



# Wisconsin Workers' Compensation Quick Reference Guide

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# GENERAL BACKGROUND

## WI 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 generally not covered
  - 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 unless the employee was the aggressor.
- Idiopathic injuries (the result of a personal or spontaneous event) may not be covered without “increased risk.”
- Self-inflicted injuries not covered.
- Mental injuries may be compensable with extraordinary stress.

### Statute of Limitations/Notice: DOI 3/2/16 - present

- 6 Yrs (traumatic injury) from DOI, DOD, or last payment
- 12 Yrs (occ. disease)
- Exceptions: Statute of limitations is not applicable for injuries resulting in loss or total impairment of hand or any part of arm proximal to hand, foot or any part of the rest of leg proximal to foot, any loss of vision, any permanent brain injury or any injury causing need for total or partial knee or hip replacement. Work Injury Benefit Supplemental Fund is responsible for payment of benefits if injury was before April 1, 2006.
- Notice should be given within 30 days, but statute generally allows 2 years.

### Forms:

What	Form #	Due Date	Description
Hearing Application	WKC-7	n/a	Application by petitioner to initiate litigation.
First Report of Injury	WKC-12-E	Upon notice	Must be filed with DWD immediately if employee is out of work more than 3 days or there is PPD.
Supplementary Report on Accident and Industrial Diseases	WKC-13-E	Immediately	Filed when payments are started, stopped, suspended, or changed.
Wage Information	WKC-13A-E	When indemnity benefits paid	When the employer’s indemnity benefits will be paid at less than the maximum compensation rate or if average weekly wage calculations are an issue for hearing. Recommend preparing in all cases.
Medical Report on industrial injury	WKC-16-E	Upon receipt	When temporary disability exceeds 3 weeks or permanent disability results, should be completed with provider’s assistance if available.
MD’s report on accident or industrial disease in lieu of testimony	WKC-16-B-E	Upon receipt of IME or EOH	Completed by IME or treating physician and filed with the DWD upon receipt.
Admission to Service and Answer to Application	WKC-19-DHA	20 days after service of Application for Hearing	Answer to the employee’s Hearing application is served.
Request for Social Security Information	WKC-6156-E	n/a	Used to request information from the Social Security Administration on an employee
Vocational Expert Report	WKC-6743-E	Upon receipt	Used to establish or rebut a loss of earning capacity claim. Filed upon receipt of report.
TPD Disability	WKC-75359-E	When TPD is due	Assists in calculating TPD but must be filed electronically

# INDEMNITY BENEFITS

## AVAILABLE WAGE LOSS BENEFITS

### General Benefit Definitions:

- **Waiting Period:** A three day waiting period is applicable to wage loss benefits unless the employee remains off work eight days after the date of injury. Sundays are not included in the waiting period unless the employee usually works on Sundays.
- **Temporary Total Disability:** TTD benefits are paid to those employees with a compensable injury who remain within the healing period and have a total loss of wages and the employer is unable to accommodate any related restrictions.
  - Benefits continue to be paid through "end of healing," the date on which the employee's condition has stabilized and further treatment is unlikely to result in additional improvement. Findings of "end of healing" should be requested from the treating physician and/or independent medical evaluator.
  - Benefits are paid at the applicable compensation rate, subject to statutory maximums.
- **Temporary Partial Disability:** TPD benefits are paid to those employees with a compensable injury who remain within the healing period and have a partial loss of wages attributable to the work injury. Wage loss may be due to decreased hours or pay.
  - Benefits continue to be paid through "end of healing," subject to defenses that may include the necessity for continued restrictions or refusal of offers of full employment and wages within accepted restrictions.
- **Permanent Total Disability:** PTD benefits are paid when an employee's injury causes total loss of both eyes, both arms, both legs and/or the loss of an arm and a leg. An employee may also be determined either medically or vocationally permanently and totally disabled based upon expert opinions.
  - Benefits are paid at the employee's TTD rate, not (usually lower) PPD rate.
  - Employees who have been determined to be 100% vocationally disabled (100% loss of earning capacity) will receive weekly benefits for the balance of his or her life.
- **Death Benefits:** The statute allows for payment to surviving dependents if a work injury causes death. There are statutory caps and limitations based upon the specific wage and whether minor or disabled children are involved.
  - Maximum rates apply
  - Certain benefits may apply even if the death is not due to the work injury if employee is PTD at the time of death.
  - Burial expenses are also available (current maximum is \$10,000)
  - Payments also required to the Work Injury Supplemental Benefit Fund (minimum \$20,000)

### DISFIGUREMENT

- An employee sustaining permanent disfigurement in the normal course of employment is entitled to up to one year's earnings, based upon a potential wage loss.
- Thus, if the employee sustains a permanent disfigurement, such as a visible scar or limp, and that disfigurement is likely to affect his or her employability, that employee may be awarded up to one year's pay at his or her pre-injury AWW.
- Medical and/or vocational support is NOT required for an employee to bring a disfigurement claim.
- Disfigurement: Up to one year's wages, subject to maximum (\$72,075 max as of 01/01/17, Wis. Stats. 102.56); only applicable if Applicant does not return to work.

