

ALABAMA WORKERS' COMPENSATION LAW CHEAT SHEET

Temporary Total Disability Benefits (TTD) (§ 25-5-57(a)(1); § 25-5-68)

	7/1/22	7/1/23	7/1/24
1. Waiting Period*	3 Days	3 Days	3 Days
2. Max. \$	\$1,026	\$1,084	\$1,130
3. Min. \$	\$282	\$298	\$311
4. Max. Duration	Unlimited		
5. Total Max.	Unlimited		

(Note: Except for scheduled injuries. Also, if TTD lasts longer than 21 days, waiting period must be paid after 21st Day)

Temporary Partial Disability Benefits (TPD) (§ 25-5-57(a)(2))

1. Max. \$(Weekly)	Same as Temporary Above
2. Max. Duration	300 Weeks

Permanent Partial Disability Benefits (PPD) (§ 25-5-57(a)(3))

1. Max. \$(Weekly)	\$220
2. Max. Duration for Unscheduled Injuries (Weeks)	300

(Note: 300 includes Temporary Total Disability Benefits paid as well; thus, if 299 weeks of Temporary Total Disability Benefits paid, only one week of PPD would be due.)

3. Number of Weeks Payable for Delineated Scheduled Members

Member	Weeks	Member	Weeks	Member	Weeks
Thumb	62	Other Toes	11	2 Arms	400
1 st Finger	43	Foot	139	2 Hands	400
2 nd Finger	31	Leg	200	2 Legs	400
3 rd Finger	22	Eye	124	2 Feet	400
4 th Finger	16	Eye & Leg	350	Hearing 1 Ear	53
Hand	170	Eye & Arm	350	Hearing 2 Ears	163
Arm	222	Eye & Hand	325		
Big Toe	32	Eye & Foot	300		

Serious Disfigurement: If materially affects employability of injured person, 66 2/3 of average weekly earnings, but not exceeding 100 weeks. (Note: Most other "combined" scheduled member losses are 400 weeks.)

Permanent Total Disability Benefits (PTD) (§ 25-5-57(a)(4))

- May last for lifetime of employee
 - *So long as employee remains totally disabled*
- Employer may file petition to set aside permanent total order upon changed conditions.
- Attorney's fees (but not compensation award) may be awarded in lump sum based upon employee's life expectancy and 6% present value discount.

Death Benefits (§ 25-5-60; § 25-5-67) Payable to Dependents or Estate

Burial Benefits for Injuries After 8/1/92	\$3,000.00
Burial Expenses for deceased employee as of 7/1/14	\$6,500.00
One Time Payment to Estate if no Dependents	\$7,500.00
One Dependent	50% of AWW (500 weeks Max)
Two or More Dependents	66 2/3 of AWW Subject to weekly Max/Min (500 week Max)

(Note: Benefits should be court approved and will ultimately be payable to the dependent or surviving parent for use and benefit of dependent. Wife is dependent until remarries. Child is dependent until marriage or age 18.)

Medical Benefits (§ 25-5-77)

- Payable for life if authorized treating physician relates to work injury.
- Employer may designate first physician; Employee entitled to Panel of Four if dissatisfied with initial treating physician and further treatment required.
- Employer must pay for treatment and use facility recommended by authorized treating physician except for treatment determined “not medically necessary” through utilization review.

Notice and Statute of Limitations (§ 25-5-78) and (§ 25-5-80)

- Actual Notice is sufficient although Code appears to require written notice. If no notice given within 90 days, claim is BARRED.
- STATUTE OF LIMITATIONS is TWO YEARS from the accident or two years from the date of last payment of COMPENSATION (not medical).
- OCCUPATIONAL DISEASE s/o/l runs from date of last exposure. This includes repetitive motion injuries, even if it is not the last date of employment.

