

## TENNESSEE WORKERS' COMPENSATION IMPORTANT TERMS FOR "OLD LAW" CLAIMS (INJURY PRIOR TO JULY 1, 2014)

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- **Work-Related Injury:** Any injury, illness, or death arising out of and in the course and scope of employment is a compensable work-related claim. The injury or illness must occur while employee is performing assigned duties during assigned work hours. Injuries are **not compensable** if occurring outside work tasks, on lunch or scheduled break, if occurring when going to or from work, if due to willful misconduct, or due to intoxication from alcohol or drugs.
- **Occupational Disease:** An occupational disease is compensable if all six factors are met: (1) resulted as a natural incident of work conditions; (2) employment is the proximate cause of the disease; (3) able to determine which employees have been equally exposed outside of employment; (4) incidental to the character of employment; (5) originated from a risk connected with the employment; and (6) direct causal connection between work conditions and the occupational disease.
- **Compensability Determination:** Insurer must make a determination on compensability within **15 days** of notice of accident or work-related injury/illness.
- **Last Day Worked Rule (for Gradual Onset Injury):** The date of injury for a gradually occurring work-related injury/illness is date when employee is no longer able to work.
- **Temporary Total Disability (TTD):** Benefits are payable when treating physician determines employee's injury prevents him from working. Employee is entitled to **66 2/3%** of average weekly wage, subject to statutory maximum and minimum rates. TTD benefits are terminated upon MMI or full-duty return to work.
- **Temporary Partial Disability (TPD):** Employee is eligible for TPD benefits if employee continues to work, but post-injury weekly wages are lower than his pre-injury weekly wages. The amount is determined by calculating **66 2/3%** of the difference between the pre-injury and post-injury weekly wages. TPD benefits are limited to 400 weeks.
- **Permanent Total Disability (PTD):** Employee is eligible for PTD if injury totally incapacitates employee from working at any occupation that brings income. PTD is paid until employee is eligible for full Social Security retirement benefits.
- **Request for Assistance (RFA):** Any party may file a Request for Assistance with Bureau of Workers' Compensation for determinations of issues involving temporary disability and/or medical treatment, including causation and compensability.
- **Benefit Review Conference (BRC):** Benefit Review Conference is TBWC mediation to negotiate final settlement of all workers' compensation issues. Employee must be at MMI prior to scheduling the BRC. BRC request must be filed within **1 year** of date of injury or within **1 year** of the last benefit payment.
- **Permanent Partial Impairment (PPI):** Employee is eligible for PPI benefits if he/she reaches MMI, but has a permanent partial impairment as determined by a treating physician. Based on the impairment rating percentage, employee receives **66 2/3%** of AWW for number of weeks determined by multiplying the rating by assigned period for scheduled member.
- **Multiplier:** PPI benefits are increased with a multiplier from **1X** to **6X** the benefit. If employee makes a "meaningful return to work," an injury to a scheduled member valued at 200 weeks or more is limited to **1.5X** the impairment rating. If employee does **not** make a meaningful return to work, a claim for benefits is limited to **6X** the impairment rating. Multiplier amount is negotiated based on employee's age, education, skills and training, job opportunities, and capacity to work.
- **Breaking the Multiplier Cap:** If employee establishes **three of the four** criteria below, a court may award more than 6X the impairment rating.
  - (1) Employee lacks HS diploma/GED or cannot read or write at 8<sup>th</sup> grade level
  - (2) Employee is 55 years of age or older
  - (3) Employee has no reasonably transferable job skills
  - (4) Employee has no reasonable employment opportunities considering employee's permanent medical condition
- **Maximum Award Limitation (Meaningful Return to Work):** If employee has returned to work for the employer earning **at least** as much as the pre-injury wage, employee has made a meaningful return to work. Claims for any member rated at  $\geq 200$  weeks are **limited** to the **1.5** multiplier. If the employee loses his job, he has **1 year** from date of termination to request reconsideration of multiplier, unless he resigns or is terminated for **reasons wholly unrelated to the injury**.
- **Request for Settlement Approval (RSA):** A Request for Settlement Approval must be filed with the TN Bureau of Workers' Compensation for review and approval of negotiated settlement.
- **Documents to be Provided to the Workers' Compensation Specialist:** After a party files for either a Request for Assistance or a Benefit Review Conference, both parties must provide all medical records and bills, first report of injury, wage statement, personnel records, legal reason for basis of denial of a claim, job description, and any other pertinent information.
- **Documents Required for Settlement:** All settlements should include a First Report of Injury (C-20), Wage Statement (C-41), and Final Medical Report (C-30A) or medical record(s) stating the date of MMI, assigned impairment rating and doctor's release from care. All settlements **must** also include a Statistical Data Report (SD-1) which must be filed with TBWC following approval.

