



# Minnesota Workers' Compensation Quick Reference Guide

**HANSEN**  
**DORDELL**

[www.hansendordell.com](http://www.hansendordell.com)

(651) 482-8900 | (800) 994-6056 | FAX (651) 482-8909

3900 Northwoods Drive | Suite 250 | St. Paul, MN 55112

# GENERAL BACKGROUND

## MN WC – AT A GLANCE

### Arising Out of and in the Course and Scope of Employment

- Refers to causal connection to work.
- Must be a substantial contributing cause – not necessarily the sole cause.
- Look at the time, place and circumstances.
  - Commuting not covered absent special circumstances.
  - Between work sites covered
  - Traveling employees generally covered
  - Personal deviations not covered
- Employer must provide safe “ingress” and “egress” to/from work.
- Controlled parking lots are generally part of employer’s premises.
- Injuries on premises during breaks usually covered.
- Company-sponsored recreational events generally not covered unless required or business related.
- Injuries resulting from horseplay often covered if employer could have “reasonably anticipated” risk but injuries resulting from violation of prohibited act may not be covered if employer regularly adheres to rules.
- Idiopathic injuries (the result of a personal or spontaneous event) may not be covered without “increased risk.”
- Injuries resulting from an improvident act may not be covered.

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## FACTS & FIGURES

- **Notice of Injury by Employee:**
  - Employees must provide notice of injury within 14 days - or up to 180 days if an acceptable excuse is provided and subject to the extent of prejudice caused by the employer.
- **Statute of Limitations:**
  - Employee claims must be filed within 3 years of filing of First Report of Injury or 6 years from date of injury when no FROI was filed.
  - Dependency claims must be filed within 3 years of First Report of Death filed or 6 years where no FRD was filed.
- **First Report of Injury:**
  - Employer must report injury to insurer within 10 days (48 hours of death).
- **Notice of Primary Liability Determination**
  - Insurer must file NOPLD with DOLI within 14 days of lost time injury.
- **Waiting Period:**
  - There is a 3-calendar-day waiting period prior to initial payment of TTD or TPD unless a disability continues for 10 calendar days.
  - Disability is deemed to commence on the first calendar day (or fraction thereof) that the employee is unable to work.
- **Payment of Benefits:**
  - Wage loss must commence within 14 days of notice of compensable lost time or notice of new period of lost time.
  - Wage loss should be paid at same frequency as earnings while employed.
- **Payment of Awards / Orders:**
  - Unless otherwise directed, most Awards and Orders require payment to be mailed within 14 days of service of the pleading. Penalties commence thereafter, payable to employee and/or the state.
- **Commencement of Litigation:**
  - Claim Petition requires Answer to be filed within 20 days.
  - Medical Request requires Medical Response within 20 days.
  - Rehabilitation Request requires Rehabilitation Response within 10 days.
- **IME Reports:**
  - Must be filed within 120 days of filing of Claim Petition
  - If no litigation, IME may be obtained at reasonable times during the course of claim.
  - IME charges are subject to statutory guidelines.
  - Mileage and related expenses are paid to the employee for attendance.

