

OHIO WORKERS' COMPENSATION LAW

ADMINISTRATIVE: The Ohio Revised Code created statutory benefits for workers who are injured, diseased, or killed while in the course of and arising out of the claimant's employment. In Ohio, employers are either "self-insured" or "state funded." Self-insured employers administer their own claims, pay compensation directly to the claimant and directly authorize/review medical treatment issues. State funded employer claims are administered by the Ohio Bureau of Workers' Compensation. If there is a contested issue in a claim, regardless of whether the employer is state funded or self-insured, the contested issue is heard by a hearing officer of the Ohio Industrial Commission. Once the Industrial Commission has rendered a final decision the losing party may, in certain circumstances, choose to appeal the Industrial Commission's decision to the Court of Common Pleas, pursuant to O.R.C. 4123.512.



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Average Weekly Wage. This is referred to as the "Average Weekly Wage Rate."

PERMANENT PARTIAL DISABILITY ("PPD"): A PPD award is designed to be a "general damages" type of award, compensating the claimant for loss of physical or mental function. Once the application is filed, a state doctor will examine and assess the impairment rating for the allowed conditions in the claim. Once the exam is complete, the BWC in turn issues a Tentative Order reflecting the impairment rating. If either the claimant or the employer disagrees with the BWC Tentative Order, the disagreeing party may file an Objection to the Tentative Order and submit additional medical evidence to support a lower/higher impairment rating. If an Objection is filed, the issue of PPD will be scheduled for an administrative hearing. In claims arising before June 30, 2006, the claimant is eligible to file an application for a Permanent Partial Disability award ("PPD") award 40 weeks after either the date of injury or the last date of payment of TTD or wage loss, whichever is later. In claims arising after June 30, 2006 a claimant is eligible to file an application for a PPD award 26 weeks after either the date of injury or date of last payment of TTD or wage loss whichever is later.

CALCULATION OF A PERMANENT PARTIAL DISABILITY AWARD: PPD is calculated by multiplying the impairment rating assessed in the medical report findings by two. That number is then multiplied by an amount equal to two-thirds of the AWW, up to a maximum amount for the year of the injury. Example: Worker was injured in 2019 and has an AWW of \$600 (2/3 would equal \$400). The maximum weekly award for a PPD for a 2019 equals \$316.67, so based on the AWW the claimant qualifies for payment at the maximum amount. The BWC issued a Tentative Order awarding a 5% impairment rating. The C92 award would be calculated as follows: 5% x 2=10. 10 x \$316.67= \$3,166.70. The total PPD award would equal \$3,166.70.

Applications for an increase in a prior PPD award (referred to as a "C92-A Application") may be filed when substantial evidence of new and changed conditions occurred after the last PPD award. The formula for calculating a C92-A is the same as the formula used to calculate a PPD award.

PAYMENT OF BENEFITS: Temporary total disability benefits ("TTD") are payable if the employee, or claimant, is unable to work for more than 7 days due to the work injury. If the claimant misses 7 days of work or less, TTD is not payable. If the claimant misses 8-14 days (with the first 8 days being continuous) then subtract the first 7 days from the payment of TTD. If the claimant misses more than 15 days of work, then the claimant receives TTD for the entire period off work including the first 7 days missed.

FULL WEEKLY WAGE: The Full Weekly Wage ("FWW") is calculated by adding the gross wages (including overtime) earned for the 6 week period prior to the injury divided by six, or by adding gross wages (excluding overtime) earned during the 7 day period prior to the date of injury or diagnosis, whichever is higher. If the claimant worked less than 7 days before the date of the injury or diagnosis, the FWW will be set at the claimant's hourly rate times the number of hours the claimant was scheduled to work the week of the injury or diagnosis.

AVERAGE WEEKLY WAGE: For most claimants the Average Weekly Wage ("AWW") is calculated by adding the claimant's total gross earnings (from all employers) during the year prior to the injury or diagnosis then dividing that total by 52 weeks. Earnings may include "in kind" payments such as food, lodging, and a company car. Periods of unemployment may be excluded if it is determined that the unemployment was "beyond the control" of the claimant. Unemployment due to sickness, strike, industrial depression, or lockout are specifically excluded by statute and are deemed to be "beyond the control" of the claimant.

