

# ARIZONA

## EMPLOYMENT LAW

### Workers' Compensation – Employee Benefits



Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees (or their survivors) for work-related injuries, diseases or deaths. Workers' compensation is governed by state law.

The Arizona Workers' Compensation Act (WCA) outlines the compensation available. The [Industrial Commission of Arizona](#) (Commission) oversees and handles workers' compensation claims in the state.

#### STATE RESOURCES

**Arizona Industrial Commission [website](#)**

##### General Information

The Commission provides general information about workers' compensation requirements [here](#).

##### Maximum Benefit Rates

Weekly workers' compensation benefits are subject to the maximums listed [here](#).

##### Employer's First Report

Employers may report their employees' work-related conditions to the Commission [here](#).

#### ELIGIBILITY

An injury qualifies for workers' compensation coverage if it occurs due to an accident arising out of and in the course of employment. An occupational disease may qualify if it results from the conditions of employment rather than from any hazards to which an employee may be exposed outside of work.

When the WCA applies, benefits may include coverage for medical expenses, wage replacement, permanent disability, death benefits and burial costs.

#### MEDICAL CARE BENEFITS

Employers must provide prompt and adequate medical care to employees who sustain work-related injuries or illnesses. Medical benefits include expenses for:

- Surgery;
- Hospital stays;
- Doctor visits;
- Nursing services;
- Medications;
- Crutches and other devices;
- Artificial limbs; and
- Any other treatment reasonably required as a result of a work injury.

#### MONETARY BENEFITS

If an employee cannot earn his or her full wages or sustains permanent physical impairment due to a work-related injury or illness, he or she may be entitled to receive weekly disability benefits (also called indemnity benefits). These benefits are immune from state and federal taxation as well as from wage assignments and creditor claims, except in cases involving payment of child or spousal support. As further discussed below, the available monetary benefits include:

- Temporary Total Disability (TTD)
- Temporary Partial Disability (TPD)

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- Permanent Partial Disability (PPD)
- Permanent Total Disability (PTD)

In addition, an employee's surviving spouse and dependents may be entitled to compensation for burial expenses and weekly benefit payments if a work-related injury or disease results in the employee's death.

### **WAITING PERIOD**

Injured employees are not eligible to receive disability benefits for the first **seven days** of their disability. However, if the injury results in **more than 14 days** of disability, benefits for those first seven days must be paid retroactively.

In Arizona, the term "disability" refers to a general impairment of earning power, rather than a total inability to perform pre-injury work. Therefore, any days during which an employee is only partially (rather than totally) disabled from work are counted as days of disability for the waiting period analysis. Also, when determining the number of "disability days," employers must count any calendar day (not only work days) in which the injured employee was disabled.

### **AVERAGE MONTHLY WAGE (AMW)**

The WCA sets the rates for monetary benefits as percentages of the average monthly wage (AMW) that an employee earned before a work-related injury.

For purposes of calculating the benefits, an employee's AMW is subject to a maximum, which the Commission sets on the basis of a state index. New limits become effective on Jan. 1 of each year.

- For injuries that occurred between **Jan. 1, 2018**, and **Dec. 31, 2018**, the maximum AMW is **\$4,625.92**.
- For injuries that occur between **Jan. 1, 2019**, and **Dec. 31, 2019**, the maximum AMW is **\$4,741.57**.

### **TEMPORARY TOTAL DISABILITY (TTD)**

Under the WCA, an employee is entitled to TTD benefits while he or she is:

- Under active medical care; and
- Unable to perform any work due to a work-related condition.

Being under active medical care means that a treating physician believes the employee's work-related condition may still improve.

TTD benefits are **66 and two-thirds percent** of the AMW, subject to the maximum discussed above. TTD benefits are payable at least every two weeks. If an employee has any dependents, his or her TTD benefits are increased by **\$25 per month** (regardless of the number of dependents).

### **TEMPORARY PARTIAL DISABILITY (TPD)**

An employee may be entitled to TPD benefits if a treating physician releases him or her to perform any type of restricted work during a period of active medical care for a work-related injury or illness. TPD benefits are **66 and two-thirds percent of the difference** between:

- The employee's AMW (subject to the maximum described above); and
- The wages the employee is able to earn during the TPD period.



For purposes of calculating this benefit rate, the Commission includes the following as “wages the employee is able to earn” during periods of TPD:

- Actual wages earned in any employment;
- Unemployment benefits; and
- 50 percent of any retirement or pension benefits received from the employer involved in the claim.

The Commission also considers other factors, such as the employee’s age and occupational history, in determining “wages the employee is able to earn” during periods of TPD.

