

# EMPLOYMENT LAW SUMMARY

## Massachusetts: Workers' Compensation – Employee Benefits



*Because You're Different*

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

Massachusetts' workers' compensation laws (MWCL) determine the benefits available to employees who are injured in the course and scope of employment. An injury is compensable if it is the result of either a work-related accident or an employee's exposure to a hazardous environment in the normal course of his or her employment.

Benefits under the MWCL include medical expenses, monetary payments for lost wages and permanent physical disabilities, and monetary payments for burial costs and death benefits for survivors. The [Massachusetts Department of Industrial Accidents](#) (DIA) investigates and handles workers' compensation claims in the state.

### MEDICAL CARE BENEFITS

Employers must provide prompt and adequate medical care benefits to treat employees' work-related injuries and illnesses. Medical care benefits usually include:

- Medical, surgical, hospital, nursing and rehabilitative services;
- Reasonable travel expenses related to treatment;
- Medicines; and
- Medical and surgical supplies.

Employers have the right to determine the physician or health care provider that will provide initial treatment for an injured employee. After initial treatment, employees may choose their own healthcare providers.

However, an employer may require an injured employee who is receiving benefits to submit to an examination performed by an employer-approved physician **once every six months**. Massachusetts law requires employers to cover the cost of these examinations. Employees may have their personal physician present at the examination at their own expense. Employees who refuse to submit to, or in any way obstruct, the examination may forfeit their right to compensation.

### MONETARY BENEFITS

If an employee cannot return to work or has a permanent physical impairment because of a work-related condition, he or she may be entitled to receive compensation in the form of weekly payments. These payments are generally immune from wage assignments, creditor claims, levies, executions, attachments and other remedies for debt collection (though some exceptions apply for support orders).

Employers must begin paying monetary benefits or deny a claim within **14 days** of receiving an employee's first report of injury or initial benefit claim. Employers that deny a benefit claim must issue a written notice to justify the refusal.

### WAITING PERIOD

Injured employees are not eligible to receive monetary benefits for the **first five days** of their disability. However, if an injury results in **more than 21 days** of disability, benefits for the first five days must be paid retroactively.

## MINIMUM AND MAXIMUM BENEFIT AMOUNTS

Monetary benefit rates are calculated as percentages of an employee's average weekly wage (AWW). The benefits rates are also subject to minimum and maximum limits, which depend on the limits that are in effect as of the employee's date of injury. New rate limits become effective as of **October 1** each year. The following table shows the current and recent rate limits.

Date of injury	Maximum Weekly Compensation	Minimum Weekly Compensation
<b>Oct. 1, 2023, to Sept. 30, 2024</b>	\$1,796.72	\$359.34*
<b>Oct. 1, 2022, to Sept. 30, 2023</b>	\$1,765.34	\$353.07*
<b>Oct. 1, 2021, to Sept. 30, 2022</b>	\$1,694.24	\$338.85*

\*If an employee's AWW is lower than the minimum, the employee is entitled to receive 100 percent of his or her AWW.

## TOTAL INCAPACITY

An injured employee has total incapacity when a work-related injury prevents him or her from returning to work. Total incapacity can be temporary or permanent.

The table below provides an overview of the conditions under which temporary or permanent total incapacity benefits must be paid and the amounts of these benefits.

Temporary Total Incapacity (TTI):	Permanent Total Incapacity (PTI):
<ul style="list-style-type: none"> <li>•TTI benefits are available while an employee is still recovering from a work-related condition and is unable to earn any wages as a result.</li> <li>•Weekly TTI benefits are 60 percent of the employee's AWW, subject to the minimum and maximum rates described above. TTI benefits are usually available for up to 156 weeks.</li> </ul>	<ul style="list-style-type: none"> <li>•An employee qualifies for PTI benefits if a work-related condition results in the employee's total and permanent inability to earn wages.</li> <li>•PTI benefits are two-thirds of the employee's AWW, subject to the minimum and maximum rates described above. PTI benefits adjusted annually for cost-of-living increases.</li> </ul>

## PARTIAL INCAPACITY

Partial incapacity benefits are payable if an employee is only able to earn reduced wages as a result of a work-related condition. The benefit rate for partial incapacity is **60 percent of the difference** between an employee's pre- and post-injury wages. Partial incapacity benefits are limited to **75 percent** of what the employee would receive if he or she were receiving TTI benefits. In addition, partial incapacity rates are subject to the maximum described above.

