

MISSISSIPPI WORKERS' COMPENSATION QUICK REFERENCE GUIDE



REQUIREMENTS FOR COMPENSABILITY

- Injuries are compensable if they **arise out of and in the course and scope of employment**.
- **Arising Out Of:** There must be some causal connection between injury and employment. Employment only needs to rationally contribute to an injury; and does not need to be the sole cause.
- **In Course and Scope:** Injury must occur while furthering employer's business at the time and place of the incident, with employment as a substantial contributing cause of injury or disability.

TYPES OF BENEFITS

- **Medical** treatment for a compensable injury must be causally related and reasonable and necessary. Medical treatment must be authorized by the employer except in case of an emergency.
- **Temporary Total Disability (TTD)** benefits are paid when employee is completely unable to work. The amount is equal to 66-2/3% of the AWW, subject to statutory maximum rates. TTD payments are not to exceed the maximum of 450 weeks, or an amount greater than 450 weeks of benefits at the 66-2/3 percentage of the AWW.
- **Temporary Partial Disability (TPD)** benefits are paid when employee is partially able to work before the date of maximum medical improvement and has had a partial decrease in earning. Compensation payments are 66-2/3% of the difference between the pre-injury AWW and wage earning capacity after the injury in the same or similar employment, subject to statutory maximum. TPD benefits are not to exceed the maximum of 450 weeks, or an amount greater than 450 weeks of benefits at the 66-2/3 percentage of the AWW.
- **Permanent Partial Disability (PPD)** benefits are paid when the injury results in a permanent partial impairment as determined by the treating physician. Payments are based on the statutory number of weeks for the scheduled injured member, subject to the statutory maximums for injured member. In cases where permanent impairment is based on the body as a whole, benefits are calculated as loss of wage earning capacity; 66-2/3% of difference between pre-injury AWW and wage earning capacity thereafter in same or other employment. PPD benefits should commence on the date temporary total disability benefits end.
- **Permanent Total Disability (PTD)** benefits are paid if the injury causes a total loss in earning capacity. PTD benefits are paid for 450 weeks from and after the date of injury, subject to maximums. Employer/Carrier are given credit for weeks of TTD benefits paid.

AVERAGE WEEKLY WAGE (AWW)

- Average weekly wage is based on employee's **52-week wage history** for the period preceding the date of injury.
- If wage history is fewer than 52 weeks, divide the total gross wages by the number of weeks worked.
- In cases where the employee has little or no wage history (usually 4 or fewer weeks), use wages from a similarly situated employee.
- Fringe benefits are to be included if not paid during disability.

COMPENSATION BENEFITS

- The compensation rate is **66-2/3%** of the AWW, subject to statutory minimum and maximum amounts, and is based on a 5-day work week.
- Compensation begins on the **6th** day after disability.
- If disability continues for **14 days**, benefits must be paid retroactively, to the first date of disability. The 14 days do not need to be consecutive.

MEDICAL BENEFITS

- Employee is entitled to select one treating physician of his/her choice, and may accept referral from employer.
- For injuries **prior to 7/1/2012**, employee must state acceptance of Employer's referral *in writing*.
- For injuries **after 7/1/2012**, employee is deemed to have adopted employer's referral if employee treats with physician for six months, or undergoes surgery provided by the provider.
- The treating physician may only refer to one physician within a specialty.
- Medical benefits are paid for unlimited amount of time, unless statute of limitations is applicable.

GOING AND COMING RULE

- Generally, employee not employer assumes risks associated with travel to and from workplace. There are several **exceptions**:
 - If employer furnishes the means of transportation, or reimburses employee for travel,
 - If employee performs some duty in connection with employment at home,
 - If employer furnishes a hazardous route to workplace,
 - If employee is injured by some inherent danger along a necessary route to workplace,
 - If injury results from hazardous parking lot owned/maintained/furnished by employer,
 - If injury occurs in such proximity to workplace that it is effectively part of the workplace,
 - And, if employee is on a special mission/errand for employer, or is accommodating employer in an emergency.

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STATUTE OF LIMITATIONS

- **Two Year Statute:** If no compensation payments have been made, and no petition for benefits has been filed, the claim will be barred 2 years from date of injury. Statute runs whether notice was given to employer. "Payment in lieu of benefits" paid by employer for time missed will toll the statute.
- **One Year Statute:** Application by any party based on "change of condition" or "mistake in determination of fact" may cause review of compensation case possibly resulting in new order for continuance, reinstatement, change, or termination of benefits. Application must be made before 1 year of last comp payment, or within 1 year of claim rejection.

REPORTING REQUIREMENTS

- Employer must file **FIRST REPORT OF INJURY** within **10 days** of injury and employer's knowledge. Medical-only claims need not be reported.
- If injury results in disability more than the waiting period, **NOTICE OF FIRST PAYMENT** (Form B-18) must be filed within **10 days** of the end of waiting period.
- **EMPLOYER'S NOTICE OF CONTROVERSION** (Form B-52) must be filed on or before **14th day** after employer has knowledge of the alleged injury. Timely filing prevents possible 10% penalty for past-due compensation.
- **NOTICE OF FINAL PAYMENT** (Form B-31) must be filed within **30 days** of final payment of benefits.

FORM B-31 FILING

- If employee signs B-31, file original form with Commission and request them to return a filed (date-stamped) copy. The date stamped on B-31 starts one-year statute of limitations.
- If employee refuses to sign B-31 (after two attempts), complete another B-31 and file original plus two copies. Ask Commission to return a stamped "filed" B-31. Send this document to employee via certified mail with a letter stating matter is considered closed. One-year statute begins on the date employee receives the stamped B-31.
- If employee requests additional benefits, the benefit period begins again and one-year statute will not run until another B-31 is properly filed.

POSSIBLE EXCEPTIONS TO CLAIM COMPENSABILITY

- Willful misconduct or intention to cause injury/death to self or another
- Intoxication from alcohol or illegal drugs
- Willful refusal to use safety equipment provided by the employer
- Willful breach of Employer's rules/regulations, or willful refusal to perform duty

COMPENSATION BENEFIT AMOUNTS BY YEAR

Effective Date	Maximum Weekly Comp Rate	Maximum P & T Rate
January 1, 2008	\$398.83	\$179,58.50
January 1, 2009	\$414.29	\$186,430.50
January 1, 2010	\$422.31	\$190,039.50
January 1, 2011	\$427.20	\$192,240.00
January 1, 2012	\$436.68	\$196,506.00
January 1, 2013	\$449.12	\$202,104.00
January 1, 2014	\$454.42	\$204,489.00
January 1, 2015	\$463.63	\$208,615.50
January 1, 2016	\$468.63	\$210,883.50
January 1, 2017	\$477.82	\$215,019.00

PERMANENT PARTIAL DISABILITY NUMBER OF BENEFIT WEEKS FOR SCHEDULED

Member	Max # Weeks	Member	Max # Weeks	Member	Max # Weeks
Arm	200	4 th Finger	15	Hearing Loss	40
Leg	175	Testicle (1)	50	Both Ears	150
Hand	150	Testicles (2)	150	Amputated arm/leg above wrist/ankle	200 or 175
Foot	125	Breast (1)	50		
Thumb	60	Breasts (2)	150	Loss of 1 phalange	½ of full
1 st Finger	35	Great Toe	30	Multiple digit loss may not exceed total loss of hand or foot.	
2 nd Finger	30	Other Toe(s)	10		
3 rd Finger	20	Eye	100	80% loss of vision	100