TWO RIVERS LAW GROUP P.C.

Virginia Workers' Compensation Law

- as of July 1, 2026

www.tworiverslawgroup.com

Workers' Compensation Attorney Team

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Time Periods

Employer's First Report of Injury-FROI (§65.2-900) .....10 days from knowledge of accident
Waiting Period (§65.2-509)..... 7 days
Waiting Period Recoverable after Disability Exceeds (§65.2-509) 21 days
Notice to Employer (§65.2-600 (D)) ..... 30 days
Notice to Employee (§65.2-601.2).....30 Days after Order from Commission upon claim filed by claimant

Statutes of Limitation

File Initial Claim (§65.2-601) ..... 2 years
Toll of Statute of Limitations (§65.2-602) ..... Tolled until FROI is filed until last payment of disability or medical benefits more six months from date of injury
Change in Condition (§65.2-708)..... 2 years
Change in Condition (permanency claims) (§65.2-708)..... 3 years
TT or TP after PPD award ends (§65.2-501)..... 1 year

Compensable 'Injuries'

Injury by accident arising out of the course of employment, which includes acceleration or aggravation of pre-existing injury. (§65.2-101). Virginia has adopted the "actual risk test" which requires that the employment expose the worker to the particular danger, which causes the injury.

Compensable 'Diseases'

Occupational diseases are those arising out of the course of employment, but not an ordinary disease of life to which the general public is exposed. (§65.2-400). Examples of occupational diseases include asbestosis and pneumoconiosis.

Ordinary diseases of life are diseases to which the general public is exposed. These diseases are compensable only if the claimant can prove by *clear and convincing* evidence that disease arose out of the course of employment. (§65.2-401). Examples of ordinary diseases of life include carpal tunnel syndrome and hearing loss.

Medical Benefits

An employer/carrier must furnish medical treatment, causally related to the compensable accident, provided by the injured employee's treating physician for as long as necessary. The employee should choose his treating physician from a panel of at least three physicians provided by the employer. (§65.2-603)

Medical Examinations

So long as an employee claims compensation, the employer may request that the employee attend examinations by duly qualified physicians at reasonable times and places. The employee's refusal to comply with such examinations may suspend compensation rights until such refusal is cured. (§65.2-607)

Medical Records

When a hearing request is filed with the Commission, both parties shall exchange all medical records in their possession, and each party shall send to the Commission only those medical records in their possession that are pertinent to the request once the case is referred to the docket.

A medical care provider attending to an injured employee shall, upon request from an employer or an employee, furnish a copy of required reports, at no cost except for a nominal copying charge.

A medical care provider is entitled to a reasonable fee for preparation of a narrative report written in response to a request from a party if the report requires significant professional research or preparation.

Panel of Physicians

As soon as possible after the injury, an employee should be provided with a panel of physicians. Otherwise, the employee may seek treatment from the doctor of his choice. The panel must have at least three unaffiliated physicians. (§65.2-603)

Average Weekly Wage

The injured employee's actual wages during the 52-week period preceding the date of injury, divided by 52. If the injured employee worked less than 52 weeks, divide the total earned by the number of weeks worked. (§65.2-101). (Several exceptions to this formula.)

Death Benefits

If death results from the accident within nine years, the employer/carrier is responsible for compensation at 66 2/3% of the deceased employee's average weekly wage for a period not exceeding 500 weeks for total dependents or 400 weeks for partial dependents. The employer/carrier may also bear responsibility for burial expenses not exceeding $15,000.00 and the deceased's transportation expenses not exceeding $1,000.00. (§65.2-512)

Autopsy

In any case of death, the employer or the Commission may require an autopsy. The requesting party is responsible for expenses. (§65.2- 607)

Willful Misconduct

The employer/carrier can avoid payment of a claim if the injury resulted from the employee's willful misconduct. (§65.2-306). However, the employer/ carrier must provide written notice of intent to rely upon this defense at least 15 days prior to hearing. (Commission Rule 1.10)

Indemnity Benefits

Temporary Total Disability *(§65.2-500)*

When incapacity from work is total, the employer shall pay 66 2/3 % of average weekly wage (AWW) not below minimum and not to exceed maximum state rate. 500-week limitation (§65.2-518)

Temporary Partial Disability *(§65.2-502)*

When incapacity from work is partial, the employer shall pay 66 2/3% of the difference between the AWW before the injury and amount the claimant is able to earn after the injury. 500-week limitation (§65.2-518)

Permanent Partial Disability *(§65.2-503(B))*

Awarded for scheduled losses for the period specified at 66 2/3% of the AWW, payable after completion of temporary total disability benefits or simultaneously with temporary partial disability benefits. These payments are subject to the 500 week limitation and, if combined with temporary partial payments, each combined payment counts as two weeks of compensation. (§65.2- 518)

Permanent Total Disability *(§65.2-503(C))*

Awarded for loss of two scheduled members in the same accident, injury resulting in total paralysis, or brain injury rendering the employee permanently unemployable in gainful employment. Lifetime award without 500-week limitation.

