

Wage Payment & Collection Fact (WPCA) Payment of Final Wages

West Virginia Division of Labor

Wage & Hour Section

WPCA Fact Sheet 6 – §21-5-4

(July 2016)

REQUIREMENTS FOR PAYING FINAL WAGES

The following table outlines the time frame requirements for meeting final wages as established by §21-5-4 of the West Virginia Code.

Reason for Separation of Employment	When Final Wages are Due
Quit / Resigned / Terminated / Fired	On or before the next regular payday on which the wages would otherwise be due and payable.
Lay Off	The next regular payday.

Fringe Benefits Payable as Final Wages

Fringe benefits that are earned and payable upon separation of employment based on the terms and conditions of written company policy are normally considered as part of “final wages” unless the policy specifically designates them payable at a later date. §21-5-4(b)

Acceptable Methods for Paying Final Wages

Final wages are payable according to the employer’s regular payroll practices unless the employee requests the wages be mailed. Payments of final wages sent by mail are considered to have been paid on the date the mailed payment is postmarked. §21-5-4(c)

Payment of Fringe Benefits as Final Wages

Fringe Benefits Determined by Written Agreement

Whenever an employee is terminated, quits, or resigns from employment, the employer must pay that employee’s final wages, including any fringe benefits that are payable directly to the employee, on or before the next regular payday on which the wages would otherwise be due and payable.

However, when a written agreement concerning fringe benefits exists between an employer and employee that requires that certain conditions must be met before the benefits become payable, or that designates the benefits as being payable at a time other than final wages, the fringe benefits will be paid according to the terms of that agreement. §21-5-4(b)

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Final Wages Payable on Multiple Paydays

Whenever an employee quits, resigns, or is terminated and is due wages that fall payable in more than one pay period, that employee's final wages may be paid out on more than one payday. In addition, if written company policy designates an earned benefit payable at a time other than the next regular payday, such benefits would not be considered as part of final wages and therefore payable according to the terms of company policy. 21-5-4(b)

Final Wages Payable at Layoff

Whenever the work of an employee is suspended as a result of a labor dispute or when an employee for any reason whatsoever is laid off, the employer is required to pay the employee in full for all wages due, including any fringe benefits payable directly to the employee, on the next regular payday. Final wages may be paid through the employer's regular pay channels or by mail if requested by the employee. 21-5-4(d)