

Workers' Compensation – Employee Benefits

Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees or their survivors for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

In Washington, employers must provide workers' compensation coverage for all employees by either participating in a state-run insurance pool called the Washington State Fund (State Fund) or by becoming an authorized self-insurer.

The Washington Industrial Insurance Law (IIL) and state regulations establish the benefits that are available to employees or their survivors. The Washington Department of Labor and Industries ([L&I](#)) handles and pays all claims for employers that maintain coverage through the State Fund. If an employer is self-insured, the employer pays all benefits out of its own funds, but the L&I oversees the claim handling and enforces the IIL.

ELIGIBILITY

To be eligible for workers' compensation benefits, an employee must be covered under the IIL and sustain a compensable injury or occupational disease. An injury is compensable if it occurs while the employee is acting at the direction of the employer or in furtherance of the employer's business. The IIL does not require proof that the employee's actual work activities caused an injury. For a disease to be compensable, however, the condition must arise naturally and proximately out of the employee's particular employment.

MEDICAL BENEFITS

The State Fund and self-insured employers must pay all medical expenses related to an employee's work-related injury or disease, as long as the treating provider is part of the L&I's medical network. However, an employee's first medical treatment visit is covered regardless of whether the provider is part of the network.

Medical care benefits include, but are not limited to:

- Medical and surgical treatment and supplies;
- Medication;
- Crutches, artificial members and other reasonable and necessary apparatus, such as eyeglasses;
- Nursing services;
- Psychological services;
- Hospitalization; and
- Chiropractic services.

LOSS OR DAMAGE TO PERSONAL EFFECTS

Employees with compensable injuries may claim compensation for loss or damage to their personal clothing, shoes or protective equipment that results from a workplace accident or from emergency medical treatment for injuries.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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TIME-LOSS COMPENSATION

If an employee cannot return to work because of a work-related condition, he or she may be entitled to receive monetary payments called time-loss benefits (also referred to as wage replacement or disability benefits). These benefits are immune from taxes and wage assignments, with exceptions for child support and cases where an employee is incarcerated.

Waiting Period

Employees are not eligible to receive time-loss benefits for the date of an injury nor the **first three calendar days** of their disability. However, if a condition results in more than **14 days** of disability, benefits for the first three days must be paid retroactively. An employee's attempts to return to work do not break the continuity for the 14 days of disability.

Average Monthly Wages (AMW)

The L&I calculates an employee's time-loss benefit rates based on the average monthly wages (AMW) the employee earned as of the date of injury. For occupational diseases, the "date of injury" is the date the disease first required medical treatment or became totally or partially disabling, whichever is first. The AMW amount depends on several factors, including the employee's gross income from any and all jobs he or she held at the time of the injury. The calculation also includes the value of medical, dental and vision insurance plans and other benefits provided by the employer as part of the employee's income.

Monthly Benefit Rate Limits

Time-loss compensation rates are generally between 60 and 70 percent of the AMW, subject to minimum and maximum limits in effect on the date of injury. The L&I sets these limits based on the state's average monthly wage (SAMW), which is determined by the Washington Employee Security Department, from the year previous to a date of injury. New time-loss benefit rate limits become effective as of **July 1** each year.

The minimum monthly time-loss rate is 15 percent of the SAMW, plus \$10 if an employee is married and another \$10 for each of up to five of the employee's dependent children. For injuries occurring between July 1, 2016, and June 30, 2017, the applicable **minimum** monthly time-loss rate for an employee who is single with no children is **\$187.57**.

The maximum monthly time-loss benefit rate is 120 percent of the SAMW. For injuries occurring between July 1, 2016, and June 30, 2017, the applicable **maximum** benefit rate for an employee who is married and has five or more children is **\$5,627.29**.

Temporary Total Disability (TTD)

An employee who is unable to earn any wages while recovering from a work-related condition may be entitled to TTD benefits to compensate for the lost wages.

Monthly TTD benefits are **up to 75 percent** of the employee's AMW, depending on marital status and number of children. The rate is subject to the minimum and maximum described above. If an injured employee has children that are not in his or her custody as of the date of injury, the portion of TTD benefits payable for those children goes to the person who is actually providing the children's support.