# INDEMNITY BENEFITS

## AVAILABLE WAGE LOSS BENEFITS

### General Benefit Definitions:

- **Temporary Total Disability:** Wage loss benefits paid to employee (paid at 2/3 average weekly wage, subject to maximum) during period of total disability supported by current restrictions taking employee off work completely or lack of available work within restrictions. With few exceptions, this benefit is not available to an employee who does not have restrictions, regardless of MMI status.
  - TTD is subject to multiple caps. For injuries since 10/1/08, TTD benefits are capped at 130 weeks.
  - Absent other defenses, TTD is paid until 90-days post service and filing of MMI or statutory cap, if any.
  - Statutory cap is dependent upon date of injury.
  - Maximum medical improvement: Employee has reached plateau whereby no additional improvement is expected.
  - TTD may be discontinued due to an employee's failure to cooperate with medical or vocational rehabilitation process.
  - NOID or Petition to Discontinue must be filed in order to discontinue/suspend/change benefits.
- **Temporary Partial Disability:** Wage loss benefits paid to employee based upon the difference between current wages and DOI wage.
  - TPD is subject to statutory caps. For injuries after 10/1/92, TPD must be earned within 450 weeks of date of injury and cannot exceed 225 weeks in total.
  - Calculated at 2/3 of the difference between the wages. The employee must be working and earning an income to collect TPD benefits.
  - Current earnings must be accurate reflection of true earning capacity and cannot be insubstantial or sporadic in nature.
- **Permanent Total Disability:** Assumes medical condition is so significant that employee cannot secure gainful employment. PTD can be established based solely on significance of medical condition (permanent loss of sight in both eyes, loss of both legs, complete paralysis) or vocational status (inability to find gainful employment within restrictions).
  - Establishment of PTD requires first meeting certain threshold permanent partial disability ratings:
    - 17% for most employees;
    - 15% for employees over the age of 50;
    - 13% for employees over age 55 without a high school degree.
      - PTD benefits cease at age 67, subject to evidence presented by the employee to rebut this presumed retirement age.
      - PTD benefits are usually offset by Social Security Disability Benefits after an initial \$25,000 in PTD has been paid.
      - PTD claimants with injuries prior to 10/1/1995 may have access to additional benefits through the Special Compensation Fund.
      - PTD benefits for injuries on or after 10/1/1995 are subject to a statutory minimum rate that can dramatically impact entitlement and exposure.
- **Average Weekly Wage**
  - Most wage loss benefits are paid based upon a determination of the employee's average weekly wage at the time of injury and are generally determined based upon a 26-week average that does not include the week of the injury.
    - Certain earned bonuses, vacation pay and recorded tips are included in the wage calculations.
    - Overtime is included in the wage calculation if it is regular and frequent. It is not included if it is only occasional.
    - Changes in the employee's employment status or wages during the 26 weeks prior to the date of injury may impact the calculation.
    - Certain industries, including construction or similar seasonal workers, are subjected to favorable treatment under the statute that allows for a wage no less than 5x their daily wage.
- **Compensation Rates**
  - Maximum and minimum compensation rates may impact the total benefits owed to an injured employee. These rates are dependent upon the date of injury and are statutorily determined. (See Rates & Adjustments Guide).
- **Cost of Living Adjustments (COLA)**
  - Minn. Stat. 176.645 provides limitations for annual cost of living adjustments. Certain "waiting periods" may apply depending upon the date of injury. (See Rates & Adjustments Guide)

### Temporary Total Disability Benefits (TTD)

- TTD Entitlement Caps:
  - Injuries 10/1/08 to present: 130 weeks or up to 90 days after finding of MMI.
  - Injuries 10/1/95 to 9/30/08: 104 weeks or 90 days after finding and service of MMI.
  - Injuries 1/1/84 to 9/30/95: Unlimited up to 90 days after finding and service of Maximum Medical Improvement (MMI).
  - Injuries 8/1/75 to 12/31/83: Unlimited.
  - Injuries 4/28/57 to 8/1/75: Not to exceed 350 weeks.

### Temporary Partial Disability Benefits (TPD)

- TPD Entitlement Caps:
  - Injuries 10/1/92 to present: Not to exceed 225 weeks.
  - Employees may not receive TPD benefits beyond 450 weeks from the date of injury.
    - Injuries 8/1/74 to 9/30/92: Unlimited.
    - Injuries 4/28/57 to 7/31/74: Not to exceed 350 weeks.

# PERMANENT PARTIAL DISABILITY

Permanent Partial Disability is available to employees to compensate for functional loss attributable to a work injury. It is not a form of wage loss benefit but it is not paid contemporaneous with Temporary Total Disability. Rather, it is paid upon findings of MMI or, when an employee has returned to work, when a minimum ascertainable rating can be determined. (See additional PPD links at [hansendordell.com](http://hansendordell.com))

- For injuries prior to July 1, 1993, the Minnesota Department of Labor and Industry has published disability schedules at Minn. Rule 5223.0010.
- For injuries on or after July 1, 1993, the following schedules apply:

