

PATRICK J. SODORO · ROBERT A. MOONEY · DANIEL P. LENAGHAN
LYNDSEY A. CANNING · DRU M. MOSES · M. GABRIEL ROWBERRY · MEGAN L. SALADEE
THOMAS J. GAUGHEN · EMILY E. PALMISCNO · DANIELLE E. FORSGREN
RONALD E. FRANK · THOMAS J. GROSS · TAMI L. FLEEK · MATTHEW R. CHOUINARD

BODY PART AFFECTED	WEEKS PAYABLE
Disability, body as a whole	300
Shoulder/Arm*	225
Hand	175
Leg**	215
Foot	150
Eye	125
Loss of hearing in one ear	50
Ear	25
Nose	50
Thumb	60
First phalange of thumb	30
Half of first phalange of thumb	15
First finger (index)	35
First phalange of first finger	17.5
Half of first phalange of first finger	8.75
Second finger (middle)	30
First phalange of second finger	15
Half of first phalange of second finger	7.5
Third finger (ring)	20
First phalange of third finger	10
Half of first phalange of third finger	5
Fourth finger (little)	15
First phalange of fourth finger	7.5
Half of first phalange of fourth finger	3.75
Great toe	30
First phalange of great toe	15
Any other toe	10
First phalange of any other toe	5

* Injury between elbow and hand considered hand,
requiring conversion of arm rating to hand rating.

**Injury between knee and foot considered foot,
requiring conversion of leg rating to foot rating.

SCHEDULED INJURY PPD EXAMPLE:

Date of Accident	01/01/20 (Max PPD Rate \$882)
Upper Extremity	225 Wks
Percent of disability	.10%
Average weekly wage paid	\$600.00
Calculation	
Average Weekly Wage (for PPD)	\$400 (\$600 x 2/3)
PPD Weeks Owed (225 Weeks x .10)	22.5 Wks
Total PPD Owed	\$9,000.00 (22.5 Wks x \$400.00)

BODY AS A WHOLE PPD EXAMPLE:

Body as a Whole	300 Wks
Loss of Earning Capacity	35%
Average Weekly Wage	\$600
Compensation Rate (PPD)	(\$600 x 2/3)=\$400
Total Weeks Indemnity Paid	25
Calculation	(275 x \$400 x .35)

MAXIMUM WEEKLY INDEMNITY BENEFITS

DATES	RATE
01/01/11 to 12/31/11	\$698.00
01/01/12 to 12/31/12	\$710.00
01/01/13 to 12/31/13	\$728.00
01/01/14 to 12/31/14	\$747.00
01/01/15 to 12/31/15	\$761.00
01/01/16 to 12/31/16	\$785.00
01/01/17 to 12/31/17	\$817.00
01/01/18 to 12/31/18	\$831.00
01/01/19 to 12/31/19	\$855.00
01/01/20 to present	\$882.00

DAYS OF A 7 DAY WEEK EXPRESSED AS A DECIMAL

1/7	0.14
2/7	0.29
3/7	0.43
4/7	0.57
5/7	0.71
6/7	0.86

MILEAGE RATE

DATES	RATE
01/01/09 to 12/31/09	\$0.550
01/01/10 to 12/31/10	\$0.500
01/01/11 to 06/30/11	\$0.510
07/01/11 to 12/31/12	\$0.555
01/01/13 to 12/31/13	\$0.565
01/01/14 to 12/31/14	\$0.560
01/01/15 to 12/31/15	\$0.575
01/01/16 to 12/31/16	\$0.540
01/01/17 to 12/31/17	\$0.535
01/01/18 to 12/31/18	\$0.545
01/01/19 to 12/31/19	\$0.580
01/01/20 to present	\$0.575

Scheduled Injuries calculated by the number of weeks on each specific scheduled member multiplied by impairment rating, paid at 2/3 average weekly wage. No credit for weeks of TTD which have been paid

Whole Body Injuries computed on basis of loss of earning capacity, paid over 300 weeks. Credit for TTD weeks paid (if 25 weeks of TTD were paid prior to MMI, then only 275 [300 weeks - 25 weeks] are owed for PPD).

