Wage Payment & Collection (WPCA)
Fringe Benefits are Considered Wages

West Virginia Division of Labor
Wage & Hour Section
WPCA Fact Sheet 5 – §21-5-1 and §42CSR 5-3.17
(May 2020)

WAGES ARE DEFINED TO INCLUDE FRINGE BENEFITS

In addition to compensation for labor or services rendered by an employee based on a time, task, piece, commission or other basis, the term wages due also includes accrued fringe benefits that are capable of calculation and payable directly to an employee. §21-5-1(c)

Definitions:

Fringe benefit - Any benefit provided an employee or group of employees by an employer, or which is required by law, and includes regular vacation, graduated vacation, floating vacation, holidays, sick leave, personal leave, production incentive bonuses, sickness and accident benefits and benefits relating to medical and pension coverage. §21-5-1(l)

Wages due or earned - Includes all wages and accrued fringe benefits owed to an employee for all hours the employee is permitted, required, or suffered to work up to and including the twelfth day immediately preceding the employer's regular payday. §42CSR 5-3.17

Employee - Any person suffered or permitted to work by a person, firm, or corporation. §21-5-1(b)

Commissions / Piece Work / Bonuses

Commissions / Piece Work

Wages may also be determined on a commission basis relating to completed sales or services performed, the number of loads hauled or delivered, the number of miles driven, the number of tasks performed, or pieces of items produced. When using such methods to pay wages, it is the employer's responsibility to set the terms and conditions for how such wages are calculated in writing and to notify each affected employee of those terms and conditions.

Bonuses

Bonuses that are capable of calculation and based on production, incentives, or other measurable goals are considered wages when such terms or conditions are stated in written company policy. Bonuses granted by an employer that are not capable of calculation are considered a gift rather than a wage.