

# Workers Compensation Benefit Overview – Washington D.C.

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>2007- 2/3 of AWW not to exceed or be less than a minimum comp rate of \$308.25 and a maximum comp rate of \$1,233; the waiting period is 3 days; if disability is more than 14 days you go back and pick up the initial 3 days; temporary disability benefits are limited pursuant to D.C. Code 32-1505(b) to 500 weeks unless the claimant can demonstrate within 60 days of the expiration of 500 weeks a whole body disability of 20% or greater. In that case, the injured worker would be entitled up to an additional 167 weeks.</p>
<p>Temporary Partial Benefits</p>	<p>No minimum on temporary partial benefits. The maximum would be the maximum comp rate for 2007 which again is \$1,233. The same waiting period applies and the same limits apply to temporary partial and to temporary total.</p>
<p>Permanent Partial Benefits</p>	<p>Permanent partial is dependent upon the compensation rate, therefore, the payment is dependent upon the minimum and maximum rates indicated above; there is no waiting period for permanent partial and no retro period; permanent partial is limited by the 500 weeks outlined above and subject to the exception as outlined above. This is for wage loss. Wage loss involves injuries to nonscheduled members. There is a schedule such as back, neck, shoulders, and hips. There is a schedule for all other injuries from arm to toes. As to the schedule the original number of weeks has been reduced by 25% for injuries occurring on or after April 16, 1999. Doctors are allowed to use, but are not required to use, the AMA Guide for evaluating permanent impairment. Additionally, the 5 factors of pain, weakness, atrophy, loss of endurance and loss of function may also be considered. As to permanent wage loss the statute was amended on April 16, 1999 to include 2 possible methods. The 1<sup>st</sup> method is to take the job the employee was making at the time of the injury and determine the AWW for that job at the time the claimant has reached MMI and then compare that wage to his current wages. The other is to take the post injury job and take it back in time to the wage rate on the date of the injury.</p>

Permanent Total Benefits	The minimum and maximum are the same for the temporary total and there is no waiting period. The benefits go on for the life of the individual. Note that as part of the April 16, 1999 amendment the section dealing with the 80% maximum benefit when combined with social security benefits was eliminated. Therefore, currently an individual can receive 100% of his worker's compensation benefit with cost of living increases and his full social security benefits. Note: Cost of living increases are only allowed on permanent and total benefits and not on death benefits.
Fatality Benefits	The minimum and maximum compensation rates remain the same; waiting period is not applicable; funeral expenses are limited to \$5,000. If there is a widow/widower they are entitled to 50% of the AWW (not the compensation rate). If there are dependent children they are entitled to an additional 16 2/3 % to be divided among any dependent children. Dependent children is defined as any child under the age of 18 or over the age of 18 up to age 21 who is engaged in full time (more than 12 hours) of higher education.
Vocational Rehabilitation	Vocational rehabilitation is required and it shall be designed within reason to return an employee to employment at a wage as close as possible to the wage that the employee earned at the time of the injury. During the period of vocational rehabilitation the claimant would be entitled to his compensation rate.
Settlement Allowed	Settlements are subject to review if the injured worker is without counsel. Settlements are to be automatically approved if the claimant is represented by counsel.
Cap on benefits, exceptions	Other than the 500 week limit and the maximum compensation rate there are no other caps on benefits. In an additional note, there are a series of relatively new cases which allow an individual to receive permanent and total disability and to simultaneously receive a permanent partial disability for a scheduled member.

## Medical Issues

Initial Choice of Provider	The claimant can make his or her own first free choice.
Change of Provider	Once a treatment pattern has been established by a claimant with a treating physician, he can only change physicians by petitioning the agency and the criteria is whether the change is in the best interests of the claimant.
Medical Fee Schedule	113% of Medicare benefits.
Managed Care	No.

Utilization Review	Yes.
Treatment Guidelines	No.
Medical Mileage Reimbursement Rate	.25 per mile.
Medical Mileage Reimbursement Rate	.25 per mile.
Settlement Allowed	Settlement of medical benefits is allowed.
Cap on benefits, exceptions	No cap on medical benefits.

### Other Issues

Staff Counsel	Law Offices of Roger S. Mackey, 14008 Park East Circle, Chantilly, VA 20151. (703-818-6930)
Hearings require attorney or claim handler participation	Hearings must be attended by counsel.
Occupational Diseases	According to D.C. Code 32-1510 occupational diseases of silicosis, asbestosis, radiation diseases and any other generally recognized occupational disease are compensable and become the liability of the employer of the last known exposure.
Second Injury Fund availability	As of April 16, 1999 there is no longer a Second Injury Fund. For injuries existing prior to April 16, 1999 the Second Injury Fund exists.
Other Offset Opportunities	There is no apportionment in the District of Columbia.

State workers compensation website link:

<http://does.ci.washington.dc.us/does/cwp/view,a,1232,q,537428.asp>

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