

MINNESOTA WORKERS' COMPENSATION REFERENCE SHEET



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A. Types of Injuries Triggering Liability

Specific Injury (M.S. 176.021): EE's injury results from a single/specific event

Gillette Injury: EE's injury results from repetitive trauma

Occupational Diseases (M.S. 176.011, subd. 15(a)): Disease arising out of and in the course of employment peculiar to occupation (conditions of employment). This now includes a rebuttable presumption for PTSD for claims after 1/1/2019.

Consequential Injuries: Subsequent injuries or disabilities that are a direct and natural consequences of a previous compensable injury

Idiopathic Injuries: Condition which results from a preexisting or underlying infirmity or disease personal to employee (i.e. epileptic seizures, fainting spells, and non-occupational heart conditions); conditions themselves are *not* compensable, but results of injury from fall due to condition are compensable if the employment placed the employee in a position increasing the risk of harm

Psychological/Mental Injuries: Compensation allowed for cases in which mental stimulus produces a physical injury, or where physical stimulus produces mental injury; but not for mental injury caused by mental stimulus

B. Common Defenses

Arise Out Of: Did not arise out of the employment; no increased risk for legal causation test (See *Dykhoff v. Xcel Energy*, 840 N.W.2d 821 (Minn. 2013))

In the Course Of: Injury did not take place within the period, place, time, or scope of employment (i.e. some traveling employees or injuries caused by prohibited act)

Substantial Contributing Factor: If employee has pre-existing condition, he/she must prove work injury was a substantial contributing factor to the cause, aggravation, or acceleration of the condition ("take employees as you find them")

Late Notice: see "C. Reporting Deadlines"

Fraud: If an employee falsely represents a physical condition or health at the time of hire, the injury may not be compensable pursuant to the three-part test *See Jewison v. Frederichs Construction*, 434 N.W.2d 259 (Minn. 1989):

Statute of Limitations (M.S. 176.151): An employee must file a claim for benefits within 3 years after the filing of a First Report of Injury; OR if no FROI is filed, the Employee must file a claim for a work injury within 6 years after the date of injury

Defenses to Wage Loss Only: terminated for misconduct, withdrawal from labor market, inadequate job search, refusal of job offer, 90 days post MMI,

C. Reporting Deadlines

Employee Notice of Injury (M.S. 176.141)

- *1-14 days:* Employer must have actual knowledge of injury or receive written notice before compensation will be due
- *14-30 days:* Employer may show prejudice to affect compensation
- *30-180 days:* If employer is prejudiced and employee offers no excuse, compensation may be affected to the extent of the prejudice
- *180+ days:* No compensation allowed unless employee unable to give notice due to mental or physical incapacity or if employer engaged in fraud

Employer/Insurer Deadlines to Report Injury

- If employee's disability extends more than 3-day waiting period, Employer must report w/in 10 days to Insurer; Insurer must report to DOLI w/in 14 days. Employer must report to Insurer w/in 48 hours if serious/death

D. Payment/Filing Deadlines

TTD (M.R. 5220.2540, subp. 1) = Within 14 days of notice, and on dates Employee would have received regular wages

TPD (M.R. 5220.2540, subp. 1) = Within 10 days of Employee sending in paystub
Denial of Liability (M.S. 176.221)

- Filed within 14 days, if liability accepted can later deny with amended NOPLD within 60 days of injury notice

Awards/Orders (M.S. 176.221, subd. 8) = Paid within 14 days of filing

Medical Bills (M.R. 5221.0600, subp. 3) = No later than 30 days after receipt of bill, unless denial or request for more information sent in writing

Appeal of Administrative Decisions (M.S. 176.239 and 176.106)

- Discontinuance within 60 days after .239 decision
- Request for Formal Hearing within 30 days of medical/rehab decision

Answer to Claim Petition (M.S. 176.321) = 20 days from service

Med/Rehab Response (M.R. 5220.2620, subp. 3)

- 20 days from service of Med Request; 10 days from service of Rehab Request



E. Calculation of Indemnity Benefits

Average Weekly Wage (M.S. 176.011, subd. 1.b.)