Miscellaneous

- MILEAGE REIMBURSEMENT is .67¢ per mile effective January 1, 2024; .625¢ per mile effective January 1, 2023; .625¢ per mile effective June 1, 2022; .585¢ per mile effective January 1, 2022; .56¢ per mile effective January 1, 2021
- AWW is calculated based on a 52 week wage history. If unavailable, consider wages of similarly situated employee. Fringe benefits (only employer paid portion of health, life and disability premiums) are added to AWW if no longer being provided by employer.
- SUSPENSION of TTD Benefits permissible when employee reaches Maximum Medical Improvement (MMI).
- SUBROGATION available for compensation and medical. Intervention in third-party lawsuit may be required.
- TRIALS/ADJUDICATION are through Court system not administrative law judges. Venue is in county where accident occurred or where Plaintiff resides if employer does business there.

More Information

For more information, visit us online at carrallison.com or contact one of our workers' compensation attorneys.

Coverage:



FLORIDA WORKERS' COMPENSATION LAW CHEAT SHEET

Waiting Period (§ 440.12, Fla. Stat.)

7 days. No compensation shall be paid for the first 7 days of disability except for medical benefits. However, if the injury results on disability of more than 21 days, compensation shall be allowed from the date of disability.

Compensation Rate (§ 440.15, Fla. Stat.)

In Florida, the compensation rate is 66-2/3 percent of the average weekly wage subject to the maximum compensation rates in effect on the date of the injury.

Maximum Rates (§ 440.12(b), Fla. Stat.)

After August 1, 1979, the maximum compensation rate shall not exceed 100 percent of the state-wide average weekly wage.

	2022	2023	2024
Max. \$	\$1,099	\$1,197	\$1,260

Temporary Disability (§ 440.15, Fla. Stat.)

In the case of disability total in character but temporary in quality, 66-2/3 percent of the average weekly wage shall be paid to the employee during the continuance thereof, not to exceed 260 weeks. Once the employee reaches the maximum number of weeks allowed, or the employee reaches the date of maximum medical improvement, whichever occurs earlier, temporary disability benefits shall cease and the injured worker's permanent impairment shall be determined. In the case of temporary partial disability, compensation shall be equal to 80 percent of the difference between 80 percent of the employee's average weekly wage and the salary, wages, and the other remuneration that the employee is able to earn post injury, as compared weekly. However, the weekly temporary partial disability benefits may not exceed an amount equal to 66-2/3 percent of the employee's average weekly wage at the time of the accident. Such benefits shall be paid during the continuance of such disability, not to exceed a period of 260 weeks. Once the injured employee reaches the maximum number of weeks, temporary disability benefits cease and the injured worker's permanent impairment must be determined. Section 440.15(2), Fla. Stat. (b)

Regarding a claimant who remains totally disabled after the 260-week disability period expires, the 1st District Court of Appeal, in an en banc decision, held that the claimant is deemed at maximum medical improvement by operation of law and is therefore eligible to assert a claim for permanent total disability benefits.

Permanent Total Disability (PTD) (§ 440.15(1) (a)-(f), Fla. Stat.)

- No compensation shall be payable under this section if the employee is engaged in, or is physically capable of engaging in, at least sedentary employment.
- PTD allows for 66.67% of the average weekly wage to be paid to the employee during the continuance of such total disability.
- In certain cases, an injured employee is presumed to be PTD unless the employer or carrier establishes that the employee is physically capable of engaging in at least sedentary employment within a 50-mile radius of the employee's residence.

Impairment Benefits (§ 440.15(3), Fla. Stat.)

Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 14 days after the carrier has knowledge of the impairment. Income impairment benefits are paid biweekly at a rate of 75 percent of employee's average weekly temporary total disability benefit not to exceed the maximum weekly benefit under § 440.12; provided, however, that such benefits shall be reduced by 50 percent for each week in which the employee has earned income equal to or in excess of the employee's average weekly wage. An employee's entitlement to impairment income benefits begins the day after the employee reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier, and continues until the earlier of: 1) the expiration of a period computed at the rate of 3 weeks for each percentage point of impairment; or 2) The death of the employee. Notwithstanding paragraph (c), for accidents occurring on or after October 1, 2003 an employee's entitlement to impairment income benefits begins the day after the employee reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier.

Death Benefits (§ 440.16, Fla. Stat.)

