

GEORGIA WORKERS' COMPENSATION LAW CHEAT SHEET

Compensable Injury

- To be compensable, an accident must arise out of and in the course of one's employment. To "arise out of" means there must be some causal connection between the employment and the accident/injury. To be "in the course of" one's employment refers to the time, place and circumstances under which the accident took place.

Panel of Physicians

- Requirements:
 - Six physicians, clinics, or groups
 - One orthopedic surgeon
 - Not more than two industrial clinics
 - One minority physician (if practical)
 - Reasonably accessible to employee
 - Must be posted prior to injury to be valid
 - Must be posted in prominent location where employee has access
 - The employee also has the right to one "free change" from a panel physician to another panel physician.
 - Effective July 1, 2015, there is no requirement that the physicians/clinics be "non-associated."

We maintain a list of conservative workers' compensation doctors throughout the state. Please contact us for a recommendation.

Defenses

- Intoxication
 - If proven that Claimant was intoxicated (drugs/alcohol) at time of accident, then intoxication presumed to cause injury. Burden is on Employer to prove intoxication.
- Willful Misconduct
 - If Claimant is injured while attempting to intentionally injure himself or someone else.
- Statute of Limitations
 - If claim is not brought or hearing held within proper time.
- Idiopathic Fall
 - If Claimant was injured due to personal medical condition or unexplained fall.
- Notice
 - If Claimant did not notify any supervisor or manager within 30 days of the alleged injury. (*Difficult to prove*)
- Rycroft Defense
 - If Claimant makes willful misrepresentation about preexisting condition, which employer relies up at time of hire, and there is a causal connection between the misrepresentation and the injury.

Calculation of AWW

- Avg. of 13 weeks immediately preceding injury if Claimant worked substantially the whole.
- If Claimant did not work substantially the whole, then:
 - 13 weeks of similar employee.
- If no similar employee, then:
 - Wage per hour multiplied by # of hours in work week.

Medical Benefits

- If a claim is compensable, the employee is entitled to all medical care and treatment which is reasonably required and likely to effect a cure, give relief, or restore the employee to suitable employment. An employee is entitled to such medical benefits so long as such treatment is related to the work injury.

Mileage Reimbursement

- Payable at: \$.45/mile
- Must be paid within 15 days
- Must be submitted within one year of date of treatment or else it's waived.

Commonly Used Forms

WC-1	First Report of Injury
WC-2	Notice of Commencement / Suspension of Benefits
WC-3	Notice of Controvert
WC-6	Wage Statement
WC-104	Light Duty Release
WC-240	Offer of Light Duty Employment
WC-240(a)	Light Duty Job Description
WC-243	Notice of Credit / Offset

Statute of Limitations / Time Limits

File Initial Claim with the Board	1 Year from DOI or Medical Treatment
Change in Condition	2 Years from Last Indemnity Payment
Controvert Once Benefits Stated	81 Days after Emp. Knowledge*
Initial Hearing on Compensability	5 Years from DOI (Post 7/1/07)

Hernia

In order to be compensable, an employee must prove a hernia arose out of and in the course of his employment, and also show:

- the accidental injury resulted in a hernia ;
- the hernia appeared suddenly;
- the hernia was accompanied by pain;
- the hernia immediately followed the accident; and
- the hernia did not exist prior to the accident.

Summary of Benefits

	7/1/19	7/1/22	7/1/23
1. TTD	\$675	\$725	\$800
2. Min. TTD	\$50	\$50	\$50
3. TPD	\$450	\$483	\$533
4. Death	\$675	\$725	\$800
5. Burial Expense	\$7500	\$7500	\$7500
5. Medical	400 wks.	400 wks.	400 wks.

There is a seven-day “waiting period” before an employee is entitled to income benefits. The employee is entitled to income benefits for the “waiting period” if he or she is disabled for a period of 21 consecutive days.