5223.0310	General Definitions	5223.0470	Wrist
5223.0315	Preexisting Impairments	5223.0480	Hand and Fingers
5223.0320	Face, Nose, Mouth or Throat	5223.0490	Pelvis
5223.0330	Eye	5223.0500	Hip and Upper Leg
5223.0340	Ear	5223.0510	Knee and Lower Leg
5223.0450	Skull Defects	5223.0520	Ankle
5223.0360	Central Nervous System	5223.0530	Foot and Toes
5223.0370	Cervical Spine	5223.0540	Amputations of Lower Extremities
5223.0380	Thoracic Spine	5223.0560	Respiratory
5223.0390	Lumbar Spine	5223.0570	Organic Heart Disease
5223.0400	Peripheral Nervous System – Upper Extremity – Motor Loss	5223.0580	Vascular Disease
5223.0410	Peripheral Nervous System – Upper Extremity – Sensory Loss	5223.0590	Gastrointestinal Tract
5223.0420	Peripheral Nervous System – Lower Extremity – Motor Loss	5223.0600	Reproductive and Urinary Tract Schedule
5223.0430	Peripheral Nervous System – Lower Extremity – Sensory Loss	5223.0610	Hematopoietic
5223.0450	Shoulder and Upper Arm	5223.0620	Endocrine
5223.0460	Elbow and Forearm	5223.0630	Skin Disorders
		5223.0640	Heat and Cold Injuries
		5223.0650	Cosmetic Disfigurement

## MINNESOTA PERMANENT PARTIAL DISABILITY SCHEDULES

### Permanent Partial Disability (10/01/00 – Present)

%	Amount	%	Amount
0-5	\$75,000	51-55	\$165,000
6-10	\$80,000	56-60	\$190,000
11-15	\$85,000	61-65	\$215,000
16-20	\$90,000	66-70	\$240,000
21-25	\$95,000	71-75	\$265,000
26-30	\$100,000	76-80	\$315,000
31-35	\$110,000	81-85	\$365,000
36-40	\$120,000	86-90	\$415,000
41-45	\$130,000	91-95	\$465,000
46-50	\$140,000	96-100	\$515,000

### Impairment Compensation (01/01/84 – 09/30/95)

#### Permanent Partial Disability (10/01/95 – 09/30/00)

%	Amount	%	Amount
0-25	\$75,000	61-65	\$160,000
26-30	\$80,000	66-70	\$180,000
31-35	\$85,000	71-75	\$200,000
36-40	\$90,000	76-80	\$240,000
41-45	\$95,000	81-85	\$280,000
46-50	\$100,000	86-90	\$320,000
51-55	\$120,000	91-95	\$360,000
56-60	\$140,000	96-100	\$400,000

