

# Workers Compensation Benefit Overview – Delaware

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

Temporary Total Benefits	Minimum of \$201.72. Maximum \$605.15. 2/3 of AWW is the compensation rate. 3 day waiting period that is retro on the 7 <sup>th</sup> day. Payment of benefits must be made or denied within 15 days. AWW is based on a 26 week wage statement. Period of time is unlimited.
Temporary Partial Benefits	2/3 of the difference between the pre-injury wages/AWW & gross earnings upon RTW. 300 week maximum.
Permanent Partial Benefits	No minimum. Limited benefits. All body parts are scheduled by weeks. AMA application by physician. The rate used is the same as TTD rate.
Permanent Total Benefits	No
Fatality Benefits	Burial expense maximum \$3500 unless increased by the Board. Dependency: 2/3 of AWW to spouse not less than \$15/wk for a period of 400 weeks. Children would be entitled to benefits for 400 weeks or until age 18 or 25 if they are in school. Rate changes is 2/3-1 child, 70%-2 children, 75% for three, 80% for 4 or more.
Vocational Rehabilitation	Not required, but can be considered. Use Labor Market Survey to evaluate exposure and potential.
Settlement Allowed	Yes, Full commutation
Cap on benefits, exceptions	No

## Medical Issues

Initial Choice of Provider	Employee has choice
Change of Provider	Employee has choice
Medical Fee Schedule	Effective 5/23/08
Medical Management	Must be pre-approved by plaintiff counsel. Rarely allowed.
Utilization Review	Effective 5/23/08 If provider is certified, no pre-authorization is required. However, if provider is not certified, pre-authorization is required for all treatment beyond initial visit.
Treatment Guidelines	<b><u>Development of Health Care Practice Guidelines (Section 2322C)</u></b> The HCAP adopted a coordinated set of health care practice guidelines and associated procedures to guide utilization of health care treatments in workers' compensation claims, to include prescription drug utilization, inpatient hospitalization, diagnostic testing, physical therapy, chiropractic care and palliative care for 5 injury types. This became effective 5/23/08.
Medical Mileage Reimbursement Rate	\$.40/mile
Ability to Terminate Medical Treatment	Yes, Issue Rule 4 letter advising all parties to include the Board. State UR is required if treatment falls outside of the Health Care Practice Guidelines.
Settlement Allowed	Yes
Cap on benefits, exceptions	No

## Other Issues

Staff Counsel	No staff counsel in Delaware. Panel utilized.
Hearings require attorney or claim handler participation	Attorney
Occupational Diseases	Same as Occupational Injury



Second Injury Fund availability	Yes, but rare.
Other Offset Opportunities	Apportionment

**State workers compensation website link:**

<http://www.delawareworks.com/industrialaffairs/services/workerscomp.shtml>

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