

# EMPLOYMENT LAW SUMMARY

## New Jersey Workers' Compensation - Employee Benefits



*Because You're Different*

Workers' compensation laws determine the benefits available to employees who are injured in the course and scope of employment. An employee's injury qualifies for workers' compensation benefits if the damage or harm is work-related.

Workers' compensation benefits include medical expenses and compensation for certain losses caused by a work-related injury. The New Jersey [Division of Workers' Compensation](#) (DWC), part of the New Jersey Department of Labor, investigates and handles workers' compensation claims in the state.

### MEDICAL BENEFITS

Medical expenses benefits exist to help cure and relieve an injured employee from the effects of a work-related condition and, when possible, to restore the employee to his or her pre-injury condition. Medical benefits include the cost of:

- Medical, chiropractic and surgical treatment;
- Hospital and nursing services;
- Medical apparatus, devices and appliances; and
- Repairs or replacement of prosthetic devices, hearing aids, artificial members, dental appliances and eyeglasses.

New Jersey law gives employers the right to choose the medical provider to treat to an injured employee. However, the DWC may order an employer to cover treatment from a provider chosen by the employee if the employer refuses or neglects to provide medical benefits as required.

The DWC determines the necessity of medical and hospital services. The DWC also determines whether the amounts physicians, surgeons and hospitals charge for their services are reasonable. Employers may be required to cover **up to \$50** for unreasonable or unnecessary medical and hospital services.

New Jersey law prohibits employers from charging or collecting from an injured employee the costs of providing medical benefits. In addition, employers cannot defray the cost of medical benefits by providing a quality of care lower than the care an employee would receive from a "semi-private" health care provider.

### MONETARY BENEFITS

If an employee cannot earn his or her full wages or sustains permanent impairment because of a work-related condition, he or she may be eligible to receive weekly monetary payments (also called disability, indemnity or cash benefits). In general, these benefits are immune from wage assignments, creditor claims, levies, executions, attachments and other remedies for the collection of debt.

### WEEKLY WAGE

An employee's weekly benefit rates are calculated as percentages of the weekly wage he or she earned at the time of the injury. For this purpose, the "time of injury" for an occupational disease is the last date of exposure to the hazards of the disease, if it is known. If it is not known, a workers' compensation judge may establish an appropriate date.

Determining an employee's weekly wage starts by calculating the employee's daily wage. This calculation depends on how the employee's wages were fixed prior to the injury. If a wage is fixed by the employee's output, the daily wage is determined using the total amount the employee earned during the six months (or actual time of employment if it is less than six months) prior to the injury. If the employee was paid by the hour, the daily wage is calculated by multiplying the hourly rate by the customary number of daily working hours. The final step is to multiply the daily wage by the customary number of working days in an ordinary week of the employment.

## Weekly Wage Calculation

### Step 1:

Total wages earned in the six months prior to the injury ÷ Number of days employee was employed during the six months prior to the injury = Daily Wage

**or**

Hourly wage x Number of days in ordinary work week = **Daily Wage**

### Step 2:

Daily Wage x Number of days in ordinary work week = **Weekly Wage**

## BENEFIT RATE LIMITS

All workers' compensation benefit rates are subject to limits that are in effect at the time of injury. The DWC sets these limits annually based on the state average weekly wage (SAWW). New limits become effective as of Jan. 1 each year. The following table provides the current and most recent limits:

Weekly Benefit Rate Limits		
Date of injury	Maximum	Minimum*
2024	\$1,131	\$302
2023	\$1,099	\$293
2022	\$1,065	\$284

*\*Minimum does not apply to Permanent Partial Disability benefits*

## WAITING PERIOD

Employees are not eligible to receive monetary benefits for the first **seven calendar days** of their disability from work. However, if a work-related condition results in more than seven days of lost work time, benefits for the first seven days must be paid retroactively.

## TIMING OF PAYMENTS

New Jersey workers' compensation laws dictate that employee benefits must run consecutively rather than simultaneously. While some exceptions may be possible, the sequence below describes the general order in which injured employees receive workers' compensation benefits.

