

# EMPLOYMENT LAW SUMMARY

## Pennsylvania Workers' Compensation - Employee Benefits

The Pennsylvania Workers' Compensation Act (PWCA) determines the benefits available to employees or their survivors for work-related injuries, diseases and deaths. In general, a condition or death is work-related when it is the result of an accident or exposure to a hazardous environment in the course and scope of employment.

When the PWCA applies, benefits include coverage for medical treatment, wage loss, permanent impairment, and burial costs. [The Pennsylvania Department of Labor and Industry](#) (PDLI) investigates and handles workers' compensation claims in the state.

### MEDICAL TREATMENT

The PWCA requires employers to pay all medical expenses for an employee's reasonable and necessary treatment resulting from a work-related condition. Medical care includes medicine, supplies, hospital treatment and related services. Orthopedic appliances and prostheses are also covered for as long as they are needed.

Medical costs for a work-related injury are payable at the [fee schedule rate](#), even if the injured employee misses no time from work. In the event that a health care provider charges rates higher than the ones specified in the fee schedule, employers are prohibited from asking their employees to pay or contribute to the difference.

### CHOICE OF PHYSICIAN

Employers may require their employees to visit employer-appointed physicians and health care providers for initial treatment. The initial treatment period for a work-related injury covers the first **90 days** that follow an injury. After the initial treatment period is over, employees are free to receive reasonable treatment from a health care provider of their choice.

### MONETARY BENEFITS

Monetary benefits are a form of income replacement employers must provide as compensation for employees' disability from work or deaths caused by work-related conditions. These benefits include total disability, partial disability and specific loss benefits.

Monetary benefits can be offset by 50 percent for Social Security benefits, the employer-paid portion of a retirement pension, severance pay, unemployment compensation or other earnings the employee receives.

### AVERAGE WEEKLY WAGES (AWW)

An employee's (or his or her survivors') monetary benefit rates are based on the employee's AWW as of the date of injury. The PWCA provides several methods for calculating an employee's AWW.

The appropriate method depends on how the employee's wages were paid. For example, if an employee's wages were fixed by the week, the fixed weekly wage would be the AWW for workers' compensation purposes. If an employee's wages were fixed by the month, the AWW would be calculated by multiplying the monthly wage by 12 and then dividing the resulting number by 52.

Other specific calculations may apply if:

- The employee's wages were fixed by the year;
- The employee's wages were fixed by any manner other than by the week, month or year;
- The employee has not been employed by the employer for at least three consecutive periods of 13 calendar weeks in the 52 weeks immediately prior to the injury;
- The employee worked less than a complete period of 13 calendar weeks and does not have fixed weekly wages; or
- The employment is exclusively seasonal.

When calculating an employee's AWW, employers must include employer-provided room and board, bonuses or incentive pay, vacation pay and gratuities reported for income tax purposes.

## BENEFIT RATE LIMITS

Monetary benefit rates are subject to maximum and minimum limits that are in effect on the date of injury. New benefit rate limits become effective as of January 1 each year. The limits are based on the statewide average weekly wage ([SAWW](#)) for the previous year. The benefit rates available to employees who were injured in 2020 and to employees who are injured in 2021 are shown in the table below:

Weekly Benefit Rates for AWW Ranges		
Date of Injury	AWW	Weekly Maximum
2024	\$736.10 or lower	90 percent of AWW
	\$736.11 to \$993.75	\$662.50
	\$993.76 to \$1,987.50	66 and two-thirds of AWW
	\$1,987.51 or higher	\$1,325.00
2023	\$627.77 or lower	90 percent of AWW
	\$627.78 to \$847.50	\$636.50
	\$847.51 to \$1,695.00	66 and two-thirds of AWW
	\$1,695.01 or higher	\$1,273.00

## WAITING PERIOD

Employees are not eligible for monetary benefits for disability periods of less than **seven days**. However, these benefits are paid retroactively if the disability lasts **more than 14 days**.

Wage loss benefits must begin **within 21 days** of the employer's knowledge or notice of injury resulting in disability, unless the claim is denied within that time period.

## TOTAL DISABILITY BENEFITS

Total disability benefits (permanent or temporary) are available to employees while they are considered totally unable to work due to a work-related condition. Total disability must be determined by a physician.

After paying total disability benefits for 104 weeks, an employer or insurer can require an employee to submit to a medical examination to determine the degree of impairment resulting from the employee's work-related condition, if it requests the exam within 60 days after the end of the 104-week period. If this determination results in an impairment rating of at least 35 percent, the employee is presumed to remain entitled to ongoing total disability benefits. If the determination results in an impairment rating of less than 35 percent, the employee will be entitled to partial, rather than total, disability benefits.

## PARTIAL DISABILITY BENEFITS

Partial disability benefits are available to employees who are able to work but cannot earn their full wages due to a work-related condition. These benefits are available for **up to 500 weeks**. The maximum number of benefit weeks available does not change for individuals who receive total disability benefits before or after a period of partial disability.

Partial disability benefits are **66 and two-thirds percent of the difference** between the injured employee's AWW and his or her **earning power** (or post-injury wages), subject to the limits described above. Earning power is determined by evaluating:

- The work the injured employee is capable of performing;
- Expert opinion on the extent of the employee's disability;
- Work restrictions prescribed by the treating physician; and
- The wages received by individuals in similar occupations (evidenced by job listings, private job placement data and advertisements) in the employment area where the employee resides.

## PERMANENT IMPAIRMENT (“SPECIFIC LOSS”) BENEFITS

If an injured employee permanently loses certain body parts or functions either in whole or in part, he or she may be entitled to a specific loss award.

The body parts and functions for which specific loss benefits may be payable include the:

- Thumbs;
- Fingers;
- Hands;
- Arms;
- Legs;
- Feet;
- Toes;
- Eyesight; and
- Hearing.

Specific loss benefits may also be payable for serious and permanent disfigurement on the head, face or neck.

The number of weeks payable for these particular impairments are set by the PWCA. For example, if an employee loses a hand in a workplace accident, the employee will be eligible for up to 66 and 2/3 percent of his or her AWW, subject to the limits described above, for 335 weeks.

## DEATH BENEFITS

When an employee is killed as the result of a workplace incident or work-related condition, the employer must pay **burial expenses** and **death benefits** to the employee’s survivors.

The PWCA requires employers to pay **up to \$7,000** in burial expenses. Death benefits are **up to 66 and two-thirds percent** of the employee’s AWW or the SAWW, whichever is lower.

The actual amount of payable benefits is proportional to the number of surviving dependents, their age, marital status and relationship to the deceased employee. For example, an unmarried, surviving spouse who is the guardian of the employee’s surviving only child can receive up to 60 percent of the employee’s AWW, while (in the absence of surviving spouse and children) the employee’s parents may receive up to 32 percent, if they were in any way dependent on the deceased employee at the time of the injury.

Employers must continue to pay death benefits to a deceased employee’s minor children until they reach the age of 18. The age limit increases to 23 if the children are enrolled in college or are disabled. Benefits to a surviving spouse must continue until the spouse dies, remarries or becomes capable of self-support. In the case of remarriage, the surviving spouse must receive 104 weeks of death benefits in a lump sum.

## MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the [Pennsylvania Bureau of Workers’ Compensation website](#) for more information on workers’ compensation laws in Pennsylvania.

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