### Pre-1984 Schedule

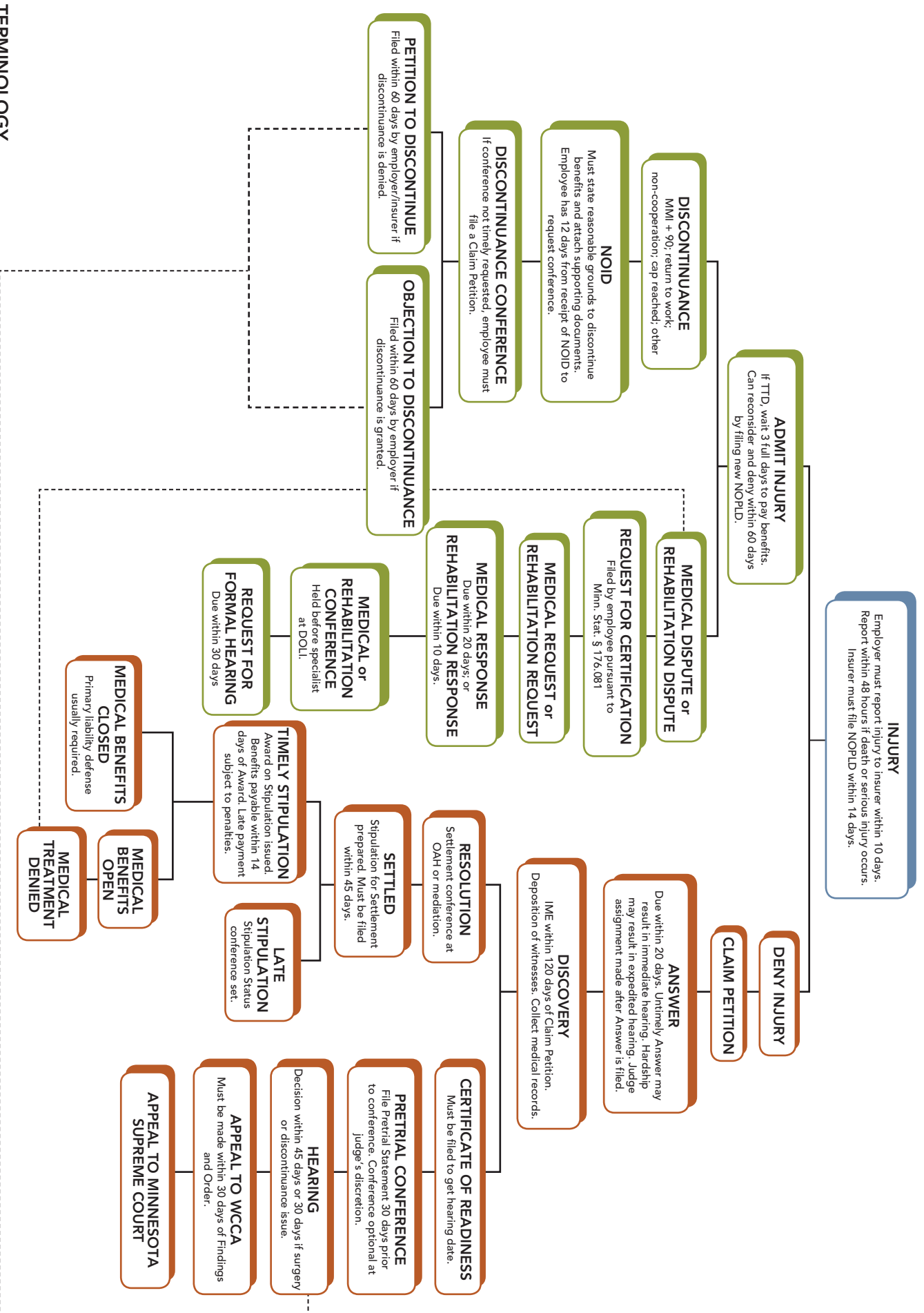
Body Part	Weeks	Body Part	Weeks
Hand	195	Back	350
Arm	270	Head	500
Foot	140	Internal Organ	500
Leg	220	Both Ears (hearing)	170
Eye	160	Both Eyes (partial loss)	450
Hand & Wrist	220	Simultaneous Injury Factor	
Foot & Ankle	165	Additional 15% of PPD	
Ear (Hearing)	85		

### Economic Recovery Compensation

#### (01/01/84 – 09/30/95)

%	Weeks of Compensation	%	Weeks of Compensation
0-25	600	51-55	880
26-30	640	56-60	960
31-35	680	61-65	1,040
36-40	720	66-70	1,120
41-45	760	71-100	1,200
46-50	800		

# MINNESOTA WORKERS' COMPENSATION SYSTEM



## TERMINOLOGY

<b>DOLI</b>	Department of Labor and Industry	<b>NOPLD</b>	Notice of Insurer's Primary Liability Determination	<b>Subd. 7</b>	Fees payable to the employee, equal to 30% of attorney fees paid after the first \$250	<b>WAGE LOSS CAPS</b>	TTD (DOI 10/01/08 and after) 130 weeks or MMI + 90 days TTD (DOI 10/01/95 - 9/30/08) 104 weeks or MMI + 90 days TPD (DOI 10/01/92 - and after) 225 weeks total benefit or 450 weeks from date of first disability PTD (10/01/95 and after) To age 67 - rebuttable
<b>Edquist</b>	Fees for obtaining benefits for a non-medical intervenor	<b>OAH</b>	Office of Administrative Hearings	<b>TPD</b>	Temporary partial disability		
<b>Gillette</b>	A cumulative trauma injury	<b>PTD</b>	Permanent total disability	<b>TTD</b>	Temporary total disability		
<b>Heaton</b>	Fees for obtaining rehabilitation benefits	<b>PTD#</b>	Fees for obtaining medical benefits	<b>WCCA</b>	Workers' Compensation Court of Appeals		
<b>MMI</b>	Maximum Medical Improvement	<b>Spaeth</b>	Claim available to the medical provider which is the difference between the amount allowed under the fee schedule and the amount the provider was paid by the third-party payor				
<b>MSA</b>	Medicare Set Aside						
<b>NOID</b>	Notice of Intention to Discontinue Benefits						

