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# KANSAS

## WORKERS' COMPENSATION LAW SUMMARY 07/01/2017 - 06/30/2018

SCHEDULE OF BENEFITS						
Date of Injury	Weekly Compensation		Maximum Total Compensation			
	Maximum Rate (Qualifying AWW)	Minimum Rate for Death Benefit	PTD (inclusive of TTD/TPD/PPD)	TTD or PPD (inclusive of TTD/TPD/PPD)	Functional Impairment Only	Death
05/15/2011 to 06/30/2011	\$545.00 (\$817.46)	\$363.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2011 to 06/30/2012	\$555.00 (\$832.46)	\$370.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2012 to 06/30/2013	\$570.00 (\$855.00)	\$380.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2013 to 06/30/2014	\$587.00 (\$880.50)	\$391.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2014 to 06/30/2015	\$594.00 (\$891.00)	\$396.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2015 to 06/30/2016	\$610.00 (\$915.00)	\$407.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2016 to 06/30/2017	\$627.00 (\$940.50)	\$418.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00
07/01/2017 to 06/30/2018	\$630.00 (\$945.00)	\$420.00	\$155,000.00	\$130,000.00	\$75,000.00**	\$300,000.00

\*Where functional impairment only is awarded and no TTD has been paid. \*\*Whether or not TTD or TPD has been paid.

BODY PART AFFECTED	WEEKS PAYABLE
Disability, body as a whole	415
Shoulder	225
Arm	210
Forearm	200
Hand	150
Leg	200
Lower leg	190
Foot	125
Eye	120
Hearing, both ears	110
Hearing, one ear	30
Thumb	60
1 <sup>st</sup> (index) finger	37
2 <sup>nd</sup> (middle) finger	30
3 <sup>rd</sup> (ring) finger	20
4 <sup>th</sup> (little) finger	15
Great toe	30
Each other toe	10

FRACTION OF A WEEK EXPRESSED AS A DECIMAL	
1/7 =	.14
2/7 =	.29
3/7 =	.43
4/7 =	.57
5/7 =	.71
6/7 =	.86

Funeral Expense	\$5,000.00
Minimum Compensation Rate: (TTD, PPD, and PTD only)	\$25.00 per week
Unauthorized Medical Allowance	\$500.00

MILEAGE REIMBURSEMENT	
07/01/2011 to 06/30/2012	51¢/mile
07/01/2012 to 06/30/2013	55¢/mile
07/01/2013 to 06/30/2015	56¢/mile
07/01/2015 to 12/31/2015	57¢/mile
01/01/2016 to 12/31/2016	54¢/mile
01/01/2017 to present	53.5¢/mile

### WORKERS' COMPENSATION ATTORNEYS

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**JURISDICTION:** Per KSA §44-506, jurisdiction exists in claims for accidents occurring within the state. For out of state accidents, jurisdiction exists when the contract of employment was made within the state and where the principal place of employment is in Kansas.

**STATUTES OF LIMITATION: For injuries before May 15, 2011:** Pursuant to KSA §44-520a, written claim must be served on the employer by hand-delivery, registered or certified mail within 200 days after the accident or last payment of TTD or authorized medical treatment, AND pursuant to KSA §44-534(b), an employee must file an application for hearing with the Division within 3 years from the date of accident or 2 years from the last payment of compensation, whichever is later. Pursuant to KSA §44-557(c) employer's failure to file an accident report with the Division will extend the statute of limitations. **For injuries after May 15, 2011:** The provisions in KSA §44-520a and §44-557(c) were deleted from the Act. Only KSA §44-534(b) remains in force.

