

# WISCONSIN WORKERS' COMPENSATION

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## Quick Reference Guide



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## Indemnity Benefits

### **Temporary Total Disability (TTD)**

- Available to employees who sustain a complete wage loss during a “healing period,” which is when an employee’s medical condition continues to change and require medical treatment.
- Weekly benefits equal to two-thirds of the employee’s average weekly wage, subject to the maximum compensation rate.
- There is no cap on the number of weeks of TTD benefits available to an employee.
- Partial wage loss results in temporary partial disability benefits (TPD).

### **Permanent Total Disability (PTD)**

- PTD benefits may be paid to an employee when there is a total loss of earning capacity.
- PTD benefits are automatically paid under the schedule for loss or loss of use of both eyes, loss of both arms at or near the shoulder, and loss of one or both legs at the hip. Complete paralysis is also considered a total loss.
- A non-scheduled PTD occurs where the employee is so injured that he or she can perform no services other than those which are so limited in quality, dependability, or quantity that a reasonably stable market for him/her does not exist.
- It is recommended that the employer and insurer obtain a vocational report when an employee claims PTD benefits.

- PTD benefits equal two-thirds of the employee's AWW at the time of injury, subject to the maximum compensation rate, payable for the life of the employee.

An insurer may be allowed to take an offset for SSDI benefits where the combined workers' compensation and SSDI benefits exceed 80% of the employee's average current earnings as determined by Social Security. (The employee is obligated to provide all information concerning Social Security entitlement to the employer)

## Loss of Earning Capacity (LOEC)

- LOEC claims are available to employees who sustain a permanent injury and do not return to 85% of their date of injury wage and have a "non-scheduled" injury.
- LOEC is calculated as a percentage and multiplied by 1,000 weeks at the appropriate PPD compensation rate.

EXAMPLE: If an employee claims a LOEC of 30%, multiply 30% by 1,000 weeks to reach a total of 300 weeks. Assuming a PPD compensation rate of \$362.00, the employee's LOEC would equal 300 weeks at the \$362 compensation rate, or \$108,600.

- Generally, employers and insurers should retain vocational experts to address any LOEC claims brought by an employee.
- Certified reports from health care providers and vocational experts must be provided to the opposing party at least 15 days before the date of hearing.

Additionally, vocational experts must be disclosed to opposing counsel 60 days prior to the hearing.

## **Average Weekly Wage (AWW)**

- Generally, the higher of the employee’s average weekly wage when injured or average for previous 52 weeks, subject to maximum compensation rates.
- Benefit ceilings and rates are fixed by date of injury, unless:
  - There is a renewed period of temporary disability more than two years after DOI (Date of Injury); or
  - There is an SSDI offset reducing WC benefits.

### ***Maximum Compensation Rates***

Effective date:

|                 |                   |
|-----------------|-------------------|
| <b>01/01/23</b> | <b>\$1,247.00</b> |
| 01/01/22        | \$1,159.00        |
| 01/01/21        | \$1,094.00        |
| 01/01/20        | \$1,051.00        |
| 01/01/19        | \$1,016.00        |
| 01/01/18        | \$994.00          |
| 01/01/17        | \$961.00          |
| 01/01/16        | \$936.00          |
| 01/01/15        | \$911.00          |
| 01/01/14        | \$892.00          |

Effective date:

|          |          |
|----------|----------|
| 01/01/13 | \$854.00 |
| 01/01/12 | \$820.00 |
| 01/01/11 | \$815.00 |
| 01/01/10 | \$808.00 |
| 01/01/09 | \$805.00 |
| 01/01/08 | \$777.00 |
| 01/01/07 | \$777.00 |
| 04/01/06 | \$744.00 |
| 01/01/06 | \$676.00 |
| 01/01/05 | \$711.00 |

## **Permanent Partial Disability**

### **Scheduled Injuries**

- Those injuries specifically listed in Wis. Stat. §102.52, consisting primarily of injuries/disabilities to the outer extremities.
- FORMULA: Scheduled weeks multiplied by PPD rating, which results in the total weeks to be multiplied by the PPD compensation rate.