Loss of Earning Power (LEP)

An employee is entitled to LEP benefits if:

- He or she is still recovering from a work-related injury;
- He or she is working at any employment; and
- His or her work-related condition has caused a loss of the ability to earn at least 95 percent of his or her pre-injury wages.

LEP benefits are **80 percent of the difference** between the employee's present wages and the employee's earning power at the time of injury.

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The sum total of monthly LEP compensation and earned wages is subject to a maximum of 150 percent of the SAMW. For injuries occurring between July 1, 2016, and June 30, 2017, the applicable **maximum** is **\$7,034.13** per month. In addition, the monthly LEP payment cannot be more than the employee's TTD rate.

Permanent Total Disability (PTD)

PTD benefits are available where a work-related injury causes an employee's:

- Loss of both legs;
- Loss of both arms;
- Loss of one leg and one arm;
- Total loss of eyesight;
- Paralysis; or
- Any other condition that permanently incapacitates the employee from any gainful occupation.

PTD benefits are payable for as long as the employee is permanently and totally disabled from work. The monthly PTD benefit rate and limits are the same as those for TTD. However, an employee who is entitled to PTD benefits must choose a pension option, which may reduce the amount of benefits that are directly payable to the employee. The pension options are designed to provide survivor benefits in case the permanently and totally disabled employee dies from causes unrelated to the work-related condition and leaves dependents behind.

PERMANENT PARTIAL DISABILITY (PPD) COMPENSATION

Regardless of ability to work, an employee is entitled to PPD benefits if a qualified medical provider indicates that:

- The employee's work-related condition has become fixed and stable (meaning that it cannot be further improved with medical treatment); and
- The work-related condition resulted in permanent loss, or loss of use, of a body part or the body as a whole.

The L&I makes all PPD determinations, except in some cases where an employee returns to work with a self-insured employer and earns at least 95 percent of his or her pre-injury wages. The L&I bases PPD determinations on opinions from network medical providers.

The IIL establishes PPD benefit amounts in a [PPD schedule](#). The schedule lists specific monetary values for:

- Amputations of certain body parts;
- Loss of vision;
- Loss of hearing; and
- Total bodily impairment.

The L&I adjusts the assigned monetary PPD values based on the consumer price index each year. An employee's date of injury determines the applicable adjusted amount.

If an employee's loss is to a body part that is not listed in the IIL, the monetary PPD value is based on either:

- The body part listed in the IIL that most closely resembles the body part lost; or
- Total bodily impairment.

When a medical provider determines that an employee's loss is not complete, the percentage of the loss (also called an impairment rating) is applied to the monetary amount that is assigned to the injured body

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part or to the total body in the PPD schedule. The L&I provides values for certain specific functional losses that are not in the PPD schedule.

Once the L&I makes the PPD determination and determines the monetary value, the PPD compensation is payable to the employee in one lump sum. However, if the PPD amount is more than three times the SAMW, it is payable in monthly increments based on the employee's TTD rate.

DEATH AND BURIAL BENEFITS

If a work-related condition results in an employee's death, the employer must pay burial expenses of up to 200 percent of the SAMW. For deaths that occur on or after July 1, 2016, the maximum burial expense amount is **\$9,378.83**.

Monthly payments called pension benefits are also available to certain survivors. Pension benefits are paid at a rate of **up to 70 percent** of the deceased employee's AMW, depending on whether the deceased employee was married on the date of the injury that caused the death and on whether he or she had any dependent children at the time of death. Pension benefit rates are subject to the minimum and maximums limits that are described above for time-loss benefits.

In addition to monthly death benefit payments, certain survivors are entitled to share in a lump sum that is equal to 100 percent of the SAMW. For deaths that occur on or after July 1, 2016, the payable lump sum is **\$4,689.42**.

MORE INFORMATION

Contact Touchstone Consulting Group or visit the L&I's [website](#) for more information on workers' compensation laws in Washington.