

EMPLOYMENT LAW SUMMARY

North Carolina: Workers' Compensation – Employee Benefits



Because You're Different

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

In North Carolina, the Workers' Compensation Act (WCA) outlines the benefits available for employees who sustain work-related conditions in the state. The [North Carolina Industrial Commission](#) (NCIC) handles workers' compensation claims and resolves any disputes over benefits.

MEDICAL BENEFITS

Employers must cover all medical expenses for an employee's work-related injury or illness. Medical care benefits include:

- Medical, surgical, hospital, nursing and rehabilitative services;
- Prescribed attendant care services;
- Vocational rehabilitation;
- Medicines;
- Sick travel;
- Medical and surgical supplies; and
- Prosthetic members.

An employee may receive these medical benefits (for non-emergency care) only if he or she uses employer-approved health care providers. Employees who wish to be treated by non-approved providers, including their own personal physicians, must ask their employers or the NCIC for an exception. However, if an employer refuses or neglects to provide medical care, the employee may obtain treatment from any provider and then seek an NCIC order for the employer to pay for it.

Employees may also request to receive a second opinion at their employer's expense. If an employer refuses to authorize the request, the employee can appeal to the NCIC.

In general, an employer's duty to provide medical care benefits ends **two years** after its last payment of WCA medical expenses or monetary benefits. The NCIC may make exceptions to this if additional or future medical treatment is necessary.

MONETARY BENEFITS

If an employee cannot return to work or sustains permanent physical impairments because of a work-related injury or illness, he or she may be entitled to monetary benefits (also called disability, indemnity or cash benefits). In general, these benefits are immune from taxes, wage assignments, creditor claims, levies, executions, attachments and other remedies for the collection of debt.

AVERAGE WEEKLY WAGES

An employee's monetary benefit rate is based on the average weekly wages (AWW) that he or she earned at the time of the injury. The AWW is usually calculated by taking an employee's total earnings over the 52 weeks immediately previous to the injury and dividing it by 52. Other calculations may apply if:

- The employee did not work for a full 52 weeks prior to the injury;
- The employee is a minor; or
- If it is impractical or would be unfair to the employee to use the 52-week method.

MINIMUM AND MAXIMUM BENEFIT AMOUNTS

Monetary benefit rates are subject to the limits that are in effect at the time of an employee's injury. The WCA sets the minimum amount of disability benefits at **\$30** per week. **Maximum** limits change each year and become effective as of January 1.

- For injuries that occurred in **2023**, the maximum disability benefit rate is **\$1,254** per week.
- For injuries occurring in **2024**, the maximum disability benefit rate is **\$1,330** per week.

WAITING PERIOD

Employees are not eligible to receive monetary benefits for the **first seven days** of their disability resulting from a work-related condition. However, if the condition results in **more than 21 days** of disability, benefits for the first seven days must be paid retroactively.

TEMPORARY DISABILITY

An employee is entitled to weekly temporary disability benefits if he or she is healing from a work-related condition and unable to perform his or her regular work as a result. Temporary disability can be total or partial.

These benefits are usually available for **up to 500 weeks**, unless the NCIC approves an extension. However, an employee's entitlement to temporary disability benefits always ends when a physician determines that he or she has reached maximum medical improvement (MMI) for the work-related condition.

TEMPORARY TOTAL DISABILITY (TTD)

TTD benefits are payable when an employee is completely unable to return to work during the recovery period. Weekly TTD benefits are **66 and two-thirds percent** of the employee's AWW, subject to the minimum and maximum rates discussed above.

TEMPORARY PARTIAL DISABILITY (TPD)

An employee whose work-related injury results in only a partial inability to earn his or her full wages may be entitled to TPD benefits.

TPD benefits are **66 and two-thirds percent of the difference** between the AWW before the injury and the average weekly wage the employee is able to earn thereafter, subject to the limits discussed above.

PERMANENT PARTIAL DISABILITY (PPD)

If an employee permanently loses a body part or the use of a body part as a result of a compensable injury, he or she may be entitled to PPD benefits for the number of weeks listed in a PPD "schedule" in the WCA.

The specific number of weeks for which PPD benefits may be payable depends on the body part injured and the percentage of loss to (or loss of use of) the body part. This is determined by a treating physician after the employee has reached MMI (and is therefore no longer in the healing period for the injury). The physician's impairment rating is then multiplied by the number of weeks listed in the WCA schedule for the specific body part injured.

For example, the WCA prescribes that an employee can receive partial disability benefits for 75 weeks for the loss of a thumb, and 200 weeks for the loss of a leg. If an employee has a 40 percent impairment rating for a thumb, he or she would be entitled to 30 weeks of PPD benefits (.4 x 75 weeks). If an employee has a 40 percent impairment rating for a leg, he or she would be entitled to 80 weeks of PPD benefits (.4 x 200 weeks).

The PPD benefit rate is **66 and two-thirds percent** of the employee's AWW, subject to the maximum limits discussed above.

PERMANENT TOTAL DISABILITY (PTD)

Employees qualify for PTD benefits only if one or more of the following physical or mental limitations apply:

- Loss of both hands, arms, feet, legs, eyes or a combination of any two of these body parts;
- Spinal injury involving severe paralysis of both arms, both legs or the trunk;
- Second- or third-degree burns to 33 percent or more of the total body surface; or
- Severe brain or closed head injury, evidenced by severe and permanent:
 - Sensory or motor disturbances;
 - Communication disturbances;
 - Complex integrated disturbances of cerebral function; or
 - Neurological disorders.

PTD benefit rates are the **same as TTD rates**, but they are payable throughout a permanently and totally disabled employee's lifetime or as long as the disability continues. PTD benefits also extend medical care benefits throughout the employee's lifetime, even in cases where it is later determined that the employee is capable of returning to work.

VOCATIONAL REHABILITATION

An employee with a compensable condition who is unable to earn at least **75 percent** of his or her AWW may receive vocational rehabilitation services at any point during his or her workers' compensation claim, regardless of whether he or she has reached MMI. Vocational rehabilitation services include, but are not limited to:

- Vocational assessment;
- Vocational exploration;
- Sheltered workshop or community supported employment training;
- Counseling;
- Job analysis;
- Job modification;
- Job development and placement;
- Labor market survey;
- Vocational or psychometric testing;
- Analysis of transferable skills;
- Work adjustment counseling;
- Job seeking skills training;
- On-the-job training; and
- Training or education through the North Carolina community college or university systems.

Employees who refuse to accept or cooperate with vocational rehabilitation services when ordered by the NCIC may lose their right to receive workers' compensation benefits until they cooperate.

DEATH AND BURIAL BENEFITS

Employers must provide **up to \$10,000** in funeral expenses for employees who die because of a work-related injury or illness. The deceased employee's surviving dependents may also receive monetary payment for the loss of support caused by the employee's death. These death benefits are payable at a rate of **66 and two-thirds percent** of the employee's AWW, subject to the minimum and maximum rates described above.

Dependents may receive this compensation for **up to 500 weeks**, but the benefits will terminate in the event of remarriage (in the case of a spouse) or reaching the age of 18 (in the case of dependent children). Lifetime death benefits are available for surviving dependents who are unable to support themselves because of a mental or physical disability. Dependents who were supported only in part by the deceased employee receive death benefits in proportion to the support they received from the deceased employee.

MORE INFORMATION

Please visit the North Carolina Industrial Commission's [website](#) or contact Heffernan Insurance Brokers for more information on workers' compensation laws in North Carolina.

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