If the death results from an accident within 1 year thereafter or follows continuous disability and results from the accident within 5 years thereafter, the employer shall pay:

- Within 14 days after receiving the bill, actual funeral expenses not to exceed \$7,500

- Compensation, in addition to the above, in the following percentage of the average weekly wages to the following persons entitled thereto on account of dependency upon the deceased, and in the following order of preference, subject to the limitation provided in subparagraph 2., but such compensation shall be subject to the limits provided in § 440.12(2), shall not exceed \$150,000, and may be less than, but shall not exceed, for all dependents or persons entitled to compensation, 66-2/3 percent of the average wage:
 - To the spouse, if there is no child, 50% of the average weekly wage, such compensation to cease upon the spouse's death;
 - To the spouse, if there is a child or children, the compensation as above and, in addition, 16-2/3 percent on account of the child or children;
 - To the child or children, if there is no spouse, 33-1/3 percent, for each child, of the average weekly wage;
 - To the brothers, sisters, grandchildren, 15 percent for each brother, sister or grandchild.

Statute of Limitation (§ 440.19, Fla. Stat.)

Except to the extent provided elsewhere in this section, all employee petitions for the benefits under this chapter shall be barred unless the employee, or the employee's estate if the employee is deceased, has advised the employer of the injury or death pursuant to § 440.185(1) and the petition is filed within 2 years after the date on which the employee knew or should have known that the injury or death arose out of work performed in the course and scope of employment.

Payment of any indemnity benefit or the furnishing of remedial treatment, care, or attendance pursuant to either a notice of injury or a petition for benefits shall toll the limitation period set forth above for 1 year from the date of such of such payment or furnishing of medical care. This tolling period does not apply to the issues of compensability, date of maximum medical improvement, or permanent impairment.

New case law (*Ortiz v. Winn Dixie*) calls into question whether the two-year statute of limitations from the date of injury runs simultaneously with the one-year tolling of the statute which follows the provision of medical care or payment of indemnity benefits. It is unclear how the trial courts will apply this case law.

Time for Payment of Compensation Penalties for Late Payments (§ 440.20, Fla. Stat.)

Unless the carrier denies compensability or entitlement to benefits, the carrier shall pay compensation directly to the employee as requires by § 440.14, 440.15, and 440.16, in accordance with those sections. Upon receipt of the employee's authorization as provided for in § 440.12 (1) (a), the carrier's obligation to pay compensation directly to the employee is satisfied when the carrier directly deposits, by electronic transfer or other means, compensation into the employee's account at a financial institution as defined in § 655.005 or onto a prepaid card in accordance with § 440.12(1).

The carrier must pay the first installment of compensation for total disability or death benefits or deny compensability no later than the 14th calendar day after the employer receives notification of the injury or death, when disability is immediate and continuous for 8 calendar days or more after the injury.

If the carrier is uncertain of its obligation to provide benefits or compensation, the carrier shall immediately and in good faith commence investigation of the employee's entitlement to benefits under this chapter and shall admit or deny compensability within 120 days after the initial provision of compensation or benefits

as required under subsection (2) or § 440.192(8). Additionally, the carrier shall initiate payment and continue the provision of all benefits and compensation as if the claim has been accepted as compensable, without prejudice and without admitting liability. Upon commencement of payment as required under subsection (2) or § 440.192(8), the carrier shall provide written notice to the employee that it has elected to pay the claim pending further investigation, and that it will advise the employee of claim acceptance or denial within 120 days.

A carrier that fails to deny compensability within 120 days after the initial provision of benefits or payment of compensation as required under subsection (2) or § 440.192(8) waives the right to deny compensability, unless the carrier can establish material facts relevant to the issues of compensability that it could not have disclosed through reasonable investigation within 120-day period.

Medical Treatment (§ 440.13, Fla. Stat.)

Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, which is in accordance with established practice parameters and protocols of treatment as provided for in this chapter, including medicine, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, shall be considered as covered treatment only when such care is given based on a referral by physician as defined in this chapter. Medically necessary treatment, care, and attendance does not include chiropractic services in excess of 24 treatments or rendered 12 weeks beyond the date of the initial chiropractic treatment, whichever comes first, unless the carrier authorizes additional treatment or the employee is catastrophically injured.

Miscellaneous

- Mileage Reimbursement: .445¢ per mile effective July 1, 2006.