- TTD and TPD rates are 2/3 the average weekly wage, up to the statutory maximum above.
- TTD maximum duration is 400 weeks from D/O/I
- TPD maximum duration is 350 weeks from D/O/I
- No cap for number of weeks claimant can receive indemnity or medical benefits in catastrophic cases
- Death benefits capped at \$230,000 for spouse as sole dependent.
- A failure to timely pay weekly benefits means a 15% penalty will be added to the amount of the weekly check. A failure to file certain Board forms is not as enforced but can result in a fine of between \$100.00 and \$1,000.00 per violation. The failure to timely pay a settlement will result in a 20% penalty of the settlement amount.

PPD Benefits:

Member	Weeks	Member	Weeks	Member	Weeks
Body	300	Thumb	60	Big Toe	30
Arm	225	Index Finger	40	Other Toe	20
Leg	225	Mid Finger	35	Hearing One Ear	75
Hand	160	Ring Finger	30	Hearing Both Ears	150
Foot	135	Little Finger	25	Vision One Eye	150

- PPD is paid at TTD rate
- PPD can be paid out weekly rather than a lump sum

Catastrophic Designation (O.C.G.A. § 34-9-200.1.)

Lifetime indemnity, medical and rehabilitation benefits if condition is met:

- Injury prevents Claimant from performing work available in substantial numbers in the national economy
- Amputation of arm, hand, leg or foot
- Spinal cord injury
- Brain or closed head injury
- 2nd or 3rd degree burns to over 25% of the body
- Total/industrial blindness

Converting TTD to TPD using the WC-104

- DOI must be on or after 7/1/92
- Claimant must be given light duty work restriction by ATP
- Claimant and opposing counsel sent timely WC-104 (w/in 60 days from LD release with attached meds)
- MUST FILE WC-104 with Board at time form is sent to Claimant/OC
- Claimant on light duty for 52 consecutive weeks or 78 aggregate weeks
- After 52 or 78 weeks, Claimant is still capable of light duty work, and
- Claimant is still not working
- Attach WC-104 and medical note to WC-2, and then file with Board
- Benefits can be reduced to maximum applicable TPD rate
- Maximum entitlement to indemnity reduced to 350 weeks from DOI

When We Can Unilaterally Suspend Benefits:

Actual Return to Work at Pre-Injury Rate or Higher:

- File WC-2 suspending effective the date of actual return to work
- Commence payment of permanent partial disability if a rating has been given. If no PPD rating has been given, request from ATP

Release Without Restrictions from ATP (Without Actual Return)

- File WC-2 suspending benefits effective 10 days after date of WC-2.
- Continue to pay indemnity for this 10 day waiting period.
- Commence payment of permanent partial disability after 10 day waiting period if a rating has been given.
- If no PPD rating has been given, request from ATP.

Settlement of Claim:

- File WC-2 suspending benefits effective the date the settlement is approved by the Board

Release to Light Duty by the ATP:

- If Claimant is on benefits and accommodating/work is available, see 240 Light Duty Job Offer section to the right.
- If light duty is not available, then make sure to utilize WC-104 so the Claimant can eventually be converted to TPD.

WC-240 Job Offer

- Only use WC-240 process if Claimant IS receiving indemnity benefits
- Claimant must have been seen by ATP w/in 60 days of date of WC-240
- Get light duty job description from employer
- Send LD job description to OC and Claimant Send LD job description to ATP for written approval
- Complete WC-240, and attach signed LD job approval and ATP med note
- Send WC-240 w/ attachments to OC and Claimant and give them 10 days notice before start date
- On RTW date **SUSPEND BENEFITS**, by completing WC-2, checking either box C2, C3, or C6 and
- Attach WC-240 and it's attachments to WC-2
- File WC-2 with SBWC and send copy to OC and Claimant.
- **IF EMPLOYEE ATTEMPTS WORK FOR MORE THAN 8 HOURS, BUT STOPS IN LESS THAN 15 DAYS, THEN WE MUST RECOMMENCE**