- Daily wage (total earnings in preceding 26 weeks ÷ days actually worked) multiplied by number of days normally worked in a week

Temporary Total Disability (M.S. 176.101, subd. 1)

- Exists if an injury “totally incapacitates the employee from working at an occupation which brings the employee an income.” See *Shulte v. C.H. Peterson Constr. Co.*, 153 N.W.2d 130 (Minn. 1967)
 - Compensation = 2/3 of AWW, subject to max and min rates
 - Cap = 130 weeks

Temporary Partial Disability (M.S. 176.101, subd. 2)

- Not statutorily defined; 4 elements in case law = 1) work-related injury resulting in disability, 2) the loss of earning capacity must be causally related to the work-related disability, 3) EE must be able to work subject to the disability, and 4) actual loss of earning capacity
 - Compensation = 2/3 of difference between AWW and wage EE is able to earn in temporarily partially disabled condition
 - Cap = 275 weeks for injuries on or after 10/1/2018; 225 weeks for injuries prior to that date; or 450 weeks after DOI

Permanent Partial Disability (M.S. 176.101, subd. 2a)

- Intended to compensate for permanent loss or impairment of a bodily function, not dependent on wage loss or ability to work
 - Compensation = statutory schedule, based on disability rating

Permanent Total Disability (M.S. 176.101, subd. 4)

- Injury before 10/1/1995 = statutorily defined: loss of eye sight, arms, legs, paralysis, loss of mental facilities; or *Schulte* definition: physical disability in combination with EE’s age, education, training causes EE to secure nothing more than sporadic employment and insubstantial income (codified in 1992 under Minn. Stat. 176.101, subd. 5)
- Injury on or After 10/1/1995 = Added thresholds to prove permanent total disability: 1) EE has 17% permanent partial disability rating, 2) EE has rating of 15% and EE is 50 years old at time of injury, 3) EE has rating of 13% and EE is 55 years old at time of injury

- Compensation = paid during period of PTD but after a total of \$25,000 of weekly compensation, amount of benefits reduced by disability benefits paid by government disability (i.e. SSDI)
- Retirement Presumption = Age 72 for injuries on or after 10/1/2018; age 67 for DOI 10/1/1995 – 9/30/2018.

F. Significant Dates of Legislative Changes

- 8/1/1975** TTD unlimited
- 10/1/1975** M.S. 176.645 becomes effective for adjustment of benefits (for DOI after 10/1/75)
- 10/1/1977** TPD unlimited
- 1/1/1984** TTD unlimited 90 days after MMI or retraining
- 6/30/1992** Second injury fund reimbursement repealed for injuries after is date
- 7/1/1992** Attorney fee maximum raised from \$6,500 to \$13,000
- 10/1/1992** For DOI on and after, apply COLA on 2nd anniversary
No TPD after 225 weeks paid or after 450 weeks from DOI, whichever comes first
- 10/1/1995** Major benefit overhaul
- 4/28/2000** Minimum amount of dependency compensation is increased to \$60,000
Payment increased to \$60,000 to estate death w/ no dependents
- 10/1/2000** New PPD schedule
Retraining filing limitation increased from 104 to 156 weeks
- 8/1/2002** Intervention rights extinguished for failure to timely intervene
- 10/1/2008** Maximum compensation rate increased to \$850
TTD cap increased from 104 to 130 weeks
Retraining filing required increased from 156 weeks 208 weeks
- 10/1/2013** Maximum compensation rate increased to 102% of State AWW
PTSD now presumed occupational disease in some cases, TPD cap increases to 275 weeks, retirement presumption increases to 72 for PTD for DOI on or after 10/1/2018, PPD rates increase (See G.)
- 10/1/2018**



G. 2018 Legislative Changes

PTSD Presumed to be Occupational Disease for Some Occupations

- This change is set to take effect for injuries on or after January 1, 2019.
- Occupations affected: license police officer, firefighter, paramedic, emergency medical technician, licenses nurse licensed nurse employed to provide emergency medical services outside of a medical facility; public safety dispatcher; officers employed by the state or a political subdivision at a corrections, detention, or secure treatment facility; sheriff or full-time deputy sheriff; or member of the MN State Patrol.
- Presumption is rebuttable by Employer and Insurer with “substantial factors.” These are not defined by statute.

Benefit Changes Effective for Injuries occurring on or after 10/1/2018

- The 225-week cap on TPD benefits increases to 275 weeks
- The dollar values in the PPD schedules increase by 5%. (See J.)
- PTD retirement presumption increases to age 72. If an employee is injured after age 67, Employee can still be eligible for PTD benefits for five years (i.e. Employee injured when 70, can receive PTD benefits until age 75).
 - Presumption remains age 67 for DOI 10/1/1995 – 9/30/2018

Medical Fee Schedule Changes

- These changes are to be effective for *services* rendered on or after October 1, 2018
 - Hospitals with fewer than 100 beds will be subject to the fee schedule, but will have a separate conversion factor from hospitals with more than 100 beds.
 - Payment for covered surgical procedures and ancillary services at ambulatory surgical centers (ASC) is the lesser of the usual and customary charge of the ASC or the Medicare ambulatory surgical center payment multiplied by 3.2.
 - A new hospital outpatient fee schedule and conversion factors are required are established by the DOLI Commissioner for services on or after October 1, 2018.