CALCULATION OF TEMPORARY TOTAL DISABILITY RATE: For the first 12 weeks of work that the claimant misses, TTD is paid at a rate equal to 72% of the Full Weekly Wage. This is referred to as the "Full Weekly Wage Rate." The 13th week of TTD is paid at a rate equal to two-thirds of the

WAGE LOSS: Wage Loss ("WL") is intended to compensate the claimant for the inability to secure comparably paying work, regardless of the employer. Wage Loss can be paid to both working and non-working claimants who have been unable to find similar, comparably paying work to the type of work that they were performing at the time of injury. Unless the claimant returns to light duty work with the same employer, the claimant must apply for wage loss benefits. The claimant has the burden of establishing entitlement to wage loss benefits. There may be employer defenses available to prevent the payment of wage loss benefits. In claims after May 15, 1997, Wage Loss benefits are generally calculated using the AWW at the time of the injury, and subtracting the claimant's current earnings from the AWW, then multiplying that amount by 2/3, payable for up to 200 weeks. In claims arising before August 25, 2006, claimants may collect 200 combined weeks of working wage loss and non-working wage loss. There was also a "loophole" where claimants could receive 200 weeks of living maintenance wage loss and then another 200 weeks of working wage loss/non-working wage loss for 400 total weeks. In claims arising on or after August 25, 2006, claimants may collect 200 weeks of working wage loss, but may only collect 52 weeks of non-working wage loss compensation. In claims arising on or after August 25, 2006, the total number of weeks that the claimant may receive any wage loss compensation is 226 weeks.

PERMANENT TOTAL DISABILITY: Permanent Total Disability ("PTD") is defined as the

"inability to perform sustained remunerative employment due to the allowed conditions in the claim for an indefinite period of time. This benefit is reserved for the most severely disabled workers and should be allowed only when there is no possibility for re-employment. When awarded, PTD benefits are generally paid at the AWW Rate, until the death of the claimant.

LIMITATIONS OF ACTIONS: In claims involving physical injuries, claimants must file an Application for Benefits within one year from the date of injury or death. In claims involving an occupational disease the claimant must file an application for benefits within one year from either: the date on which the claimant first became aware (through medical diagnosis) that he was suffering from such an occupational disease, or the date on which the claimant first received medical treatment for the occupational disease, or the date the claimant became disabled due to the occupational disease, whichever is **later**. All applications for additional awards due to the Violation of a Specific Safety Requirement ("VSSRs") must be filed within one year from the date of injury, death, or occupational disease.

Once allowed, medical only and lost time claims arising on or after July 1, 2020 will remain statutorily active for 5 years from the date of the last medical service being rendered or the date of the last payment of compensation in the claim. Claims arising from August 25, 2006 until June 30, 2020 will remain open 5 years from either the date of injury, or the date of the last payment of compensation or

medical benefits, whichever is later. In claims arising from December 11, 1967 until August 24, 2006, medical only claims will remain open for 6 years from either the date of injury or the date of the last payment of medical treatment, whichever is later. For lost time claims arising from December 11, 1967 until August 24, 2006, the claim will remain open 10 years from the date of last compensation or medical bill payment, whichever is later.

CONTINUING JURISDICTION: The Industrial Commission has continuing jurisdiction to modify prior findings or final orders where justified but will do so only in very specific situations. These situations include modifications due to new and changed circumstances; mistake of fact; mistake of law; fraud; and clerical error. The Industrial commission may exercise its power of continuing jurisdiction upon a motion filed by a party to the claim or upon its own action. There is no statute of limitations within which to invoke the continuing jurisdiction of the Industrial Commission.

If you have additional questions, please contact one of our attorneys from the Ohio Workers' Compensation Group.

Compensation Rates: 2015-2021

Year Covered	TT and LM without SSR Maximum	TT Minimum	PT Maximum without SSD	Death Benefit Maximum	Death Benefit Minimum
2021	\$1,019	\$339.67	\$1,019	\$1,019	\$509.50
2020	\$980	\$326.67	\$980	\$980	\$490
2019	\$950	\$316.67	\$950	\$950	\$475
2018	\$932	\$310.67	\$932	\$932	\$466
2017	\$902	\$300.67	\$902	\$902	\$451
2016	\$885	\$295	\$885	\$885	\$442.50
2015	\$862	\$287.33	\$862	\$862	\$431

Permanent Partial: Schedule B Award

	Weeks
Thumb	60
Index Finger	35
Third Finger	30
Fourth Finger	20
Little Finger	15
Loss of Metacarpal	10
Hand	175
Arm	225
Great Toe	30
Other Toe	10
Foot	150
Leg	200
Eye	125
Hearing (one ear)	25
Hearing (total)	125

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