TPD benefits must be paid **monthly** and continue until:

- The employee returns to his or her regular wage; or
- The treating physician releases the employee from active medical care for the work-related condition.

### PERMANENT PARTIAL DISABILITY (PPD)

When a treating physician releases an employee from active medical care for a work-related injury or illness, the physician may also indicate that the employee has a permanent impairment due to the condition. In these cases, the physician provides an **impairment rating** based on guidelines provided by the American Medical Association, and the employee may be entitled to PPD benefits based on the rating.

#### SCHEDULED PPD

An employee’s injury is “scheduled” if the injured body part appears in the WCA’s list (or “schedule”) of injuries. Scheduled injuries include losses involving:

- Eyes;
- Hands;
- Arms;
- Feet;
- Legs;
- Hearing; and
- Vision.

The PPD rate for scheduled injuries depends on whether the impairment is a complete loss and whether the impairment prevents the employee from returning to his or her pre-injury work (as determined by a physician). No other vocational factors (such as any reduction in earning capacity) are considered for scheduled impairments.

The chart below shows how to determine the appropriate PPD rate for scheduled injuries based on an employee’s AMW, which is subject to the maximum limit described above.

Partial loss/loss of use	+	Employee is able to return to pre-injury work	➔	PPD rate is 50 percent of AMW
Complete loss/loss of use	+	Employee is able to return to pre-injury work	➔	PPD rate is 55 percent of AMW
Complete or partial loss/loss of use	+	Employee cannot return to pre-injury work	➔	PPD rate is 75 percent of AMW



In addition, scheduled injuries include any disfigurement to the head or face, including injury to or loss of teeth. For these conditions, however, the Commission determines the amount of PPD benefits based on the facts of the case rather than based on a physician's impairment rating. Also, the WCA limits PPD benefits for disfigurement to a maximum of **18 months**.

### **UNSCHEDULED PPD**

If an employee sustains a permanent impairment due to an injury to a body part that is **not** listed in the WCA's schedule, the Commission determines the amount of PPD benefits payable based on the effect the injury has on the employee's ability to earn wages. This effect is established by an employee's **reduced earning capacity**, which is a monetary amount that the Commission estimates the employee may be able to earn per month, given the permanent impairment. In determining an employee's reduced earning capacity, the Commission considers, among other factors, the employee's:

- Age;
- Education;
- Previous occupations;
- Physical limitations; and
- Wages earned after the injury.

The PPD rate for unscheduled injuries is **55 percent of the difference** between:

- The employee's AMW (subject to the maximum described above); and
- The employee's reduced earning capacity, as determined by the Commission.

The Commission may adjust an employee's PPD rate if the employee's earning capacity changes after the initial determination. Otherwise, PPD benefits for unscheduled injuries continue throughout the employee's lifetime or until the disability ends.

### **PERMANENT TOTAL DISABILITY (PTD)**

PTD benefits are payable if an **unscheduled** injury causes an employee's total and permanent inability to earn any wages. The Commission generally makes this determination on a case-by-case basis. However, the WCA assumes that total and permanent disability exists under certain conditions, unless an employer can prove otherwise. These conditions include:

- Total and permanent loss of sight of both eyes;
- Loss of both feet by separation;
- Loss of both hands by separation;
- Spinal injuries resulting in permanent and complete paralysis of:
  - Both legs;
  - Both arms; or
  - One leg and one arm.
- Injury to the skull resulting in incurable imbecility or insanity; and
- Loss of one hand and one foot by separation.

The PTD benefit rate is **66 and two-thirds percent** of the AMW, which is subject to the maximum described above. PTD benefits are generally payable for life.



### DEATH AND BURIAL BENEFITS

If a work-related injury or illness results in an employee's death, the employer must pay burial expenses of **up to \$5,000**. This is usually paid directly to the funeral professional that provides the burial services.

In addition, the employee's surviving spouse and dependents may be entitled to monthly death benefits, which are generally payable at a rate of **66 and two-thirds percent** of the deceased employee's AMW, subject to the maximum described above. The benefit amount may be split up among survivors if more than one is entitled to death benefits.

A surviving spouse is entitled to death benefits for life or until remarriage. A two-year lump sum of benefits is payable upon a remarriage.

Surviving children are entitled to death benefits until they reach 18 years of age (or 22 for full-time students). Surviving children who are over 18 but not capable of self-support are entitled to benefits until they become capable of self-support.

If there is no surviving spouse or child, the deceased employee's surviving parents or siblings may be entitled to the death benefits.

### MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the Commission [website](#) for more information on workers' compensation laws in Arizona.