

MISSOURI

EMPLOYMENT LAW

Workers' Compensation – Employee Benefits



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

The Missouri Workers' Compensation Law (WCL) establishes the benefits available in the state. The [Missouri Division of Workers' Compensation](#) (Division), part of the Missouri Department of Labor and Industrial Relations, administers the WCL and resolves any disputes between employers and employees regarding benefits.

STATE RESOURCES

Missouri Division of Workers' Compensation [website](#)

Workplace Poster

Employers may use [this notice](#) to satisfy their workers' compensation posting requirements.

Employer's First Report

Employers must file [this report](#) within 30 days after learning of an employee's work-related injury.

COMPENSABLE CONDITIONS AND AVAILABLE BENEFITS

Compensable conditions include injuries that occur by accident and injuries that occur by occupational disease (both referred to as "injury"). To be compensable, an injury must arise out of and in the course of a covered employee's employment. An employee claiming benefits under the WCL has the burden of proving a condition meets the requirements for compensability under the law.

When an employee sustains a compensable injury, the benefits available to the employee may include:

- All medical costs to treat the injury;
- Weekly monetary benefits as compensation for lost wages;
- Weekly monetary benefits as compensation for permanent damage to the employee's body; and
- Costs associated with restoring the employee's ability to maintain suitable gainful employment.

In addition, if an employee dies as a result of a work-related injury, the employee's surviving dependents may receive weekly monetary benefits as compensation for the loss of income and reimbursement for burial expenses.

MEDICAL EXPENSES

Employers must provide all medical treatment that is reasonably required to cure and relieve an employee's work-related injury. This may include:

- Medical, surgical, chiropractic and hospital treatment;
- Nursing, custodial and ambulance services;
- Medications;



- Artificial limbs, surgical orthopedic joints, eyes or braces; and
- Physical rehabilitation services.

The employer has the right to choose the physician or other health care provider to provide the medical services. An employee who would rather receive treatment from his or her own choice of physician may do so at his or her own expense.

When an employer requires an employee to submit to medical examinations or necessary medical treatment outside of the local or metropolitan area of the employee's principal place of employment, the employer must pay all reasonable and necessary transportation expenses associated with the treatment. The WCL limits these costs to a distance of 250 miles each way from a place of treatment.

An employer may allow or require an employee to use any of the employee's accumulated paid leave, personal leave, or medical or sick leave to attend to medical treatment during work time.

MONETARY BENEFITS – BASIS AND LIMITS

Employees may receive weekly monetary benefits to compensate for lost wages and for permanent bodily damage resulting from a work-related injury. Workers' compensation benefits are not subject to taxation or assignment, except in cases involving orders to pay child support.

AVERAGE WEEKLY EARNINGS (AWE)

The weekly amounts an employee may receive in monetary benefits are percentages of the average amount the employee earned per week before the date of injury (DOI). The method an employer must use to determine an employee's AWE depends on how the employee's wages were paid and on certain other factors that existed as of the DOI. The following tables provide an overview of the different methods for computing an employee's AWE.

If the employee's wages are fixed by the:		Then the employee's AWE is:
Week		The fixed weekly wage.
Month		$(\text{The fixed monthly wage} \times 12) \div 52$
Year		$\text{The fixed yearly wage} \div 52$
Day, hour or by the employee's output, and the employee worked for the employer for:	At least 13 calendar weeks before the DOI	$\frac{\text{Wages earned while actually employed by the employer in the last 13 calendar weeks immediately preceding the week of DOI}}{13}$
	Fewer than 13 calendar weeks before the DOI	$\frac{\text{Wages earned while actually employed by the employer in all weeks immediately preceding the week of DOI}}{\text{The number of calendar weeks, or any portion of a week, during which the employee was actually employed by the employer}}$



If:		Then the employee's AWE is:
Employee was employed less than two calendar weeks immediately preceding the DOI and the employer has:	Not agreed to any certain hourly wage	The average weekly wages prevailing in the same or similar employment as of the DOI
	Agreed to a certain hourly wage	The agreed-upon hourly wage x The number of weekly hours scheduled
Employee's hourly wage has not been fixed or cannot be ascertained, or the employee earned no wage before the DOI		The usual wage for similar services where they are rendered by paid employees of the employer or any other employer
Employee's AWE cannot be fairly and justly be determined by any of the above formulas		Determined by the Division based on the exceptional facts presented

Additional WCL rules apply when determining what to include in an employee's wage calculation for workers' compensation purposes. Special rules may also apply for individuals who are apprentices, trainees, part-time employees or under 21 years of age.

BENEFIT RATE LIMITS

All monetary benefits available under the WCL are subject to maximum limits, which depend on the DOI. The benefit rate limits are based on the average weekly wage earned by all workers in Missouri. This average is referred to as the state average weekly wage (SAWW) for the year prior to an employee's DOI.

New workers' compensation rate limits become effective on **July 1** of each year. The following table provides an overview of the most recent applicable limits for permanent partial disability (PPD), temporary disability (TTD and TPD), permanent total disability (PTD) and death.

Maximum Weekly Benefit Rates		
Date of Injury	PPD	TTD, TPD, PTD and Death
July 1, 2019 to June 30, 2020	\$514.20	\$981.65
July 1, 2018 to June 30, 2019	\$496.38	\$947.64
July 1, 2017 to June 30, 2018	\$483.48	\$923.01

WAITING PERIOD

An employee may not receive monetary benefits for the first **three days** of his or her disability from work due to an injury. This only includes days during which the employer is open for business. However, if an employee's disability from work lasts longer than **14 days**, monetary benefits for those first three days must be paid retroactively.

