

# Workers Compensation Benefit Overview – Tennessee

Major Developments: Last major legislation in 2004 (SB899), affected indemnity rates, disability rating, medical treatment, medical-legal disputes, penalties, and apportionment. 2007 legislation affects caps on TD and post-surgical treatments.

## Indemnity Issues

<p>Temporary Total Benefits</p>	<p>Average Weekly Wage calculated by averaging the 52 weeks of wages prior to date of injury.            Compensation rate equals 2/3 of Average Weekly Wage            Minimum: <b>\$112.80</b>            Maximum: <b>\$827.00</b>            Maximum for PPD: <b>\$752.00</b>            Waiting period: 7 days            Retro period: 14 days            Maximum benefit is 400 weeks unless found permanently and totally disabled.            Filing of wage statement must be done within 30 days of notice of injury or risk of being ordered to pay at max comp rate.</p>
<p>Temporary Partial Benefits</p>	<p>If employee returns to work with medical restrictions and earns less than wages earned pre-injury, the employee is entitled to 2/3 of the difference between pre-injury and post-injury wages.            No minimum.            Maximum: <b>\$827.00</b>            Shall not exceed 400 weeks.</p>
<p>Permanent Partial Benefits</p>	<p>PPD rate is same as compensation rate except the maximum PPD rate is <b>\$752.00</b>            Medical impairment ratings are given by authorized physician and settlements are based on both the medical impairment and the vocational disability of the injured worker due to the injury.            There are no caps on scheduled members worth less than 200 weeks and therefore they can be settled up to 100% to that body part.            Arms, legs, and body as a whole injury settlements are capped at 1 ½ times the medical impairment if the injured worker returns to work for the same employer making the same or greater wages.            If they do not return to the same employer making the same or greater wages, they may receive up to 6 times the medical impairment rating, not to exceed 400 weeks.</p>

	<p>If an injured worker with a body as a whole injury settles his claim for the 1 ½ cap or less and they are laid off for any reason other than for cause within 400 weeks of settlement, they may petition the court to re-open their claim for additional indemnity benefits.</p> <p>If an injured worker with upper or lower extremity injury settles claim for the 1 ½ cap or less and they are laid off for any reason other than cause, they may petition the court to re-open their claim for additional indemnity benefits.</p> <p>The 6<sup>th</sup> Edition of the AMA Guide is utilized for injuries which occur on or after January 1, 2008 to calculate impairment ratings.</p> <p>For injuries that occurred prior to January 1, 2008, physicians utilize the 5<sup>th</sup> Edition of AMA Guide to calculate impairment ratings.</p>
Permanent Total Benefits	Weekly benefits at PPD rate subject to max rate, which is currently <b>\$752</b> until they reach the age of social security eligibility. This can be awarded in lump sum.
Fatality Benefits	<p>If the injured worker leaves a surviving spouse and no dependent children, the surviving spouse shall receive 50% of the average weekly wage of the deceased employee.</p> <p>If the injured worker leaves a surviving spouse and child or children, the spouse and children shall receive 66 2/3% of the average weekly wage of the deceased employee.</p> <p>Upon re-marriage of surviving spouse, if there is no child of the deceased employee, the compensation shall terminate.</p> <p>But if there is a child or children under 18 or over 18 and physically or mentally incapacitated from earning, the child or children shall receive 66 2/3% of the average weekly wage.</p> <p>If the deceased employee leaves no dependents, then a lump sum of \$20,000 shall be paid to the estate of the deceased employee.</p> <p>Compensation to any dependent shall cease upon the death or marriage of the dependent.</p> <p>Minimum weekly benefit: <b>\$112.80</b></p> <p>Maximum weekly benefit: <b>\$827</b></p> <p>Burial expenses are covered up to maximum of \$7500.</p>
Vocational Rehabilitation	Not required.
Settlement Allowed	Yes, but must be approved by Department of Labor or by court.
Cap on benefits, exceptions	Indemnity benefits are capped at 400 weeks unless the injured worker is found to be permanently and totally disabled.
Cap on benefits, exceptions	none

## Medical Issues

Initial Choice of Provider	Employer must give injured worker panel of 3 physicians not associated in the same practice. If the injury is to the neck or back they must also add a chiropractor to the list. A choice of physicians form must be presented in writing to injured worker and must be signed by injured worker. <b>An appropriate panel must be provided for each attending physician and each operating surgeon.</b>
Change of Provider	There is no statutory right for injured worker to change physicians. However, we do often allow a 2 <sup>nd</sup> opinion with another physician from the original panel.
Medical Fee Schedule	Yes
Utilization Review	UR is required when: <ul style="list-style-type: none"> <li>• Cumulative medical costs exceed <b>\$5,000</b></li> <li>• There is any type of inpatient stay</li> <li>• There is a non-emergency transfer between facilities</li> <li>• PT or OT exceeds 6 visits (12 visits if post-operative) <ul style="list-style-type: none"> <li>- This applies to CM and CB level claims but not ICU</li> </ul> </li> <li>• Chiro treatment exceeds 12 sessions</li> <li>• Psych treatment exceeds 12 visits</li> </ul>
Treatment Guidelines	Does the state mandate the use of evidence based guidelines? No.
Medical Mileage Reimbursement Rate	If requested by injured worker and if the trip is greater than 15 miles from home or work to medical provider. Paid at state employee rate per mile.
Ability to Terminate Medical Treatment	We can dispute treatment that is not reasonable and necessary.
Settlement Allowed	We can settle the medical benefits if the body part is worth less than 200 weeks. Those injuries to body parts that are worth greater than 200 weeks (arms, legs and body as a whole) cannot be settled until 3 years after the date of the indemnity settlement.
Cap on benefits, exceptions	Per fee schedule

## Other Issues

WC Hearing Docket Speed	Depends on county where lawsuit filed.
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Hearings require attorney or claim handler participation	Require attorney representation
Occupational Diseases	<p>Six criteria:</p> <p>Must have followed as a natural incident of the work exposure.          Is not from a hazard to which employees are equally exposed outside of employment.          Can be fairly traced to the employment as a proximate cause.          Is incidental to character of employment and not independent of relation of employer and employee.          Originated from a risk connected to employment and flowed as a natural consequent there from.          There is a direct causal connection between the conditions under which the work is performed and the disease. Diseases of the heart, lung and hypertension arising out of and in the course of employment are considered occupational diseases.</p>
Second Injury Fund availability	Only available if the injured worker's total settlements exceed 400 weeks of indemnity benefits.

State workers compensation website link:

<http://www.state.tn.us/labor-wfd/wcomp.html>

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