**NOTICE:** KSA §44-520 – **For injuries before May 15, 2011:** The employee is required to give verbal notice of a work-related accident or injury within 10 days of the date of accident (not counting Saturdays, Sundays and legal holidays). Failure to give timely notice will bar the claim UNLESS the employee can show "just cause" for the failure and gives actual notice within 75 days of the date of accident. **For injuries after May 15, 2011:** Notice must be given within 20 days of the accident or injury either orally or in writing. If the employer designates a specific person or department to receive such reports and this designation has been communicated in writing to the employee, notice to anyone else is insufficient. If no such designation is made, notice must be given to a supervisor or manager. If the employee gives written notice, the employee must provide the written notice to his/her supervisor or manager at the employer's principal place of employment. This requirement is waived if the employer has actual knowledge of the injury, the employer was unavailable to receive the notice, or the employee was physically unable to give such notice.

**DEFINITION OF ACCIDENT FOR INJURIES AFTER MAY 15, 2011:** KSA §44-508(d) – An accident must be identifiable by time and place and occur during a single work shift. The accident must produce symptoms of an injury at the time of the injury and must be the prevailing factor in causing the injury. For **repetitive trauma** claims, the repetitive trauma must be the prevailing factor in causing the injury. **KSA §44-508(g) – Prevailing factor** is defined as the primary factor in relation to any other factor.

**TTD BENEFITS AND FRAUD WARNING: For injuries after May 15, 2011:** KSA §44-510l – An insurer or self-insured employer must provide the following notice to an insured worker on or with a check for TTD benefits: "Warning: Acceptance of employment with a different employer that requires the performance of activities you have stated you cannot perform because of the injury for which you are receiving temporary disability could constitute fraud and could result in loss of future benefits and restitution of prior workers' compensation awards and benefits paid." TTD benefits may be terminated if the employee is terminated for cause or voluntarily resigns if the employer could have accommodated the restrictions of the authorized treating physician.

**FUTURE MEDICAL BENEFITS:** KSA §44-510h – **For injuries before May 15, 2011:** Future medical benefits are left open unless the parties agree otherwise. **For injuries after May 15, 2011:** There is a rebuttable presumption that the employer's obligation to provide medical treatment terminates when the employee reaches MMI. If future medical is left open and the employee has not received treatment within 2 years of the date of the award or the last date of treatment, the employer can request that future medical benefits be terminated and there will be a rebuttable presumption that future medical is no longer needed.

**WORK DISABILITY:** KSA §44-510e(a) - **For injuries before May 15, 2011:** The percent of loss of task performing ability over the 15 years prior to the date of accident averaged with the percent of wage loss. If employee has returned to work earning greater than or equal to 90% of pre-injury wage, there is no work disability. There does not need to be any task loss for an employee to be eligible for work disability; there does not need to be a nexus between the injury and the alleged wage loss for the wage loss to trigger work disability; the employee is not required to make a good faith effort to find new employment before being eligible for work disability. **For injuries after May 15, 2011:** Employees are eligible for work disability if they have an injury to the body as a whole, both eyes, or bilateral extremities. To qualify, the employee must have over 7.5% impairment to the body as a whole. Wage loss is calculated considering the differences between what the employee was earning at the time of the injury and what the employee is capable of earning after the injury. Task loss is determined considering the past 5 years of the employee's employment.

**MULTIPLE INJURIES:** KSA §44-510d - **For injuries before May 15, 2011:** Injuries to different body parts cannot be combined to one rating. Multiple injuries must be rated separately. **For injuries after May 15, 2011:** Permanent impairment to more than one scheduled member within the same body part shall be combined and rated at the highest scheduled member impaired.

**SAFETY VIOLATIONS:** KSA §44-501(a) - **For injuries after May 15, 2011:** Compensation for an injury will not be allowed if the injury results from the employee's deliberate intention to cause the injury, the employee's willful failure to use a guard or protection against accident or injury which is required by statute and provided by the employer, or the employee's willful failure to use a reasonable and proper guard and protection voluntarily provided to the employee by the employer.

**DRUG AND ALCOHOL USE:** See KSA §44-501(b) for detailed procedures for denial of claims for drug and/or alcohol use.



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