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Fractional Weeks

One Day	14286
Two Days	28571
Three Days	42857
Four Days	57143
Five Days	71429
Six Days	85714

Maximum/Minimum Compensation

Effective July 1, 2026	$1,507.01/$376.75
Effective July 1, 2025	$1,463.10/$365.78
Effective July 1, 2024	$1,410.00/$352.50
Effective July 1, 2023	$1,343.00/$335.75
Effective July 1, 2022	$1,290.00/$322.50
Effective July 1, 2021	$1,195.00/$298.75
Effective July 1, 2020	$1,137.00/$284.25
Effective July 1, 2019	$1,102.00/$275.50
Effective July 1, 2018	$1,082.00/$270.50
Effective July 1, 2017	$1,043.00/$260.75
Effective July 1, 2016	$ 996.00/$249.00

Penalty for Late Payment of Compensation

The Commission imposes a 20% penalty of compensation paid more than two weeks after it becomes due after entry of an award. The penalty does not apply, however, until more than two weeks after the time expires to appeal an award to the full Commission, the Court of Appeals or Supreme Court. (§65.2-524)

Scheduled Injuries (§65.2-503)

Bodily Loss	Max. Weeks
Thumb	60
First Finger (index finger)	35
Second Finger	30
Third Finger	20
Fourth Finger	15
Great Toe	30
Any other toe	10
Hand	150
Arm	200
Foot	125
Leg	175
Eye (vision)	100
Hearing (one ear)	50
Severely marked disfigurement	60

For information on EDI filings & forms through WebFile visit:

http://www.vwc.state.va.us/webfile

Terminating Awards

After entry of an award by the Commission, the employer/carrier must take proactive steps to terminate that award. Initially, the carrier/employer should send a Termination of Wage Loss Award form to the claimant for signature. However, if the claimant will not comply, or the situation otherwise demands, the carrier/employer should immediately file an Employer's Application (Commission Rule 1.4; §65.2-708). The carrier/employer should take such action when:

a. The claimant returns to pre-injury work;

b. The claimant is released to return to pre-injury work by a treating physician;

c. The claimant returns to light duty work;

d. Medical records indicate that the claimant's continuing disability is unrelated to the work accident; must allege continuing disability is non-related;

e. The claimant fails to report to an employer-requested medical examination, or otherwise refuses to cooperate with medical treatment;

f. The claimant refuses selective employment (employer/carrier procured) within his or her physical capabilities;

g. The claimant refuses to cooperate with reasonable vocational rehabilitation efforts;

h. The claimant fails to report a change of address to the Commission (file to suspend benefits under the outstanding award);

i. The employer/carrier wants to request modification (and possibly a credit for overpayments made) of an outstanding award because it does not reflect the claimant's correct average weekly wage under §65.2-101;

j. The claimant fails to report a change as required by §65.2-712. These changes include incarceration, changes in earnings, remarriage, or changes in student status.

Home Modifications

Modification(s) of the employee's principal home and other medical equipment are not to exceed $55,000 annually. (Accidents prior to July 1, 2011 have a maximum of $25,000 or less). (§65.2-603)

Mileage

Effective **July 1, 2026**, the rate for mileage reimbursement for a claimant's travel to and from medical appointments is **$0.76** per mile.

Commission Information and Telephone Numbers

Virginia Workers' Compensation Commission, 333 E Franklin Street, Richmond, VA 23219-2213, Website: www.workcomp.virginia.gov

VWCC Richmond Offices:

Claims Services Department	(877) 664-2566	Fax:	(804) 823-6956
Clerk's Office	(804) 205-3569	Fax:	(804) 823-6957
ADR Department	(804) 205-3139	Fax:	(804) 823-6904

VWCC Regional Offices:

Fairfax	(703) 207-7152	Manassas	(703) 257-7994
Harrisonburg	(540) 433-7701	Bristol	(276) 889-7644
Roanoke	(540) 776-2700	Virginia Beach	(757) 648-7100