H. Compensation Rates

Date	Maximum	Minimum
10/1/1977	\$197.00	\$98.50 / \$39.40
10/1/1978	\$209.00	\$104.50 / \$41.80
10/1/1979	\$226.00	\$113.00 / \$45.20
10/1/1980	\$244.00	\$122.00 / \$48.80
10/1/1981	\$267.00	\$133.50 / \$53.40
10/1/1982	\$290.00	\$145.00 / \$58.00
10/1/1983	\$313.00	\$156.50 / \$62.60
10/1/1984	\$329.00	\$164.50 / \$65.80
10/1/1985	\$342.00	\$171.00 / \$68.40
10/1/1986	\$360.00	\$180.00 / \$71.00
10/1/1987	\$376.00	\$188.00 / \$75.20
10/1/1988	\$391.00	\$195.50 / \$78.20
10/1/1989	\$413.00	\$206.50 / \$82.60
10/1/1990	\$428.00	\$214.00 / \$85.60
10/1/1991	\$443.00	\$221.50 / \$88.60
10/1/1992	Maximum changed to 105% of SAWW. Minimum changed to 20% of SAWW or actual wage, whichever is less.	
10/1/1992	\$481.00	\$91.80
10/1/1993	\$508.20	\$96.80
10/1/1994	\$516.60	\$98.40
10/1/1995	Minimum is amount below or actual wage, whichever is less. For PTD claims Minimum of 65% of SAWW	
10/1/95-9/30/00	\$615.00	\$104.00
10/1/00-9/30/08	\$750.00	\$130.00
10/1/08-9/30/13	\$850.00	\$130.00
10/1/2013	Maximum changed to 102% of SAWW	
10/1/2013	\$963.90	\$130.00
10/1/2014	\$980.22	\$130.00
10/1/2015	\$1,008.78	\$130.00
10/1/2016	\$1,046.52	\$130.00
10/1/2017	\$1,061.82	\$130.00
10/1/2018	\$1,098.54	\$130.00
10/1/2019	\$1,134.24	\$130.00



J. Permanent Partial Disability Payment Schedules

I. Adjustment of Benefits Under M.S. 176.645

	DOI before 10/1/1992	DOI 10/1/1992 - 9/30/1995	DOI 10/1/1995- 9/30/2013	DOI on or after 10/1/2013
10/1/1992	3.61%	-	-	-
10/1/1993	5.45%	-	-	-
10/1/1994	1.65%	1.65%	-	-
10/1/1995	2.64%	2.64%	-	-
10/1/1996	3.76%	3.76%	-	-
10/1/1997	5.53%	4.00%	-	-
10/1/1998	4.70%	4.00%	-	-
10/1/1999	6.00%	4.00%	2.00%	-
10/1/2000	4.39%	4.00%	2.00%	-
10/1/2001	5.92%	4.00%	2.00%	-
10/1/2002	3.24%	3.24%	2.00%	-
10/1/2003	2.28%	2.28%	2.00%	-
10/1/2004	3.06%	3.06%	2.00%	-
10/1/2005	4.59%	4.00%	2.00%	-
10/1/2006	1.03%	1.03%	1.03%	-
10/1/2007	3.32%	3.32%	2.00%	-
10/1/2008	5.20%	4.00%	2.00%	-
10/1/2009	3.29%	3.29%	2.00%	-
10/1/2010	-1.14%	-1.14%	-1.14%	-
10/1/2011	3.23%	3.23%	2.00%	-
10/1/2012	2.23%	2.23%	2.00%	-
10/1/2013	3.17%	3.17%	2.00%	-
10/1/2014	1.69%	1.69%	1.69%	-
10/1/2015	2.91%	2.91%	2.00%	-
10/1/2016	3.74%	3.74%	2.00%	3.00%
10/1/2017	1.46%	1.46%	1.46%	1.46%
10/1/2018	3.46%	3.46%	2.00%	3.00%
10/1/2019	3.25%	3.25%	2.00%	3.00%

