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ILLINOIS

WORKERS' COMPENSATION LAW SUMMARY 07/15/2017 - 01/14/2018

STATEWIDE AVG. WEEKLY WAGE (SAWW)	1/15/13 through 7/14/13	7/15/13 through 1/14/14	1/15/14 through 7/14/14	7/15/14 through 1/14/15	1/15/15 through 7/14/15	7/15/15 through 1/14/16	1/15/16 through 7/14/16	7/15/16 through 1/14/17	1/15/17 through 7/14/17	7/15/17 through 1/14/18
	\$990.02	\$998.40	\$1,002.68	\$1,005.80	\$1,021.34	\$1,034.80	\$1,048.67	\$1,071.58	\$1,076.38	\$1,080.45

RATES: DEATH, PTD, OR PPD IF AMPUTATION OF A MEMBER OR ENUCLEATION OF AN EYE

Recipients of death and PTD benefits may be entitled to cost-of-living adjustments through the Rate Adjustment Fund.
 Death benefits are paid for 25 years or \$500,000, whichever is greater.

MAXIMUM	\$1,320.03	\$1,331.20	\$1,336.91	\$1,341.07	\$1,361.79	\$1,379.73	\$1,398.23	\$1,428.74	\$1,435.17	\$1,440.60
MINIMUM	\$495.01	\$499.20	\$501.34	\$502.90	\$510.67	\$517.40	\$524.34	\$535.79	\$538.19	\$540.23

TEMPORARY TOTAL DISABILITY

MAXIMUM	\$1,320.03	\$1,331.20	\$1,336.91	\$1,341.07	\$1,361.79	\$1,379.73	\$1,398.23	\$1,428.74	\$1,435.17	\$1,440.60
MINIMUM	The minimum is the employee's average weekly wage or the rate below, whichever is lower. Number of children and/or spouse:									
0	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00	\$220.00
1	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00	\$253.00
2	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00	\$286.00
3	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00	\$319.00
4+	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00	\$330.00

MAXIMUM PPD RATE IF NOT AMPUTATION OR EYE ENUCLEATION (Minimum same as TTD minimum rate (see above))

Effective 2/1/06, the maximum 8(d)1 (wage differential) award is equal to the SAWW, and the minimums are the same as the TTD minimums.

7/1/11 - 6/30/12	7/1/12 - 6/30/13	7/1/13 - 6/30/14	7/1/14 - 6/30/15	7/1/15 - 6/30/16	7/1/16 - 6/30/17
\$695.78	\$712.55	\$721.66	\$735.37	\$755.22	\$775.18

PPD SCHEDULE - MAXIMUM WEEKS ALLOWED

Thumb	76	Foot	167
First (index) finger	43	Leg	215
Second (middle) finger	38	Amputation above knee	242
Third (ring) finger	27	Amputation at hip joint	296
Fourth (little) finger	22	Eye	162
Great toe	38	Enucleation of eye	173
Each other toe	13	Hearing loss of one ear (under WC Act)	54
Hand	205*	Hearing loss of both ears (under WC Act)	215
Arm	253	Testicle (1)	54
Amputation above elbow	270	Testicle (2)	162
Amputation at shoulder joint	323	Disfigurement	162

*190 weeks for carpal tunnel w/ injury occurring on 6/25/11 or after.

COMPUTATION METHOD FOR MAXIMUM BENEFIT - TTD, Total & Permanent, Amputation and Eye Enucleation: State AWW multiplied by 133.3333%

Maximum Death Benefit (for injuries prior to 2/1/06): 365 days x 20 years = 7,300 days || 7,300 days + 5 (leap year days) = 7,305 days || 7,305 days / 7 = 1,043.5714 weeks x TTD rate
 Maximum Death Benefit (for injuries on or after 2/1/06): 365 days x 25 years = 9,125 days || 9,125 days + 6 (leap year days) = 9,131 days || 9,131 days / 7 = 1,304.428 weeks x TTD/Death rate

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Jurisdiction (820 ILCS 305/1(b)(2)): Jurisdiction exists in claims for accidents or exposures occurring within the state. For out of state accidents, jurisdiction exists when the contract of employment was made within the state or where the principal place of employment is in Illinois.

STATUTE OF LIMITATION (820 ILCS 305/6(d)): Maintain claim within 3 years of injury or death or within 2 years after last payment of compensation (includes payment of medical whether paid by w/c or group insurance), whichever is later – except exposure to radiological equipment/materials or asbestos, 25 years after last day employed in such environment.