MONETARY BENEFITS FOR LOST WAGES

TEMPORARY TOTAL DISABILITY (TTD)

An employee is entitled to TTD benefits for weeks during which he or she is completely unable to perform any work while recovering from a work-related injury. TTD benefits are **66 and two-thirds percent** of the AWE, subject to the maximum rate limits discussed above. An employee may receive TTD benefits for **up to 400 weeks**. An employee may not receive TTD benefits for any period of time during which he or she receives unemployment benefits.



TEMPORARY PARTIAL DISABILITY (TPD)

An employee is entitled to TPD benefits for weeks during which he or she is able to earn some, but not all, of his or her regular wages while recovering from a work-related injury. TPD benefits are **66 and two-thirds percent of the difference** between the AWE and the amount which the employee, in the exercise of reasonable diligence, is able to earn during the disability. The amount the employee is able to earn during the disability depends on the nature and extent of the injury and the employee's ability to compete in the workplace, as determined by the Division. TPD benefit rates are also subject to maximum rate limit discussed above.

PERMANENT TOTAL DISABILITY (PTD)

An employee is entitled to PTD benefits if he or she is completely unable to perform any work on a permanent basis as a result of a work-related injury. This must be demonstrated and certified by a physician. PTD benefits are payable for the employee's lifetime, though they may be suspended if the employee is later restored to his or her regular work or its equivalent. In addition, the WCL contains special provisions for PTD in cases involving work-related mesothelioma.

PTD benefits are **66 and two-thirds percent** of the AWE, subject to the maximum rate limits discussed above. PTD benefits are subject to a **minimum of \$40** per week.

MONETARY BENEFITS FOR PERMANENT BODILY DAMAGE

PERMANENT PARTIAL DISABILITY (PPD)

An employee is entitled to PPD benefits if a work-related injury causes him or her to lose a body part, any portion of a body part or the use of any body part. The loss must be demonstrated and certified by a physician. PPD benefits are **66 and two-thirds percent** of the AWE, subject to the maximum rate limits discussed above.

The number of weeks an employee may receive PPD benefits depends on the location and extent of the physical loss. The WCL includes a Schedule of Losses (Schedule), which lists and assigns a maximum number of weeks to each of several body parts. If an employee sustains a complete loss, or loss of use of, any of these body parts, he or she will be entitled to receive PPD benefits for 110 percent of the number of weeks listed in the Schedule for the body part. For partial losses of use to any of these body parts, an employee may receive PPD benefits for the same portion of the number of weeks listed in the Schedule for the body part as the treating physician's impairment rating for the loss.

If an employee sustains a permanent loss to a body part that is **not** listed in the PPD Schedule, he or she may receive PPD benefits for **up to 400 weeks**, depending on:

- The treating physician's determination of the percentage of loss sustained in relation to the body as a whole; and
- Whether the loss diminishes the employee's earning power.

An employee may also receive **up to an additional 40 weeks** of PPD benefits if an injury causes serious, permanent disfigurement of his or her head, neck, hands or arms.

VOCATIONAL REHABILITATION BENEFITS

As a means of reducing potential liability for certain PPD or PTD benefits, employers may choose to provide vocational rehabilitation services, at a cost of **up to \$5,000**, to help restore the earning power of employees whose work-related injuries result in a loss of ability to compete in the open labor market.



Employers have the option of providing these services for **up to 52 weeks**. If an employer does provide vocational rehabilitation services, the participating employee is entitled to receive temporary disability benefits during the participation. Employers must also cover a participating employee's board, lodging and travel, if participation requires the employee to live away from his or her customary residence.

If an employee refuses an employer's offer of vocational rehabilitation services, he or she may lose the right to receive half of the weekly amount that may otherwise have been payable for any disability during the period of refusal.

DEATH BENEFITS

If a work-related injury results in an employee's death, certain surviving dependents may receive weekly benefits equal to **66 and two-thirds percent** of the deceased employee's AWE, subject to the maximum rate limits discussed above. Death benefits are also subject to a **minimum of \$40** per week. If more than one person is entitled these benefits, the Division determines how to divide the weekly amount among them. Employers must also pay **up to \$5,000** to cover the burial expenses for a deceased employee.

These benefits are payable only if the employee's death:

- Was the result of an occupational disease; or
- Occurred within **300 weeks** after the work-related accident that caused it.

To be eligible to receive weekly death benefit payments, an individual must have been, at the time the causative injury occurred:

- Related by blood or marriage to the deceased employee; and
- At least partially dependent upon the deceased employee's wages.

Most surviving spouses and children are presumed eligible for death benefits. A surviving spouse may receive weekly death benefits for life or until he or she remarries. In the event of remarriage, a surviving spouse will receive a lump sum payment equal to two years' worth of death benefits.

Surviving children, in general, may receive weekly death benefits until they reach age 18 or age 22 for those who are full-time students or active-duty members of the U.S. armed forces. However, certain factors, such as a continuing incapacity to earn wages after reaching those ages, may allow a surviving dependent child to remain eligible for death benefits for longer periods, including for life.

MORE INFORMATION

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