

Maryland Workers' Compensation Overview Quick Guide

FRANKLIN & PROKOPIK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

Time Periods for Filing:

Employer's First Report:	As soon as ER receives Notice of injury.
Waiting Period for Temporary Total Disability (TTD):	3 days.
Filing a claim (generally):	60 days.
Filing for dependency benefits:	18 months from date of death.

Statute of Limitations:

File Initial Claim:	2 Years.
Reopening due to Worsening of Cond:	5 Years.
(From date of last compensation paid)	
Appeal from Workers' Compensation Commission (WCC) Award:	30 days.

Employee Claim Form:

Claimant must file an Employee Claim Form (ECF) before benefits can be paid. The claimant has two (2) years from date of injury to file same.

Contesting Claim:

To contest the claim, C-40 Form must be returned to the WCC by the consideration date, which is in the upper right hand corner of this form. Failure to file issues prior to the consideration date will result in the claim being found compensable.

Statistical Award:

If a claim is not contested, an Award reflecting the AWW is issued. A party wishing to contest the accuracy of the AWW must file a Document Correction within sixty (60) days of the award. The AWW is set at the date of the first hearing.

Forms:

See www.wcc.state.md.us for available forms.

Hearing:

A hearing, on all outstanding issues before a Commissioner, is an informal one, however, all witnesses are sworn in and testimony is transcribed. At least three business days before the hearing, parties must exchange medical records that were not previously produced to the other party. No other discovery (e.g. depositions) is permitted at the administrative level.

Order:

A form order awarding/denying benefits is issued within 3-4 weeks of the hearing. No opinions (e.g. explanation for ruling) are issued. Any benefits awarded must be paid within fifteen (15) days of the award to avoid penalties.

Appeal:

Any party dissatisfied with the Award may file an appeal to the Circuit Court. An appeal will generally allow for a new trial on all issues raised at the Commission. However, the Commission's decision is presumed to be correct and the appealing party has the burden to show the decision was incorrect (§ 9-737). An appeal is not a stay of an order; compensation ordered to the claimant must be paid regardless of appeal. (§ 9-741) If the employer/insurer prevails on appeal, they are not entitled to reimbursement for benefits

previously paid.

Terminating Indemnity Benefits:

Termination of benefits is proper, including, but not limited to, when claimant is at maximum medical improvement (MMI), has returned to work, or has failed to comply with medical treatment/voc. rehab. Written notice to claimant required when: a) claimant begins working for new employer; b) no medical evidence supports continued payment (e.g. lack of disability slips); c) claimant fails to appear for an employer/insurer IME; d) a doctor other than claimant's own treating physician has found MMI; or e) when termination of benefits is otherwise supported by law.

To comply with written notice requirement, employer/insurer must: a) send claimant a completed Insurer's Termination of TTD Benefits Form ("C-6"), and b) send a copy of the C-6 to opposing counsel and the Commission.

Terminating Medical Benefits:

Employer/insurer must always notify (in writing): a) claimant, and (b) claimant's treating physician or the health care provider of the date the medical benefits will be terminated. The employer/insurer must also file a copy of the notification with the Commission. Written notice must include: a) the reasons for terminating medical benefits; b) a statement that claimant has the right to request a hearing before the Commission on the issue of termination; and c) be supported by a medical record or report attached to the notice.

Accidental Injury (AI):

Benefits are to be paid for accidental personal injuries arising out of and in the course of employment. (§ 9-501). If an AI aggravates an underlying condition, all resulting lost time and treatment is compensable, though apportionment may be claimed for permanency.

Occupational Disease (OD):

Claims involving some ailment, disorder, or illness which is the expected result of working under conditions naturally inherent in the employment and inseparable therefrom and which is ordinarily slow and insidious in approach and from which the claimant has a "disablement" (i.e. the claimant has become partially or totally disabled). (§ 9-502)

Hernias:

A hernia that is caused by an accident or strain arising out of and in the course of employment is generally compensable if the hernia did not exist before the AI or strain occurred and proper notice is provided. (§ 9-504)

Compensation Prohibited:

Claimant is not entitled to benefits if the accidental injury or occupational disease or hernia is self-inflicted, solely caused by the effect of taking drugs or intoxication, or willful misconduct. (§ 9-506).

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. Employee may, however, sue individual co-employees.

Intentional Acts By Third Parties:

It is only necessary for the employee to show that the incident arose “in the course of” the employment, even if the incident had no relationship to (i.e.did not “arise out of”) the employment.