# PERMANENT PARTIAL DISABILITY

## SCHEDULED INJURIES - NUMBER OF WEEKS FOR 100% LOSS

( 102.52, Wis. Stats.)

Arm	Finger - Middle and	Palm - thumb remaining.....325
at shoulder.....500	metacarpal bone.....45	Thumb
at elbow.....450	at proximal joint.....35	at metacarpal one.....160
Deafness - Occupational	at second joint.....20	at proximal joint.....120
Bilateral.....216	at distal joint.....8	at distal joint.....50
Unilateral.....36	Finger - Ring and	Toe - Great w/metatarsal
Deafness - Traumatic	metacarpal bone.....26	bone.....83 1/3
Bilateral.....330	at proximal joint.....20	at proximal joint.....25
Unilateral.....55	at second joint.....15	at distal joint.....12
Eye	at distal joint.....6	Toe - Second
Enucleation or evisceration..275	Finger - Little and metacarpal	w/metatarsal bone.....25
Total impairment.....250	bone.....28	at proximal joint.....8
Fingers, all on one hand	at proximal joint.....22	at second joint.....6
at proximal joints.....225	at second joint.....16	at distal joint.....4
Finger - Index and	at distal joint.....6	Toe - 3 <sup>rd</sup> , 4 <sup>th</sup> or little
metacarpal bone.....60	Foot at ankle.....250	w/metatarsal bone.....20
at proximal joint.....50	Hand.....400	at proximal joint.....6
at second joint.....30	Leg	at 2 <sup>nd</sup> or distal joint.....4
at distal joint.....12	at hip joint.....500	
	at knee.....425	

## WISCONSIN PPD CALCULATOR (in weeks)

PPD Rating By Doctor	<u>Scheduled</u>						<u>Unscheduled</u>
	Shoulder	Elbow	Wrist	Hip	Knee	Ankle	Head, Neck Back, Lung Torso
5%	25	22.5	20	25	21.25	12.5	50
10%	50	45	40	50	42.5	25	100
15%	75	67.5	60	75	63.75	37.5	150
20%	100	90	80	100	85	50	200
25%	125	112.5	100	125	106.25	62.5	250
30%	150	135	120	150	127.5	75	300
35%	175	157.5	140	175	148.75	87.5	350
40%	200	180	160	200	170	100	400
45%	225	202.5	180	225	191.25	112.5	450
50%	250	225	200	250	212.5	125	500
55%	275	247.5	220	275	233.75	137.5	550
60%	300	270	240	300	255	150	600
65%	325	292.5	260	325	276.25	162.5	650
70%	350	315	280	350	297.5	175	700
75%	375	337.5	300	375	318.75	197.5	750
80%	400	360	320	400	340	200	800
85%	425	382.5	340	425	361.25	212.5	850
90%	450	405	360	450	382.5	225	900
95%	475	427.5	380	475	403.75	237.5	950
100%	500	450	400	500	425	250	1000/life

- Multiple Injury Variations: When injuries result in more than one PPD rating, benefits are increased pursuant to Wis. Stat. 102.53.
- Unscheduled injuries are measured by either functional limitations or loss of vocational earning capacity (LOEC), whichever is greater.
- LOEC claims are available to employees who sustain a permanent injury and do not return to 85% of their date of injury wage, and have a "non-scheduled" injury.
- LOEC is calculated as a percentage and multiplied by 1,000 weeks at the appropriate PPD compensation rate.

## GENERAL CLAIMS PROCEDURE

- *Two Primary Divisions:*
  - Department of Workforce Development - Workers' Compensation Division (WCD)
    - Handles claims administration functions
    - 4 administrative law judges (ALJ / Mediators)
  - Department of Administration - Division of Hearing and Appeals (DHA)
    - Handles adjudication of claims
    - 20 administrative law judges (ALJ) / Hearing judges
- *Disputed Claims Process:*
  - Employee files Application for Hearing
  - Employee and Insurer files Answer within 20 days
  - Employee files Certificate of Readiness for Hearing
    - Usually when employee's condition is stabilized or urgent and employee's expert opinions are obtained
  - Parties may request medication. Pre-Hearing and Settlement Conferences are not regularly scheduled absent request of the parties or unusual circumstances
  - Hearing scheduled within 60-90 days
  - Hearing held at location convenient to the employee
    - Usually limited to 2 hours
  - Findings and Order issued within 90 days of close of record
  - Appeal can be taken to the Labor and Industry Review Commission (LIRC) within 21 days of Findings and Order
  - Decision of LIRC may be appealed to Circuit Court within 30 days of decision