# VOCATIONAL REHABILITATION BENEFITS

## I. WHAT IS REHABILITATION?

a. Rehabilitation is vocational assistance provided through a neutral Qualified Rehabilitation Consultant (QRC) to bring the employee back to work in an economic status as close as possible to that which the employee would have enjoyed without disability.

b. Benefits may include medical management, job development and placement, vocational testing and retraining.

## II. STEP ONE: THE CONSULTATION

a. The consultation starts the process. It is a meeting by the QRC with the employee to determine if the employee is entitled to receive rehabilitation services.

b. The consultation is provided when off work status is substantially due to the work injury and threshold issues of eligibility exist (employee has not completely recovered from injury; notice and statute of limitations defenses do not exist, employee did not refuse job offer); and:

- i. Voluntarily requested by the insurer; or
- ii. Requested by the employee; or
- iii. Employee remains out of work after 14 days and disability is likely to exceed 13 weeks; or
- iv. Employee remains out of work 90 days and no waiver filed.

c. A waiver may be granted if the insurer has filed a Disability Status Report and the insurer documents that the employee will return to suitable gainful employment with date of injury employer within 180 days of date of injury.

d. The QRC may be chosen by either the employee or the insurer but preference is given to the employee's choice unless insurer-chosen QRC has filed rehabilitation plan and 60 days have passed. Any party may request a change of QRC thereafter for cause.

e. Rehabilitation Report must be completed within 14 days of initial meeting.

f. Employer may object to consultation findings by filing a Rehabilitation Request with DOLI.



## III. STEP TWO: THE REHABILITATION BENEFITS

a. What makes an employee an "eligible" employee?  
An Employee who:

- i. Is permanently precluded or likely permanently precluded from engaging in usual and customary occupation or from engaging in the job held at time of injury;
- ii. Cannot reasonably be expected to return to suitable gainful employment with DOI employer; and
- iii. Can reasonably be expected to return to gainful employment through the provision of rehabilitation services considering the treating physician's opinion of the employee's work ability.

b. Deadlines:

- i. Rehabilitation Plan must be filed within 45 days of first in-person contact of employee and QRC or 15 days after it has been circulated to all parties, whichever is earlier. The plan is sent to all parties and the treating physician.
- ii. First Progress Report is filed 3 months after filing of Rehabilitation Plan. Subsequent updates are required every 6 months.
- iii. Employees must request entitlement to retraining:
  1. Before 156 weeks of TTD and TPD benefits have been paid for injuries prior to 10/1/08.
  2. Before 208 weeks of TTD and TPD benefits have been paid for injuries on or after 10/1/08.
- iv. Employers must advise employee of their right to request retraining benefits before 80 weeks of TTD and TPD benefits have been paid.

c. What is Included in the Rehabilitation Plan?

- i. A Rehabilitation Plan should be narrowly tailored to the needs of the particular employee but may ultimately include:
  1. Medical management;
  2. Job Placement Services;
  3. Skills enhancement
  4. Retraining
  5. Other services.

d. Rehabilitation Expenses/Limitations

- i. QRC and placement expenses are subject to statutory maximum hourly rates and monthly limitations.
- ii. Retraining benefits are generally limited to 156 weeks.
- iii. Wage loss benefits paid during a formal retraining plan are not included in the statutory cumulative caps applicable to TTD and TPD benefits.
- iv. Job search benefits are limited to 13 weeks with a possible 13 week extension.