

# EMPLOYMENT LAW SUMMARY

## Illinois Workers' Compensation – Employee Benefits



*Because You're Different*

Workers' compensation is a system of no-fault insurance that provides medical and monetary benefits to employees who sustain injuries or diseases at work. In Illinois, an injury or illness qualifies for worker's compensation coverage if it is the result of an accident or exposure arising out of and in the course of employment.

The Illinois Worker's Compensation and Occupational Diseases Acts (IWCA) set forth the available benefits in the state. The [Illinois Workers' Compensation Commission](#) (Commission) determines the specific amounts payable when an employee sustains a work-related condition.

### **MEDICAL CARE**

Employers are responsible for all medical care that is reasonably necessary to cure or relieve an employee from the effects of a work-related injury. This includes, but is not limited to, first aid, emergency care, doctor visits, hospital care, surgery, physical therapy, chiropractic treatment, pharmaceuticals, prosthetic devices and prescribed medical appliances.

An employee may choose his or her own doctor, but the IWCA sets limits. Specifically, if an employer has created a preferred provider program (PPP), injured employees must choose a physician from the PPP. If an injured employee uses a doctor outside the PPP or uses more than two doctors within the PPP, he or she runs the risk of the treatment not being covered.

In addition, an employer may order an employee to undergo a full medical exam by a doctor of its choice. An employer that requires this must give reasonable notice and reimburse the employee for travel expenses, meals, lost wages, and related costs.

### **MONETARY BENEFITS**

Employees are entitled to monetary compensation if they lose wages or sustain permanent physical effects due to a work-related injury or disease. These benefits, which are often referred to as disability or indemnity benefits, are usually payable in weekly increments and are not taxable as income under either state or federal law.

The amount and timing of the monetary compensation payments depend on several factors. As further discussed below, the basic benefits available to employees include:

- Temporary Total Disability (TTD);
- Temporary Partial Disability (TPD);
- Permanent Partial Disability (PPD); and
- Permanent Partial Disability (PTD)

In addition, the IWCA and IWCODA provide monetary benefits for surviving spouses and dependents if an employee dies as a result of a work-related injury or disease. Vocational rehabilitation is also available for employees who are no longer able to perform their pre-injury work as a result of a work-related injury.

### Average Weekly Wage (AWW)

The IWCA sets the monetary workers' compensation benefit rates as percentages of an employee's AWW. The AWW is determined using the employee's gross earnings during the 52 weeks of employment immediately prior to the date of an accident. Special calculation rules apply for certain circumstances, such as where an injured employee did not work for the employer for at least 52 weeks before an injury.

### Monetary Benefit Limits

All workers' compensation benefit rates are subject to maximum and minimum limits. The Commission sets the limits every six months using the statewide average weekly wage (SAWW). The benefit limits applicable to a particular employee depend on:

- The type of benefits payable to the employee; and
- The limits that were in effect as of the date of the injury.

The Commission establishes new limits for most types of benefits twice per year. The limits are effective as of Jan. 15 and July 15 each year. The following chart provides an overview of the current and most recent rate limits for various benefits.

Date of injury	Weekly PPD*, PTD and Death Benefits		Weekly TTD Benefits	
	Maximum	Minimum	Maximum	Minimum
July 15, 2020 to Jan. 14, 2021	\$1,572.01	\$589.51	\$1,572.01	The lesser of: <ul style="list-style-type: none"> <li>• The employee's AWW; or</li> <li>• \$373.33 if the employee has no spouse or children, or up to \$560 if the employee does have a spouse and/or child(ren).</li> </ul>
Jan. 15, 2020 to July 14, 2020	\$1,549.07	\$580.90	\$1,549.07	
July 15, 2019 to Jan. 14, 2020	\$1,529.84	\$573.69	\$1,529.84	

*\*Except Wage Differential PPD; for these benefits, the maximum is determined as of July 1 each year and applies for the full year. The minimum Wage Differential PPD benefit is the same as the minimum for TTD.*

### TEMPORARY TOTAL DISABILITY (TTD)

TTD benefits are payable while an employee is healing from an injury and is either:

- Completely unable to perform any work due to the injury, as determined by a physician; or
- Released by a physician to perform light-duty work, but not working because the employer is not able to accommodate the restrictions.

The TTD rate is **66 and two thirds percent** of the employee's AWW, subject to the minimum and maximum limits described above.

An employee is entitled to TTD benefits until:

- A physician determines he or she has reached maximum medical improvement (MMI) for the work-related condition; or
- He or she is able to return to work and earn any wages.

### TTD Waiting Period

An injured employee is not entitled to TTD benefits for the first **three days** of his or her inability to work due to a work-related injury or disease. However, if an employee is required to miss **14 or more working days** as a result of an injury, benefits for the first three days are payable retrospectively.

## TEMPORARY PARTIAL DISABILITY (TPD)

TPD benefits are payable while an employee is healing from an injury and is working under medical restrictions that cause him or her to earn less than he or she would have otherwise earned in the pre-injury employment.

The TPD rate is **66 and two-thirds percent of the difference** between:

- The average amount that the employee would have been able to earn in the pre-injury job if not for the injury (this amount may be different from the AWW); and
- The gross amount the employee earns from working in either a modified job provided by the employer or any other job.