### **Medical Benefits >> Temporary Disability >> Permanent Disability**

Employees must first receive medical benefits to cover initial medical treatment. An employee then qualifies for temporary disability benefits after the seven-day waiting period expires. Employees may continue to receive medical benefits during the temporary disability period.

Eligibility for temporary disability benefits ends when the employee returns to full-duty work or reaches **maximum medical improvement (MMI)**. This is the point at which the employee's condition is no longer expected to improve, as determined by a medical provider.

After reaching MMI or returning to full-duty work, an employee must wait **26 weeks** before he or she may qualify to receive permanent disability benefits. For employees who did not lose any work time or did not need any medical treatment for an injury, the 26-week period begins on the date of injury. Employers and their insurance providers may voluntarily choose to pay permanent disability benefits before the 26-week period is over.

## TEMPORARY DISABILITY

Temporary disability benefits are available while an employee is recovering and cannot work (either in whole or in part) due to a work-related condition. Employees may not receive temporary disability benefits after they reach **MMI**.

## TEMPORARY TOTAL DISABILITY (TTD)

TTD benefits are payable if an employee is completely unable to work while recovering from a work-related condition. Weekly TTD benefits are **70 percent** of the employee's weekly wages, subject to the rate limits described above. TTD benefits are available for up to **400 weeks**.

## TEMPORARY PARTIAL DISABILITY (TPD)

TPD benefits are payable when an employee returns to work while recovering but does not earn his or her full wages due to medical restrictions. Unlike most other states, New Jersey's workers' compensation law does not explicitly provide for TPD benefits. However, the law does include fractional days in its calculation of TTD benefits. Therefore, an employee may receive the difference between his or her TTD benefit amount and any amount he or she earns from working during weeks in which he or she has a partial wage loss before reaching MMI.

## PERMANENT DISABILITY

After an employee returns to full-duty work or reaches MMI for a work-related condition, he or she may be eligible for permanent disability benefits. Eligibility is usually determined following the 26-week waiting period discussed above. The PPD benefit amount depends on the nature and extent of any permanent impairments resulting from the work-related condition.

## PERMANENT PARTIAL DISABILITY (PPD)

The type of PPD benefit available to an employee depends on the body part that is permanently affected by a work-related condition. New Jersey's law classifies permanent partial disabilities as either "**scheduled**" or "**unscheduled**" functionality losses. A scheduled loss is a loss of functionality involving arms, hands, fingers, legs, feet, toes, eyes, ears or teeth. An unscheduled loss involves loss of functionality in any bodily system that is not scheduled, such as the back, heart or lungs.

The PPD benefit rate is **70 percent** of the employee's weekly wages, subject to the maximum described above. The minimum rate for PPD benefits is **\$35 per week**.

## PERMANENT TOTAL DISABILITY (PTD)

PTD benefits are available if a work-related condition is at least 75 percent responsible for rendering an employee permanently unable to return to any type of gainful employment. In addition, employees are presumed to qualify for PTD benefits when they lose two major members or a combination of body members such as eyes, arms, hands, legs or feet.

PTD benefit rates are the **same as TTD rates**, subject to the rate limits discussed above. PTD benefits are initially available for **up to 450 weeks**. However, PTD benefits may continue after the 450-week period if the employee can prove that he or she remains disabled and unable to return to gainful employment.

## DEATH AND BURIAL BENEFITS

Employers must cover the costs of a deceased employee's burial and funeral, up to a **maximum of \$5,000**. In addition, a deceased employee's survivors may be entitled to receive weekly death benefits, payable at a rate of **70 percent** of the employee's weekly wages, subject to the maximum limit described above.

Dependents may receive this compensation for **up to 450 weeks**. Death benefits terminate in the event of remarriage (in the case of a spouse) or reaching the age of 18 (in the case of dependent children). Some extensions may be possible for surviving dependents who are full-time students or who are unable to support themselves because of a mental or physical disability.

Dependents who were supported only in part by the deceased employee may receive death benefits in proportion to the support they received from the deceased employee.

## MORE INFORMATION

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

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