Subsequent Injury Fund (SIF):

The SIF must pay the pre-existing portion of a permanency award only when there are at least 125 weeks of benefits attributable to the subject injury, and at least 125 weeks from pre-existing impairment (work-related or not). Their payments begin when the employer's payments end.

Stipulations:

Stipulations for Permanent Partial Disability (PPD) must be approved by the WCC. 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 WCC.

Average Weekly Wage (AWW):

The AWW is calculated based upon the 14 weeks of gross wages prior to the accidental injury/date of disablement of the occupational disease. Stacking of wages from other jobs is not allowed.

Medical Benefits:

The employer/insurer must provide reasonable 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 a treating physician.

Indemnity Benefits:

Temporary Total Disability (TTD): Paid at 2/3 the AWW not to exceed the State Maximum or go below minimum (See chart). Employee must lose 14 days before recovering benefits for the first three days.

Temporary Partial Disability (TPD): 50% of the difference between the AWW & present wage earning capacity not to exceed 1/2 state AWW (TTD rate).

Permanent Partial Disability (PPD): Awarded for permanent disability (See chart).

Permanent Total Disability: Awarded for “incapacity to do further work of any kind for which a reasonable market exists”.

Death Benefits/Dependency:

The amount of benefits paid to the dependents of a deceased employee cannot exceed the State average weekly wage or two-thirds of the employee's actual income. Benefits depend on several factors, including the pro-rata share of household income the deceased person contributed. In general, surviving dependent spouses and children receive their calculated benefits for at least 5 years and up to twelve years (624 weeks). Benefits terminate on the date the deceased would have turned 70. Surviving spouses may collect benefits for two years after the date of remarriage. Dependents with a disability that predates the death of the deceased are paid benefits for the duration of the disability. Children are paid benefits until they reach 18

Vocational Rehabilitation:

If claimant is medically unable to return to pre-injury employment, he/she may be entitled to vocational rehabilitation (job placement/retraining) benefits to be returned to “suitable gainful employment”. Claimant is paid TTD rate while participating in vocational rehabilitation.

WORKERS' COMPENSATION BENEFITS

Temporary Total, Permanent Total, Voc. Rehab.: 2/3 of Claimant's AWW, not to exceed the state AWW:

2021 - \$1,050.00	2018 - \$1,094.00	2015 - \$1005.00
2020 - \$1080.00	2017 - \$1052.00	2014 - \$996.00
2019 - \$1,116.00	2016 - \$1,027.00	2013 - \$990.00

Temporary Partial=50% of the difference b/w AWW & present wage earning capacity not to exceed 1/2 state AWW (TTD rate).
Permanent Partial Disability (PPD)

<75 weeks ("minor") = 1/3 AWW
(N/A fingers, great toe, public safety employees)

75-249 weeks = 2/3 AWW ≤ 1/3 SAWW
250+ weeks = 2/3 AWW ≤ 75% SAWW
"Serious disability" - increase no. wks. by 1/3

MAXIMUM PERMANENCY RATES

	<75 wks.	75-249 wks.	250+ wks.
2021	\$176.00	\$350.00	\$788.00
2020	\$181.00	\$360.00	\$810.00
2019	\$187.00	\$372.00	\$837.00
2018	\$183.00	\$365.00	\$821.00
2017	\$176.00	\$351.00	\$789.00
2016	\$172.00	\$343.00	\$771.00
2015	\$168.00	\$335.00	\$754.00
2014	\$167.00	\$333.00	\$749.00

Arm/leg	300 wks.
Foot, hand, eye, hearing (two ears)	250 wks.
Great toe, index finger	40 wks.
Other toes	10 wks.
Hearing (one ear)	125 wks.
Thumb	100 wks.
Middle finger	35 wks.
Ring finger	30 wks.
Little finger	25 wks.
Other cases ("industrial loss")	500 wks.
Disfigurement	156 wks.

Copyright ©12/2020 Franklin & Prokopik, P.C. This Franklin & Prokopik document contains information of general interest to the public and does not constitute legal advice. No claims, promises or guarantees about the accuracy, completeness, or adequacy of the information contained in this document are made. The receipt of this information does not create an attorney-client relationship. As legal advice must be tailored to the specific circumstances of each case, and laws are constantly changing, nothing provided herein should be used as a substitute for the advice of competent counsel.