More Information

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Coverage:



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**

MISSISSIPPI WORKERS' COMPENSATION LAW CHEAT SHEET

Compensable Injury

- To be compensable, injuries must arise out of and in the course of employment. The injury must result from an “untoward event”, if contributed to or aggravated or accelerated by the employment in a significant manner.

Disability Benefits

- Benefits are based on two thirds of the claimant’s average weekly wage (AWW) subject to the minimums and maximums set forth in the chart below. The date of injury determines the applicable rates for that injury.
- Temporary Total Disability (TTD) is paid until a release to return to work or maximum medical recovery, subject to the applicable dollar maximum (450 weeks).
- Temporary Partial Disability (TPD) is paid at two thirds of the difference in claimant’s pre-injury average weekly wage as compared to his partial wage-earning capacity following the injury (i.e. return to light work before maximum medical recovery).
- Permanent Partial Disability (PPD) is separated into scheduled members as opposed to the “body as a whole”. MCA § 71-3-17 sets forth a schedule of PPD benefits. As an example, 100% loss of an arm would be 200 weeks and 10% would be 20 weeks (200 x 10%) at the claimant’s compensation rate as a minimum. But the claimant could get more. Call your Carr, Allison attorney for details. For the “body as a whole” case (or those things not covered by the schedule), benefits are based on two thirds of the loss of wage earning capacity paid out over 450 weeks. As an example, with an average weekly wage of \$450 and a 15% loss of wage earning capacity, multiply the AWW (\$450) times the rating (15%) times two thirds (\$45), payable for 450 weeks (\$20,250). But the issue is complicated; consult your Carr Allison attorney.
- Permanent total disability (PTD) is loss of both arms, hands, legs, feet, eyes, or any combination and can be found in other cases as the facts appear. Benefits are paid over 450 weeks. See the applicable maximums in the chart below.
- Death claims. MCA § 71-3-25 has the complicated details. Call your Carr Allison attorney.

Permanent Partial Disability Benefits (PPD)

	1/1/22	1/1/23	1/1/24
1. Weekly Max. \$	\$551.02	\$585.82	\$608.58
2. Weekly Min. \$	N/A	N/A	N/A
3. Category Max.	\$247,959	\$263,619	\$273,861
4. Overall Max.	\$247,959	\$263,619	\$273,861

(25.00 minimum is not applicable to partial disability, but applies only in a case of death or total disability)

Benefits

- Waiting Period for TTD:
 - 5 days that disappears after 14 days lost time.
- Lost time is paid on a 5 day work week assumption.
- Travel expense to and from medical treatment:
 - \$0.67 cents per mile as of 1/1/2024

Medical Benefits

- Medical benefits are unlimited as to time and amount under the MWCA. It is the employer’s obligation to provide the necessary and reasonable medical treatment and services such as the nature of the injury or process of recovery requires.
- There is a MWCC fee schedule in effect on which to rely for medical cost containment efforts.
- Medical case management is permissible but not required.

- Claimant's choice of physician is limited to acceptance of the physician tendered by the employer or choosing his own. Once the choice is pinned down in writing, that chosen physician may not refer claimant to more than one physician in a particular specialty. (As an example, referrals can be made to one neurosurgeon, one orthopedic surgeon, one psychiatrist, one neurologist, etc.) The MWCC can allow a change of physicians even after the choice has been made in writing. For injuries occurring on or after July 1, 2012, a physician who has treated the claimant for six (6) months or who performed surgery on the claimant shall be deemed to be the claimant's choice of physician.
- The employer can have claimant examined by a physician of its choice. The employer sets up the appointment, gives the claimant and the MWCC notice in writing of the appointment, and prepays claimant's travel expense to the appointment. (The fee schedule does not limit fees for an Employer's Medical Exam (EME).