(Effective for DOI between 10/1/1995 - 9/30/2000)			
% Disability	Amount	% Disability	Amount
0-25	\$75,000	61-65	\$160,000
26-30	\$80,000	66-70	\$180,000
31-35	\$85,000	71-75	\$200,000
36-40	\$90,000	76-80	\$240,000
41-45	\$95,000	81-85	\$280,000
46-50	\$100,000	86-90	\$320,000
51-55	\$120,000	91-95	\$360,000
56-60	\$140,000	96-100	\$400,000

% Disability	Amount (DOI between 10/1/2000 – 9/30/2018)	Amount (DOI on or after 10/1/2018)	% Disability	Amount (DOI between 10/1/2000 – 9/30/2018)	Amount (DOI on or after 10/1/2018)
> 5.5	\$75,000	\$78,800	50.5 - 55.4	\$165,000	\$173,300
5.5 - 10.4	\$80,000	\$84,000	55.5 - 60.4	\$190,000	\$199,500
10.5 - 15.4	\$85,000	\$89,300	60.5 - 65.4	\$215,000	\$225,800
15.5 - 20.4	\$90,000	\$94,500	65.5 - 70.4	\$240,000	\$252,000
20.5 - 25.4	\$95,000	\$99,800	70.5 - 75.4	\$265,000	\$278,300
25.5 - 30.4	\$100,000	\$105,000	75.5 - 80.4	\$315,000	\$330,800
30.5 - 35.4	\$110,000	\$115,500	80.5 - 85.4	\$365,000	\$383,300
35.5 - 40.4	\$120,000	\$126,000	85.5 - 90.4	\$414,000	\$435,800
40.5 - 45.4	\$130,000	\$136,500	90.5 - 95.4	\$465,000	\$488,300
45.5 - 50.4	\$140,000	\$147,000	95.5 - 100	\$515,000	\$540,800



K. Supplementary Benefit/Minimum PTD 65% SAWW

Date	Amount	Date	Amount
10/1/1984	\$214.00	10/1/2002	\$457.00
10/1/1985	\$223.00	10/1/2003	\$467.00
10/1/1986	\$234.00	10/1/2004	\$481.00
10/1/1987	\$245.00	10/1/2005	\$504.00
10/1/1988	\$255.00	10/1/2006	\$509.00
10/1/1989	\$269.00	10/1/2007	\$526.00
10/1/1990	\$249.00	10/1/2008	\$553.00
10/1/1991	\$288.00	10/1/2009	\$571.00
10/1/1992	\$299.00	10/1/2010	\$565.00
10/1/1993	\$315.00	10/1/2011	\$583.00
10/1/1994	\$320.00	10/1/2012	\$596.00
10/1/1995	Repealed for injuries on/after	10/1/2013	\$615.00
10/1/1995	\$329.00	10/1/2014	\$625.00
10/1/1996	\$341.00	10/1/2015	\$643.00
10/1/1997	\$360.00	10/1/2016	\$667.00
10/1/1998	\$377.00	10/1/2017	\$677.00
10/1/1999	\$400.00	10/1/2018	\$701.00
10/1/2000	\$418.00	10/1/2019	\$723.00
10/1/2001	\$442.00	*Minimum PTD is rounded up for supplementary benefit	

Interest on Benefits for Periodic Payments (www.wcra.biz)

$$\frac{N(N-1)}{2} (\text{Comp. Rate} \times \text{Interest Rate}) = \text{Periodic Interest Owing}$$

N=Number of weeks during payment period

L. Settlements/Stipulations (M.S. 176.521 and M.R. 1420.2050)

Stipulation: A valid agreement must be executed in writing in accordance with the requirements set forth under M.R. 1420.2050, subp. 1. Parties may stipulate to an award and it must be approved by a judge. A stipulation must be filed within 45 days of the date the parties reach an agreement.

Settlement: Generally four types of settlements are used (“to-date,” limited future closeout, partial settlement, and full final complete). Appeals Court may set aside award pursuant to M.S. 176.521 for cause.

M. Third Party Action (M.S. 176.061)

Employer or Insurer has right to recover payments made to injured Employee, regarded as right of subrogation. Employee has right to pursue tortfeasor who is stranger to Employee-Employer relationship. The interaction between the workers’ compensation benefits system and common law remedies of an injured worker has become increasingly complicated.

N. Special Compensation Fund (176.129)

The Special Compensation Fund’s chief function is to reimburse a second injury claim as a mechanism to encourage an Employer to rehire an Employee with a significant disability by limiting that Employer’s later liability for reinjury. Also, it makes workers’ compensation payments to injured workers whose Employers did not have workers’ compensation insurance at the time of the injury.

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