

District of Columbia Workers' Compensation Law

As of January 1, 2017 – www.tworiverslawgroup.com

Workers' Compensation Attorney Team

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|-------------------------------|--------------|---------------------------------|
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Time Periods for Filing:

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|--------------------------|--|
| Employer's First Report: | Within 10 days of knowledge of injury. |
| Notice of Injury: | Within 30 days of injury. |

Statute of Limitations:

| | |
|-------------------------------------|--|
| File Initial Claim: | 1 Year. |
| Reopening due to Worsening of Cond: | 1 Year for scheduled member 3 Years for non-scheduled |

(From date of last compensation paid of same type)

Contesting Claim:

To contest the claim, Form 11 must be filed within 14 days of notice of the injury. A copy must be mailed by certified mail, return receipt request to the Claimant and Claimant's counsel.

Forms:

See www.does.dc.gov/does for available forms.

Informal Conference:

At the request of either party, an informal conference can take place to address any outstanding issues. At the conference there is no testimony taken. The claims examiner will issue a non-binding recommendation. Either side may reject the recommendation and request a formal hearing. If neither party requests a formal hearing, the recommendation will become final and binding.

Formal Hearing:

At the formal hearing, testimony is taken in front of an administrative law judge. The rules of evidence are relaxed and all issues may be addressed.

Compensation Review Board:

Any party disagreeing with the decision of the Informal Conference and Formal Hearing may seek further review at the Compensation Review Board. The CRB reviews cases based on the record and memoranda filed by the parties. No additional or new evidence is allowed. The CRB will review the prior order to determine if it is "legally sufficient."

Appellate:

An appeal from the CRB may be taken to the District of Columbia Court of Appeals, which must affirm the decision of the Department if it is rational, supported by substantial evidence, and in accordance with the law.

Terminating Benefits:

Employer/Insurer must file a Form 11 with a copy to all parties to terminate benefits. Form 15 should also be filed indicating the date of the final payment of compensation. Benefits may not be terminated if there is a current order. In this situation, the Employer/Insurer must file a request for Informal Hearing or Formal Hearing to request termination of benefits.

Accidental Injury (AI):

Benefits are to be paid for accidental personal injuries arising out of and in the course of employment. If an AI aggravates an underlying condition, all resulting lost time and treatment is compensable.

Occupational Disease (OD):

Claims involving some ailment, disorder or illness which is the expected result of working under conditions naturally inherent in the employment.

Compensation Prohibited:

Claimant is not entitled to benefits if the injury was caused solely by intoxication or the willful intention of the employee to injure himself, herself or another.

Exclusivity:

Employee may not sue employer for work-related injury, unless injury results from an intentional act of an "alter-ego" of the employer, or where employer fails to secure WC insurance. In this situation, the employer may be barred from presenting certain defenses.

Intentional Acts by Third Parties:

An accidental injury includes an injury caused by the willful act of a third party directed against an employee because of his or her employment.

Special Fund:

The Special Fund has been abolished for injuries that occur after April 16, 1999.

Stipulations:

Stipulations for permanency must be approved by the Office of Workers' Compensation. A stipulation does not close any aspect of the claim.

Settlements:

Claims, including medicals, may be completely closed by a "full and final" settlement. Settlements, however, must be approved by the Office of Workers' Compensation.

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Average Weekly Wage (AWW):

The AWW is calculated based upon the 26 weeks of gross wages prior to the accidental injury/date of disablement of the occupational disease. Stacking of wages from other jobs is allowed.

Medical Benefits:

The Employer/Insurer must provide medical treatment causally related to the injury for as long as necessary.

Medical Examinations:

The Employer/Insurer has the right to request an independent medical evaluation on the issues in dispute. There is no right to control treating physician. However, the employee may not change treating physicians without approval.

Indemnity Benefits:

Temporary Total Disability (TTD): Paid at 2/3 the AWW not to exceed the State Maximum, (see chart). Note that if the Claimant's compensation rate falls below the state minimum, the Employee is paid his AWW.

Temporary Partial Disability (TPD): 2/3 of the difference between the AWW & present wage earning capacity.

Permanent Partial Disability (PPD): Awarded for permanent disability (See chart). Note the Claimant is also entitled to receive wage loss benefits in non-scheduled member cases.

Permanent Total Disability: Awarded if the employee is unable to earn any wages in the same or other employment

Death Benefits/Dependency:

A surviving spouse with no children is entitled to 50% of the employee's AWW until he or she remarries. At that time, a lump sum payment of an additional two years of benefits is owed. Additional benefits may be awarded if the employee had children up to 2/3 of the employee's AWW.

Vocational Rehabilitation:

If claimant is medically unable to return to pre-injury employment, he/she may be entitled to voc rehab (job placement/retraining) benefits. Claimant is paid TTD rate while participating in voc rehab.

WORKERS' COMPENSATION BENEFITS

Medicals paid at 113% of Medicare's reimbursement amounts.

Temporary Total, Permanent Total, paid at 2/3 of Claimant's AWW, subject to the maximum rate. Permanent total and death benefits are subject to minimum compensation rate.

| | <u>Minimum</u> | <u>Maximum</u> |
|------|----------------|----------------|
| 2017 | \$366.86 | \$1,467.46 |
| 2016 | \$366.57 | \$1,466.29 |
| 2015 | \$365.71 | \$1,462.84 |
| 2014 | \$360.00 | \$1,441.80 |
| 2013 | \$354.00 | \$1,416.00 |
| 2012 | \$354.00 | \$1,416.00 |
| 2011 | \$337.25 | \$1,349.00 |
| 2010 | \$338.75 | \$1,355.00 |
| 2009 | \$338.75 | \$1,355.00 |
| 2008 | \$322.00 | \$1,288.00 |
| 2007 | \$308.25 | \$1,233.00 |
| 2006 | \$288.96 | \$1,155.84 |
| 2005 | \$276.59 | \$1,106.34 |
| 2004 | \$263.99 | \$1,055.96 |

AWW based on 26 weeks prior to date of injury.

Temporary Partial Disability paid at a rate of 2/3 of the difference between the AWW and the wage-earning capacity after the injury.

Permanent Partial Disability (PPD)

Always paid at TT rate

| | |
|-----------------------------|----------|
| Arm | 312 wks. |
| Leg | 288 wks. |
| Hand | 244 wks. |
| Foot | 205 wks. |
| Eye | 160 wks. |
| Thumb | 75 wks. |
| Hearing Loss (1 ear) | 52 wks. |
| Hearing Loss (2 ears) | 200 wks. |
| 1st finger | 46 wks. |
| 2nd finger | 30 wks. |
| 3rd finger | 25 wks. |
| 4th finger | 15 wks. |
| Great toe | 38 wks. |
| Other toes | 16 wks. |

Disfigurement is discretionary, up to \$7,500.

Max. Combined TPD & Sched PPD is 500 weeks

**(If PPD exceeds 20%, up to 167 additional weeks on reopen)
PPD for "Other Cases" requires permanent wage loss.**