Defenses

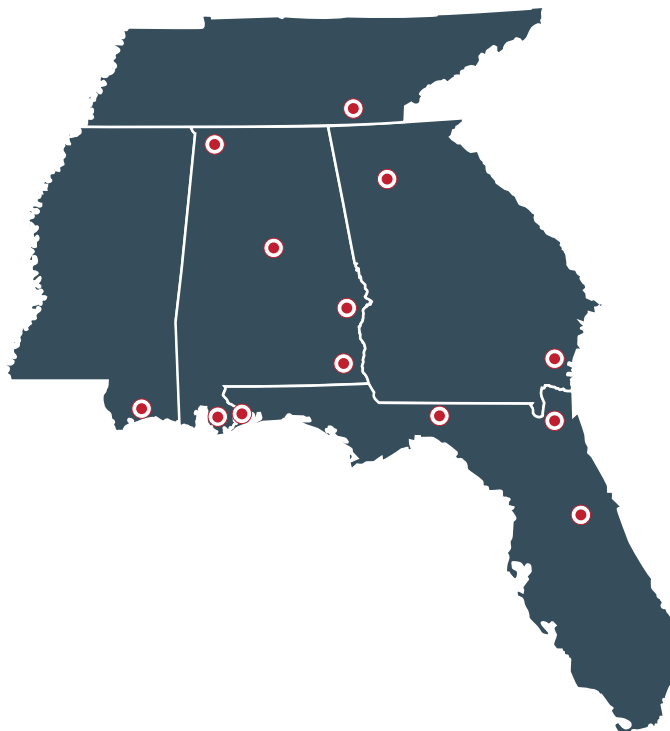
- There are defenses to a claim. No compensation is payable if:
 - Claimant's intoxication is the proximate cause of the injury (for injuries on or after July 1, 2012, there is a rebuttable presumption that use of alcohol/drugs is the proximate cause of the injury); or
 - The injury is the result of claimant's willful intent to injure himself or another.
 - Independent contractor.
 - Deviation - abandonment of employment and personal missions.
 - Intervening cause of disability.
- There are 2 Statute of Limitations to remember and they are mutually exclusive:
 - Where no compensation is paid (other than medical), claimant has 2 years from the date of injury to make a claim. The time bar applies to both indemnity and medical benefits.
 - Where compensation benefits are paid, claimant has 1 year from the date of filing the B-31 with the MWCC to make further claim. Paying additional benefits tolls the running of the statute and a new B-31 has to be filed to start the year running again. Once it has run, the time bar applies to indemnity and medical benefits.
- Apportionment is a reduction in the payment of permanent disability or death benefits where it is shown that a pre-existing condition is a material contributing factor to the disability or death. The effects of the pre-existing condition must be proven from both an occupational as well as a medical standpoint. For injuries occurring on or after July 1, 2012, the pre-existing condition does not have to be occupationally disabling for apportionment to apply.

More Information

- Once an injury is reported, there are three choices: Pay the claim; deny and litigate; or settle. Mississippi recognizes a separate cause of action outside the confines of the MWCA for a wrongful denial or refusal to pay. Punitive Damages for a "bad faith" claim are potentially recoverable and are tied to the net worth of the defendant. Therefore, proceed with a sense of urgency; be very careful in issuing any denial, even for a part of a claim; and seek legal counsel if in doubt.
- Settlements are permissible and are subject to the approval of the MWCC. They are called 9(i) settlements (a reference to the code section), and settlement of the future medical exposure is permissible and remains the norm. Your Carr Allison attorney can handle the paperwork timely, efficiently and in a cost-effective manner.
- Litigation of the exposure is before one of the 8 Administrative Judges (AJ) employed by the MWCC. A trial is held in the county where the accident occurs, and the decision of the AJ is final unless appealed within 20 days of the issuance of the Order. The 3-person Commission sits as an appellate review board for that appeal. Once the MWCC makes its decision, it may be appealed to the Mississippi Court of Appeals. Claimant's attorney's fees are 25% of the recovery (or up to 33 1/3% if appealed beyond the MWCC).

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TENNESSEE WORKERS' COMPENSATION LAW CHEAT SHEET

Definition of Injury

- "Injury" and "personal injury" mean an injury by accident, a mental injury, occupational disease including diseases of the heart, lung and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee. T.C.A. § 50-6-102(12).
- An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment. T.C.A. § 50-6-102(12)(A).
- "Primarily out of and in the course and scope of employment" means "the employment contributed more than fifty percent (50%) in causing the injury, considering all causes." T.C.A. § 50-6-102(12)(B).