COMPENSABILITY

ACCIDENT OR INJURY

An injury is defined as one which has arisen out of and in the course of his or her employment. An injury is only compensable when the injury arises from an accident or occupational disease.

The accident requirement is satisfied if the cause of the injury was of accidental character or the effect was unexpected or unforeseen, and happened suddenly and violently.

An injury is deemed to "arise out of" the employment when the injury resulted from the risks arising within the scope of the employee's job. The term "in the course of" employment refers to the time, place, and circumstances surrounding the accident.

CALCULATING BENEFITS

The basis for most benefits in the Nebraska Workers' Compensation system is the compensation rate. The compensation rate is a function of the employee's average weekly wage ("AWW"), pursuant to Neb. Rev. Stat. §48-121. The average weekly wage is calculated based on the twenty-six weeks of wages prior to the date of injury. All of the employee's wages earned during the twenty-six week period are added up and then divided by twenty-six to determine the employee's average weekly wage.

As a general rule, the compensation rate is two-thirds of the employee's average weekly wage as of the date of injury up to a certain maximum amount. The maximum amount is adjusted each year.

TYPES OF BENEFITS

TEMPORARY TOTAL DISABILITY

Temporary total disability benefits are those paid to an employee during "healing periods" when the employee is unable to return to work. The benefits are payable until the employee returns to work or reaches Maximum Medical Improvement ("MMI")

IMPORTANT CONSIDERATIONS

- An employee is entitled to benefits while undergoing physical or medical rehabilitation, or vocational rehabilitation;
- TTD benefits cease if the employee secures alternative employment, or is terminated for cause

PERMANENT TOTAL DISABILITY

Under the Nebraska Workers' Compensation Law, total disability means that a worker cannot earn wages in the same or similar work that he or she was trained for, or earn wages for any other kind of work which a person or their mentality and attainments could do.

IMPORTANT CONSIDERATIONS

- PTD is owed to the employee for life, paid on a weekly basis.
- A lump-sum settlement is allowed based on the present value of the PTD award.
- Lump sum settlements for PTD awards need to be filed with and approved by the Court.

PERMANENT PARTIAL DISABILITY

Permanent partial disability is a disability that is permanent in nature and partial in degree. This disability must be demonstrated and certified by a physician, and based upon a reasonable degree of medical certainty.

Permanent partial disability is calculated in Nebraska using a three variable equation:

$$[\text{Compensation Rate}] \times [\# \text{ of weeks}] \times [\% \text{ of disability}] = \text{PPD Award}$$

IMPORTANT CONSIDERATIONS

- Weekly benefits are allowed up to the maximum weekly benefit specified by statute, and varies per year.
- A credit is imposed for benefits paid for total disability followed by partial disability.
- Lump-sum settlements are permitted, but may need to be filed and approved by the Court in some situations.

DEATH BENEFITS

ELIGIBILITY FOR DEATH BENEFITS

After the death of an employee who suffered a work-related injury, the employee's widow(er) and/or dependent children may become entitled to benefits.

THE EXTENT OF DEATH BENEFITS

In typical situations, the surviving spouse is entitled to benefits for his or her lifetime, or until he or she remarries, at which time he or she will receive two years of benefits in a final lump sum payment.

Minor children are entitled to a percentage of death benefits until they reach nineteen (19) years of age, or twenty-five (25) if enrolled full-time in an educational capacity, or if the child is physical or mentally incapable of self-support.

The employer is responsible to pay up to \$10,000.00 in reasonable burial expenses.

IMPORTANT CONSIDERATIONS

- Death benefits should be paid weekly to the surviving spouse and/or dependents.
- Lump sum settlements are allowed if filed with and approved by the Workers' Compensation Court.