Partial incapacity benefits are generally available for up to **260 weeks**. However, the benefit period can be extended up to 520 weeks if the insurance provider allows it or if a judge determines the employee has:

- Suffered a permanent loss of at least 75 percent of any bodily function or sense;
- Developed a permanently life-threatening physical condition; or
- Contracted a permanently disabling occupational disease of a physical nature and cause.

## PERMANENT LOSS OF FUNCTION AND DISFIGUREMENT

In addition to the benefits mentioned above, employees suffering certain injuries are entitled to a one-time lump sum benefit for the permanent loss of function or disfigurement of their bodies. Whether an employee has suffered a permanent loss of function or disfigurement is determined according to the standards set by the *American Medical Association Guides to the Evaluation of Permanent Impairments*. This benefit does not apply to employees who die from any cause within 30 days of injury.

This benefit is a multiple of the SAWW. The size of the benefit depends on the severity and location of the disfigurement or function lost. For example, an employee may receive 39 times the SAWW in a single lump sum payment for the total loss of one eye or 43 times the SAWW for the total (functional or anatomical) loss of an arm.

An employee that receives a permanent loss of function and disfigurement benefit remains entitled to pursue any other benefit he or she is entitled to under state law. If an employee dies before collecting the full amount of this benefit, the employee's survivors are entitled to collect the benefits.

## DEATH AND BURIAL BENEFITS

Employers must provide up to **\$14,122.72** in reasonable funeral expenses for employees who die because of a work-related condition. In addition, weekly death benefits are available to compensate an employee's surviving dependents. Weekly death benefits are **up to two-thirds** of the employee's AWW, subject to the minimum and maximum rates described above.

A **surviving spouse** may receive death benefits until he or she dies or remarries. **Surviving children** may receive benefits until they are over the age of 18. However, exceptions are possible for individuals who are physically or mentally disabled and for full-time students who qualify as dependents under the federal tax code.

Reduced benefits are also available to other individuals who were wholly or partially dependent on the deceased employee's income. The table below summarizes the death benefits available to different types of survivors.

Survivor	Available Benefits
<b>Surviving Spouse</b>	<ul style="list-style-type: none"> <li>•Two-thirds of the deceased employee's AWW, up to the maximum rate described above.</li> <li>•At least \$110 per week.</li> <li>•An additional \$6 per week for each dependent child is available to a spouse who receives less than \$150 in death benefits per week.</li> <li>•Available until the surviving spouse dies or remarries.</li> </ul>
<b>Surviving Children</b>	<ul style="list-style-type: none"> <li>•Benefits for surviving children who live with the employee's surviving spouse are paid to the surviving spouse.</li> <li>•If children are from a previous marriage, the benefit is distributed in equal shares among the children and the surviving spouse.</li> <li>•If surviving spouse remarries, children receive \$60 per week (total benefit amount cannot exceed the maximum benefit amount).</li> </ul>
<b>Other Full Dependents</b>	<ul style="list-style-type: none"> <li>•Maximum benefit amount is the lesser of two-thirds of the deceased employee's AWW or \$80 per week.</li> <li>•The total amount of benefits paid to all dependents cannot exceed the maximum amount payable to a surviving spouse.</li> <li>•Available to individuals who are wholly dependent on the deceased employee's support.</li> </ul>
<b>Partial Dependents</b>	<ul style="list-style-type: none"> <li>•Partial dependency must be independent of gifts and gratuities.</li> <li>•Compensation must be equal to the amount they received from the deceased employee.</li> <li>•Aggregate compensation paid cannot exceed the maximum compensation that would be due to a surviving spouse.</li> </ul>

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