# TENNESSEE WORKERS' COMPENSATION CALCULATING PPD BENEFITS FOR "OLD LAW" CLAIMS (INJURY PRIOR TO JULY 1, 2014)



To calculate the correct amount of Permanent Partial Disability (PPD) benefit, impairment rating percentage is multiplied by the maximum number of weeks assigned to the specific member of the body or body as a whole. The number of weeks is multiplied by the Claimant's compensation rate (subject to statutory maximum) and increased by multiplier. (If Employee is given separate impairment ratings for multiple members of the body, use Combined Values Chart to determine total rating.). **Chart 1** lists the maximum number of weeks for PPD benefits based on the injured member. **Chart 2** illustrates how to choose the appropriate multiplier. **Chart 3** illustrates the calculations necessary to determine the monetary amount of PPD benefits.

**CHART 1**

Member	Maximum	Member	Maximum	Member	Maximum	Member	Maximum
Finger (little)	15 weeks	Hand	150 weeks	Arm & Foot	400 weeks	Two Feet	400 weeks
Finger (ring)	20 weeks	Arm	200 weeks	Eye & Leg	350 weeks	Hearing (both)	150 weeks
Finger (middle)	30 weeks	Foot	125 weeks	Eye & Arm	350 weeks	Leg & Hand	400 weeks
Finger (index)	35 weeks	Leg	200 weeks	Eye & Foot	300 weeks	Arm & Leg	400 weeks
Thumb	60 weeks	Eye	100 weeks	Two Arms	400 weeks	Body as a Whole	400 weeks
Great Toe	30 weeks	Arm & Other hand	400 weeks	Two Hands	400 weeks		
Any other toe	10 weeks	Hand & Foot	400 weeks	Two Legs	400 weeks		

**CHART 2**  
**Choosing the Appropriate Multiplier**

**Multiplier:** PPI benefits are increased with a multiplier from 1X to 6X the benefit. If employee makes a "meaningful return to work," an injury to a scheduled member valued at 200 weeks or more is limited to 1.5X the impairment rating. If employee does not make a meaningful return to work, a claim for benefits is limited to 6X the impairment rating. To determine the exact multiplier, the court considers employee's age, education, skills and training, job opportunities, and capacity to work.

As a general rule, the multiplier also dependent on the region of the state where case will be heard. While it may be appropriate to use a multiplier of 3 for an employee in the Tri-Cities, it may be necessary to use a multiplier of 3.75 for same employee in Memphis.

**1.5 X - "Meaningful Return to Work":** Employee has made a meaningful return to work and is limited to the 1.5X multiplier if returned to employment at a wage equal to or greater than the pre-injury wage. The 1.X cap continues if employee resigns or is terminated for reasons unrelated to injury, including termination for misconduct or violation of legitimate work rules uniformly enforced on all employees.

**"Breaking the Cap":** If 3 of the criteria are met, the 6X cap may be exceeded: (1) employee lacks HS diploma or GED, or cannot read or write on an 8<sup>th</sup> grade level; (2) employee is 55 or older; (3) employee has no reasonably transferable job skills; (4) employee has no reasonable employment opportunities considering employee's permanent medical condition.

**CHART 3**  
**Calculations for PPD Benefits**

**(Part One):** PPI % x Corresponding # of Weeks = \_\_\_\_\_ weeks.

**(Part Two):** \_\_\_\_\_ weeks (from above) x \$ \_\_\_\_\_ TTD Rate = Base PPD

**(Part Three):** Base PPD x Multiplier = \_\_\_\_\_ \$Amount of PPD Benefits

Examples:

**Scenario #1**

55 year-old male with a HS degree, herniated lumbar disc carrying a heavy item. ATP has assigned PPI rating of 12% to the body as a whole. Employee is not working. Weekly comp rate of \$400.00.

(Part One): 12% x 400 weeks (BAW) = 48 weeks

(Part Two): 48 weeks x \$400.00 = \$19,200.00 Base PPD

(Part Three): \$19,200.00 x 4.0 (multiplier) = \$76,800.00

**Scenario #2**

40 year-old female in a MVA sustained shoulder strain, assigned a 3% PPI rating to the body as a whole. She continues to work for employer. Weekly comp rate of \$325.00

(Part One) 3% x 400 weeks (BAW) = 12 weeks

(Part Two): 12 weeks x \$325.00 = \$3,900.00 Base PPD

(Part Three): \$3,900.00 x 1.5 (multiplier) = \$5,850.00