REPORT OF INJURY (820 ILCS 305/6(b)): Employer must maintain records of injury that involve medical treatment, loss of consciousness, restriction of work or motion, or transfers to another job and file a written report of all accidental deaths, injuries and illnesses arising out of and in the course of the employment resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the accidental death.

BURDEN OF PROOF:

1. Accident/exposure might have or could have caused or aggravated the condition and must be a contributing factor – preponderance of evidence required.
2. Repetitive trauma – treated same as accident, date of manifestation is date reasonable person would know nature of condition and its work relatedness.

NOTICE OF INJURY (820 ILCS 305/6(c)): Notice of accident shall be given to employer as soon as practicable but no later than 45 days. If defective notice is given within 45 days, then employer must show undue prejudice.

AWW/RATE (820 ILCS 305/10):

1. AWW – 52 weeks preceding injury, does not include OT except when mandatory or regular;
2. Rate – TTD/PTD/Death – 2/3 AWW subject to maximum and minimum PPD – 60% AWW subject to maximum and minimum.

BENEFITS: Medical – reasonably required to cure and relieve the effects of the injury (820 ILCS 305/8(a)).

- a. Employee has two choices of medical providers and all the referrals from those providers;
- b. For injuries after 09/01/2011, utilization review is rebuttable presumption for denial of proposed medical treatment;
- c. For injuries after 09/01/2011, employer can establish PPO and will count as employee's first choice whether employee accepts or rejects PPO;
- d. Mileage – local mileage not normally paid except for IME – reasonableness standard applied;
- e. Fee Schedule – for all medical services rendered after 02/01/2006. Fees determined by contracted agreement or fee schedule.

TTD:

- a. No weekly limit;
- b. Waiting period – 3 working days if disability lasts more than 14 days – first 3 days retroactive (820 ILCS 305/8(b));
- c. Basis for termination: 1) Return to work; 2) Reaches MMI (if permanent work restrictions – may owe vocational and maintenance benefits).

TPD (820 ILCS 305/8(a)):

- a. If working light duty or earning less than if employed in full capacity, receive 2/3 difference between average amount able to earn in full performance and net amount earned in modified job;
- b. For injuries after 09/01/2011, use gross amount earned in modified job.

PPD (820 ILCS 305/8(e)):

- a. See scheduled injuries chart (for injuries after 09/01/2011, carpal tunnel limited to 15% of 190 weeks unless convincing evidence of additional disability, then capped at 30%).
- b. For injuries after 09/01/2011, AMA Guides to the Evaluation of Permanent Impairment shall be considered along with other factors (820 ILCS 305/8.1b).

Wage Differential (820 ILCS 505/8(d)(1)):

- a. Instead of PPD, can elect 2/3 difference between average amount able to earn in full performance of duties in occupation at time of accident and average amount able to earn in suitable employment after accident;
- b. For injuries occurring after 09/01/2011, payments continue to age 67 or 5 years from date of award, whichever is later.

PTD (820 ILCS 305/8(e)(18) or 8 (f)):

- a. Section 8(e)(18) – lifetime weekly benefit if complete loss of use of 2 scheduled members cannot terminate even if RTW;
- b. Section 8(f) – weekly benefits for life so long as employee totally and permanently incapable of work, but payments cease if employee returns to work or is able to.

Death (820 ILCS 305/7):

- a. Burial expense - \$8,000.00.
- b. Dependents:
 1. Widow, widower, child or children
 - a) Until death of widow or widower or until remarriage, unless there remain dependent children;
 - b) Children – until age 18 or while enrolled in accredited education institution, can continue benefits until age 25. Benefits continue if child is mentally or physically incapacitated.
 - c) Cap – 25 years of benefits for deaths occurring after 02/01/2006.

REDUCTION IN BENEFITS:

1. No partial reductions allowed – only total liability defenses recognized;
 - a. Drugs and alcohol – employee so intoxicated that can say as a matter of law out of course of employment – look for evidence of impairment.
2. For injuries after 09/01/2011, rebuttable presumption that intoxication is proximate cause if:
 - a. Blood alcohol level of .08% or greater;
 - b. Evidence of cannabis use;
 - c. Refusal to submit to blood, breath, or urine testing.
3. If employee engaged in forcible felony, aggravated driving while under the influence or reckless homicide then not entitled to benefits under the Act.

SUBROGATION (820 ILCS 305/5(b)):

1. Employer/carrier entitled to subrogation of 3rd party recovery minus pro rata costs and 25% of gross recovery for attorneys' fees;
2. Employer may be brought into 3rd party action by 3rd defendant – liability limited to the amount expended in work comp case.



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