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## VOCATIONAL REHABILITATION

Vocational rehabilitation benefits are available to employees who do not return to work at the date of injury employer. If retraining is awarded, TTD and related retraining expenses are paid (including tuition, books and fees for injuries after 2012). There is a maximum annual limit set for private vocational rehabilitation services.

- When an employee receives more than 13 weeks of TTD benefits, the insurer is obligated to notify the DWD (Department of Workforce Development) so that a referral to the Department of Vocational Rehabilitation Services (DVR) can be made.
- If the DVR finds the employee eligible for services but is unable to provide those services, a private rehabilitation counselor may undertake the DVR role.
- If the DVR approves a retraining program, a rebuttable presumption of entitlement exists for at least the first 80 weeks.
- If a private rehabilitation counselor is used; however, there is a weaker presumption of eligibility to such retraining benefits.
- PPD payments are interrupted while TTD is being paid during retraining.

# RATES

## 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 52 week average, subject to a statutory maximum rate.
- It is generally assumed that a part-time employee's weekly wage will be expanded to full time unless it can be shown that the employee was part of a regularly scheduled class of part time employees or voluntarily restricts his or her availability and is not employed full time elsewhere.
  - For a determination of part time class of employees, see Wis. Stat. 102.11(1)

## MILEAGE RATES

- 2012 to present: \$0.51

EFFECTIVE DATE	1/1/18	1/1/17	3/2/16	1/1/16	1/1/15	1/1/14	1/1/13	4/17/12	1/1/12	1/1/11
MAXIMUM WEEKLY WAGE FOR	\$1,491	\$1,441.50	\$1,404	\$1,404	\$1,366.50	\$1,338	\$1,318.50	\$1,281	\$1,281	\$1,230
TEMPORARY, PERMANENT										
TOTAL & DEATH BENEFITS										
WEEKLY RATE	\$994	\$961	\$936	\$936	\$911	\$892	\$879	\$854	\$854	\$820
DAILY RATE	\$165.67	\$160.17	\$156	\$156	\$151.83	\$148.67	\$146.50	\$142.33	\$142.33	\$136.67
MAXIMUM WAGE FOR PERMANENT	\$543	\$543	\$513	\$483	\$483	\$483	\$483	\$468	\$453	\$453
PARTIAL ONLY										
MONTHLY RATE	\$1,568.67	\$1,568.67	\$1,481.89	\$1,395.33	\$1,395.33	\$1,395.33	\$1,395.33	\$1,352	\$1,308.67	\$1,308.67
WEEKLY RATE	\$362	\$362	\$342	\$322	\$322	\$322	\$322	\$312	\$302	\$302
MAXIMUM ANNUAL WAGE (WEEKLY WAGE X 50)	\$74,550	\$72,075	\$70,200	\$70,200	\$68,325	\$66,900	\$65,925	\$64,050	\$64,050	\$61,500
MAXIMUM DEATH BENEFIT (ANNUAL WAGE X 4)	\$298,200	\$288,300	\$280,800	\$280,800	\$273,300	\$267,600	\$263,700	\$256,200	\$256,200	\$246,000
MAXIMUM PAYMENT TO SPOUSE										
MONTHLY RATE	\$4,307.33	\$4,164.33	\$4,056	\$4,056	\$3,947.66	\$3,865.33	\$3,808	\$3,700.66	\$3,700.66	\$3,553.33
WEEKLY RATE	\$994	\$961	\$936	\$936	\$911	\$892	\$879	\$854	\$854	\$820
MAXIMUM PAYMENT FROM CHILDREN'S FUND										
MONTHLY RATE	\$430.73	\$416.43	\$405.60	\$405.60	\$394.77	\$386.53	\$380.90	\$370.07	\$370.07	\$355.33
WEEKLY RATE	\$99.40	\$96.10	\$93.60	\$93.60	\$91.10	\$89.20	\$87.90	\$85.40	\$85.40	\$82
DEATH BENEFITS TO UNESTRANGED PARENTS	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500	\$6,500
MAXIMUM BURIAL EXPENSE	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
PAYMENT INTO STATE FUND s. 102.59	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
PAYMENT INTO STATE FUND	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
TOTAL DEPENDANCY – s. 102.49										