| <b>Statutory Scheduled Injuries</b> | <b>Weeks</b>     |
|-------------------------------------|------------------|
| Loss of arm at shoulder             | 500              |
| Loss of arm at elbow                | 450              |
| Loss of hand                        | 400              |
| Loss of palm, thumb remains         | 325              |
| Loss of thumb at proximal joint     | 120              |
| Loss of thumb at distal joint       | 50               |
| Loss of all fingers (one hand)      | 225              |
| Loss of fingers (each)              | 6 to 60          |
| Loss of leg at hip                  | 500              |
| Loss of leg at knee                 | 425              |
| Loss of foot at ankle               | 250              |
| Loss of great toe and metatarsal    | 83 $\frac{1}{3}$ |
| Loss of toes                        | 4 to 25          |
| Loss of an eye                      | 275              |
| Total impairment of one eye         | 250              |
| Total deafness                      | 330              |
| Total deafness in one ear           | 55               |

- PPD benefits are payable to the employee for permanent and measurable losses of physical and/or mental function.
- Amount of PPD benefits payable to the employee depends on the degree of injury and the benefit rate.
- Judges determine the percentage of disfigurement owed to employees on a case-by-case basis.

## **Multiple Injuries**

- If more than one permanent disability, each equal or lesser disability is increased by at least 20%.
- Disability on same hand, 100% increase for first equal or lesser disability and 150% increase for second or third equal or lesser disability.
- Impairment to both eyes, increase by 200%.

## **Non-Scheduled Injuries**

- Generally, these are disabilities to the torso or head, including psychological or mental injuries. They are typically considered LOEC claims, thereby compensating the employee for the negative effect of the injury on his or her wage-earning capacity.
- FORMULA: Physician's percentage of disability to the "body as a whole" multiplied by 1,000 weeks at appropriate PPD compensation rate.

## Disfigurement

- An employee sustaining permanent disfigurement in the normal course of employment is entitled to up to one year's earnings, based upon a potential wage loss.
- Thus, if the employee sustains a permanent disfigurement, such as a visible scar or limp, and that disfigurement is likely to affect his or her employability, that employee may be awarded up to one year's pay at his or her pre-injury AWW.
- Medical and/or vocational support is NOT required for an employee to bring a disfigurement claim.

### *Maximum PPD Compensation Rates*

Effective date:

|          |          |
|----------|----------|
| 01/01/23 | \$430.00 |
| 04/10/22 | \$415.00 |
| 01/01/22 | \$362.00 |
| 01/01/21 | \$362.00 |
| 01/01/20 | \$362.00 |
| 01/01/19 | \$362.00 |
| 01/01/18 | \$362.00 |
| 01/01/17 | \$362.00 |
| 03/02/16 | \$342.00 |
| 01/01/16 | \$322.00 |
| 01/01/15 | \$322.00 |
| 01/01/14 | \$322.00 |
| 01/01/13 | \$322.00 |
| 04/17/12 | \$312.00 |
| 01/01/12 | \$302.00 |
| 11/01/11 | \$302.00 |

## Vocational and Medical Benefits

### **Vocational Rehabilitation Benefits**

- When an employee receives more than 13 weeks of TTD benefits, the insurer is obligated to notify the Department of Workforce Development (DWD) so that a referral to the Department of Vocational Rehabilitation Services (DVR) can be made.
- If the DVR finds the employee eligible for services but is unable to provide those services, a private rehabilitation counselor may undertake the DVR role.
- If the DVR approves a retraining program, a rebuttable presumption of entitlement exists for at least the first 80 weeks.
- If a private rehabilitation counselor is used; however, there is a weaker presumption of eligibility to such retraining benefits.
- PPD payments are interrupted while TTD is being paid during retraining.

#### Mileage Expenses

| <u>After</u> | <u>Rate (per mile)</u> |
|--------------|------------------------|
| 07/01/12     | \$0.51                 |
| 07/01/08     | \$0.485                |

### **Medical Benefits**

- Available to an employee as long as they are reasonably required to cure and relieve from the effects of the injury.
- Medical mileage is payable to an employee.
- Medical benefits are not subject to a dollar limit.



- Medical benefits are subject to a 12-year statute of limitations.
- An employee has an automatic right to choose his or her treating physician and can even make a second choice. All parties, however, must approve a third choice.
- Compensation benefits can be suspended for unreasonable failure to seek medical care, but surgery cannot be forced upon an employee.

## General Claims Procedure

1. Employee files Application for Hearing.
2. Answer due within 20 days.
3. Employee files Certificate of Readiness for Hearing.
4. Hearing is scheduled within approximately 60 days.
5. Following a hearing, Findings and Order are issued within 90 days after the record is closed.
6. Petition for Review by Labor & Industry Review Commission (LIRC) due within 21 days of decision.
7. Answer to Petition for Review by LIRC due by opposing party within 21 days following receipt of Petition.
8. Decision by LIRC may be appealed to Circuit Court within 30 days of filing of Order.

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