCHAP) FOR SICKNESS BENEFITS (ZW)

As an employer, you can choose to become a self-insurer for ZW benefits. This means you are exempt from paying the ZW premium under the Work Resumption Fund (Werkhervattingskas). Essentially, you function as an administrative body for employees who were ill during leaving their employment with you.

You are responsible for assessing claims, determining eligibility, calculating the amount, and setting the duration of the ZW benefit. You must also pay the ZW benefit to the sick employee, maintain a separate absence administration, and oversee their reintegration. These tasks can be managed internally or outsourced to a professional party. You can request the UWV (Employee Insurance Agency) to perform certain tasks for a fee, such as assessing eligibility, calculating benefit amounts, and determining benefit duration.

It is mandatory to maintain a contract with a professional occupational health service provider. The UWV makes final decisions on matters such as terminating the ZW benefit, applying sanctions (e.g., reducing the benefit), and so on. You are responsible for preparing and justifying these decisions for the UWV. Employees have the right to appeal UWV decisions if they disagree with them.

You can insure against absence risks, but this is not mandatory.

Note!

The self-insurance status can start on 1 January or 1 July of any year. A request to become a self-insurer must be submitted to the Tax Authority at least three months before the desired start date.

There is no retroactive liability, meaning employees who are already ill before the self-insurance start date are not covered by the self-insurer's responsibility. However, there is an ongoing liability, meaning that when self-insurance ends, the responsibility continues for employees who are already ill at that time.

WAGE PENALTY (LOONSANCTIE)

If the UWV, at the end of the waiting period (104 weeks), determines that you have not done enough for reintegration as part of the Reintegration Report Assessment (RIV assessment), it will impose a wage sanction of up to 52 weeks. This means you must continue wage payments for a maximum of 52 additional weeks. The prohibition on dismissal during sickness also applies, so you cannot terminate the employee's contract.

The wage sanction is a corrective measure, intended to ensure that you address any deficiencies identified by the UWV. If you believe you have resolved the shortcomings, you can submit a request for reduction to the UWV. The UWV has three weeks to assess this request. If approved, the wage sanction will be lifted with a six-week extension period.

You have the right to challenge the UWV's decision to impose a wage sanction. If your challenge is successful, you may request compensation for damages, including wrongly paid wages, related benefits, and reintegration costs. Address your compensation claim to:

UWV, Juridisch Kenniscentrum (JKC), Postbus 58285, 1040 HG Amsterdam

Note!

A wage sanction cannot be applied once the 104-week waiting period has passed. The UWV must communicate before the end of this period whether it intends to impose a sanction. A sanction is considered timely if the decision is sent on the final day of the waiting period.

CONTACT

For further information on this topic, please contact us. We are available to assist you.



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