Claim Reporting Requirements

- The employer shall report all known or reported accidents or injuries to their adjusting entity within one (1) business day of knowledge of injury.
- The adjuster shall submit Tennessee's First Report of Work Injury (C-20) in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death.
- Reports of all injuries causing seven (7) calendar days of disability or fewer shall be submitted on or before the fifteenth (15th) day of the month following the month in which the injury occurred.
- Reports of all injuries in which the employee does not return to work within seven (7) calendar days after the injury must be reported no later than fourteen (14) calendar days after the employer's report of the injury.
- Minor injuries such as scratches, scrapes, paper cuts and/or other injuries treated solely by minor first aid are not required to be reported to the Bureau. More serious injuries such as sprains, strains or bruising must be reported.

Medical Benefits

- The employer shall furnish free of charge to the employee such medical care made reasonably necessary by accident. T.C.A. § 50-6-204(a)(1)(A).
- The employer shall furnish free of charge to the employee such medical care made reasonably necessary by accident. When the employee has suffered an injury and expressed a need for medical care, within three (3) business days after receipt of such request, the employer shall designate a group of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups from which the injured employee may select one (1) to be the treating physician. T.C.A. § 50-6-204(a)(3)(A)(i); Tenn. Comp. R. & Regs. R. 0800-02-01-.06.

- The opinion of the treating physician selected by the employee from the employer's designated panel pursuant to § 50-6-204(a)(3) shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence. T.C.A. § 50-6-102(12)(E).

Indemnity

- **Average Weekly Wage (AWW):** The earnings of the injured employee in the employment in which the injured employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of the injury divided by fifty-two (52). T.C.A. § 50-6-102(3).
- **Temporary Partial Disability (TPD):** This benefit may be available to an employee whose work-related injury causes them to be paid a lesser pay or restricted to fewer hours due to light duty. The employee is entitled to 2/3rds of the difference between the AWW and gross light duty wages. T.C.A. § 50-6-207(2).
- **Temporary Total Disability (TTD):** This benefit may be available for a person whose work-related injury temporarily disables them from performing any job. The benefit is 2/3rds of the AWW. The benefit is payable until MMI, a return to work, or 450 weeks, whichever is shorter. TTD benefits can also be capped when the treating physician has stopped all active medical care and the employee is only receiving pain management treatment. TTD payments made after the date of MMI will be offset against any permanent benefit payments. T.C.A. § 50-6-207(1).
- **Permanent Partial Disability (PPD):** This benefit is available when an employee receives a permanent impairment rating at MMI. The benefit is: Impairment x 450 x 2/3 AWW. T.C.A. § 50-6-207(3).
- **Compensation Period:** Period after MMI calculated by Impairment x 450 weeks (with 180 day minimum).
- **Enhancement Award:** If at the conclusion of the compensation period the employee did not re turn to work with any employer earning 100% of the pre-injury wages, the employee may be entitled to 1.35 times the original PPD benefits, plus the following, if applicable:
 - 1.2— employee is over 40 years of age;
 - 1.3 — the county where the employee worked before his injury has an unemployment rate that is 2% points higher than the state average; and/or
 - 1.45— employee does not have a diploma or GED.
- **Permanent Total Disability (PTD):** This benefit may be available to an employee whose work-related injury permanently disables them from performing any job. If an employee is within 5 years of full Social Security retirement benefits, then PTD benefits shall be paid for 260 weeks. Otherwise, PTD benefits are paid until the employee reaches full retirement age (age 67 for those born in or after 1960). T.C.A. § 50-6-207(4).

- **Death:** If an employee leaves no dependents, \$ 20,000.00 shall be paid to the estate of the deceased employee. If an employee leaves dependents, then two-thirds of the employee's average weekly wage shall be paid to such dependents in accordance with and to such extent as required by T.C.A. §§ 50-6-209-210.
- **Lump Sum Settlement:** The parties may settle the entire claim at any time after the employee reaches MMI. The parties may settle the claim before MMI if the claim is doubtful and disputed. No settlement shall be binding until approved by a workers' compensation judge. Your Carr Allison attorney can handle the paperwork in a timely, efficient, and cost-effective manner.