An employee is entitled to TPD benefits until:

- A physician determines he or she has reached MMI for the work-related condition; or ]
- A physician determines he or she is able to return to his or her regular job.

## PERMANENT PARTIAL DISABILITY (PPD)

PPD benefits are available only after an employee has reached MMI for a work-related injury or disease, as determined by a physician. In addition, a physician must determine that the employee has sustained some permanent physical impairment from the work-related injury or disease. However, an employee who is entitled to PPD benefits usually retains some ability to perform work.

The IWCA defines PPD as either:

- The complete or partial loss of a body part;
- The complete or partial loss of use of a body part; or
- The partial loss of use of the body as a whole.

“Loss of use” is not specifically defined in the law, but it generally means the employee is physically impaired in some way. A licensed physician must determine the employee’s impairment and express it as a percentage based on the most current standards from the American Medical Association.

The Commission then determines the amount of compensation payable to an employee. In making this determination, the Commission must consider all of the following factors:

- The physician’s impairment report;
- The employee’s occupation;
- The employee’s age
- The employee’s future earning capacity; and
- Evidence of the disability in the treating medical records.

The IWCA includes four different types of PPD benefits. In general, employees may receive only one of these types of PPD benefits for a particular body part or injury.

### **Wage Differential PPD**

Wage Differential PPD benefits are payable if an injured employee obtains a new job earning lower wages than he or she would have been able to earn in the pre-injury job if not for the injury.

Similar to TPD benefits, the Wage Differential PPD rate is **66 and two-thirds percent of the difference** between:

- The average amount that the employee would have been able to earn in the pre-injury job if not for the injury (note: this amount may be different from the AWW); and
- The amount the employee earns in the new job.

As long as the employee continues earning the reduced wages, the Wage Differential PPD benefits are payable until the later of:

- The employee's 67th birthday; or
- Five years after the award.

### **Scheduled PPD**

Scheduled PPD benefits are payable if an employee sustains permanent impairment to any of the body parts that are listed in the IWCA's PPD Schedule.

The PPD Schedule includes an assigned value, expressed as a number of weeks, for each of the listed body parts. If an employee completely loses (or loses the use of) one of these body parts as a result of a work-related injury, he or she is entitled to PPD benefits for the full number of weeks assigned.

If an employee's loss is only partial, he or she is entitled to PPD benefits for a portion of the assigned number of weeks for the injured body part. The exact portion of weeks is generally determined by multiplying the physician's impairment rating by number of weeks the IWCA assigned to the applicable body part.

The Scheduled Injury PPD rate is **60 percent** of the AWW.

### **Unscheduled PPD**

Unscheduled PPD benefits are payable if an employee sustains permanent impairment to a body part that is not listed in the IWCA's PPD Schedule. These impairments are measured as a loss to the body as a whole, for which the IWCA assigns a value of 500 weeks. Thus, the specific number of weeks payable to an employee is generally determined by multiplying the physician's impairment rating by 500.

The Scheduled Injury PPD rate is **60 percent** of the AWW.

### **Disfigurement PPD**

Injured employees may receive **up to 162 weeks** of PPD benefits if a work-related injury results in a serious and permanent disfigurement. This benefit is only available if the disfigurement is to the employee's:

- Head;
- Face;
- Neck;
- Chest above the armpits;
- Arm;
- Hand; or
- Leg below the knee.

The Disfigurement PPD rate is **60 percent of the AWW**.

## **VOCATIONAL REHABILITATION/MAINTENANCE**

An employee who has reached MMI may be eligible to receive vocational rehabilitation benefits if he or she is left unable to perform the pre-injury work. This usually requires an assessment by a vocational counselor. Vocational rehabilitation includes, but is not limited to, counseling for job searches, supervision over a job search program, and vocational retraining, including education at an accredited learning institution. Employees who are participating in an approved vocational rehabilitation program may also be eligible to receive TTD benefits during the course of the program.

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

An employee who is found to be permanently and totally disabled as a result of a work-related injury or disease is entitled to weekly benefits equal to 66 and two-thirds percent of the AWW, subject to the minimum and maximum limits described above. PTD is defined as either:

- The permanent and complete loss of use of both hands, both arms, both feet, both legs, both eyes, or any two such parts (for example, one leg and one arm); or
- A complete disability that renders the employee permanently unable to do any kind of work for which there is a reasonably stable employment market.

PTD benefits are payable for as long as the employee remains permanently and totally disabled. The benefit amounts may be reduced or terminated if the employee begins working again.

## DEATH BENEFITS

If an employee dies as a result of a work-related injury or disease, burial expenses of up to **\$8,000** are payable to the employee's survivors. In addition, a weekly benefits are available for surviving family members. The survivor benefit is **66 and two-thirds percent** of the employee's AWW, subject to the minimum and maximum limits described above.

Survivor death benefits are paid for 25 years or up to \$500,000, whichever is greater. If the surviving spouse remarries and there are eligible children at the time of remarriage, benefits will continue. If there are no eligible children at the time of remarriage, the spouse is entitled to a final lump sum payment equal to two years of compensation.

## MORE INFORMATION

For specific information, please contact Heffernan Insurance Brokers or visit the Commission's [website](#).

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2011-2020 Zywave, Inc. All rights reserved.