Claims Before the Court of Workers' Compensation Claims

- The process begins with a petition for benefit determination (PBD). Upon filing the PBD, the case is assigned to a mediator who will schedule a mediation. If the parties do not resolve all the disputed issues, the mediator will issue a dispute certification notice (DCN). At that time, the parties may proceed to the workers' compensation court.
- Once the DCN is filed with the clerk, either party may file a request for a hearing. Thereafter, the Court may set a status conference to discuss the claim or set the requested hearing.
- If the dispute is over temporary disability or medical benefits, once the DCN is filed with the clerk, either party may file a request for an expedited hearing. The workers' compensation judge may enter an interlocutory order for benefits upon determining that the injured employee would likely prevail at a hearing on the merits.
- Any party may appeal an order of a workers' compensation judge by filing a notice of appeal within seven (7) business days of the date of an interlocutory order or within 30 calendar days of the date of a compensation order.

Penalties

- Penalties may be assessed for numerous issues throughout a workers' compensation claim. Some of these issues include (1) late filing of accident reports; (2) bad faith denial of claims; (3) late filing of notice of denial of claim; (4) failure to appear and mediate in good faith; (5) failure to comply with a court's order; (6) failure to timely provide medical benefits; (7) failure to timely provide a panel of physicians; (8) failure to pay temporary total disability benefits; and (9) failure to satisfy the terms of a settlement. T.C.A. § 50-6-118.
- Penalties may also be assessed for violating the Medical Cost Containment Program, Medical Fee Schedule, and In-Patient Hospital Fee Schedule rules.
- The employee may obtain reasonable attorneys' fees and costs when the employer fails to furnish appropriate medical, surgical and dental treatment or care, medicine, medical and surgical supplies, crutches, artificial members and other apparatus to an employee and/or unreasonably denies a claim or unreasonably fails to timely initiate any of the benefits to which the employee or dependent is entitled. T.C.A. § 50-6-226.

Rules and Regulations

- **Statute of Limitations:** One year from either the date of injury or the latter of the date of the last authorized treatment or time the employer ceased to make payments of compensation. T.C.A. § 50-6-203.
- **Utilization Review:** If recommended treatment requires utilization review, then an employer shall submit the case to its utilization review agent within four (4) business days of the physician's notification of the recommended treatment. The UR agent shall render and communicate the decision within seven (7) business days of receipt of the case. If UR denies authorization, an appeal may be filed within thirty (30) days.

- **Payment of Benefits:** Compensation payments must be received by the injured employee no later than 15 days from notice of the injury. Unpaid or untimely paid benefits may be subject to penalty.
- **Resolution:** Insurers shall make an offer of settlement within thirty (30) days of receipt of physician's determination of maximum medical improvement and assignment of impairment rating.

Pertinent Forms

- **First Report of Injury (Form C-20):** The adjuster shall submit Tennessee's First Report of Work Injury (C-20) in all cases where the reported injury results in the need for medical treatment, restricted work, the inability to work, or death.
- **Medical Waiver and Consent (Form C-31):** Employer may obtain employee's medical records from the Authorized Treating Physician without a signed consent, but a C-31 is necessary to obtain records from other providers.
- **Notice of First Payment of Compensation (Form C-22):** Must be filed immediately and shall include a wage statement.
- **Notice of Denial of Claim for Compensation (Form C-23):** Must be filed electronically with supporting documented results of investigation.
- **Final Report of Payment and Receipt of Compensation (Form C-29):** Must be submitted in all cases that are not settled, not tried and do not result in permanent disability payments within thirty (30) days after final payment of compensation.

More Information

	7/1/22	7/1/23	7/1/24
Min. Rate	\$168.15	\$179.10	\$185.55
Max. Temporary Rate	\$1,233.10	\$1,313.40	\$1,360.70
Max. Permanent Rate	\$1,121.00	\$1,194.00	\$1,237.00
Max. Total Benefit	\$504,450	\$537,300	\$546,650
Burial Expense	\$10,000	\$10,000	\$10,000

More Information

For more information, visit us online at carrallison.com or contact one of our workers' compensation attorneys.

Coverage:



www.carrallison.com

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