Workers Compensation Benefit Overview – Louisiana

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	Current min is $146, max is $546 through August 31, 2009, 7 day waiting period, unlimited benefits, after six weeks of disability, first seven days owed. AWW calculated using average of four full weeks preceding accident. 40 hour presumption, given unless specifically hired for part-time. TTD rate is 2/3 AWW
Supplemental Earnings Benefits	Only owed if worker unable to earn 90% of pre-injury wage. 520 week cap, including all indemnity benefits paid. Two-thirds of pre-injury wages minus post-injury wages equals benefit rate, subject to max comp rate.
Permanent Partial Benefits	Scheduled loss in Section 1221(4). Percentage loss of scheduled benefit calculated by taken percentage from total number of weeks for loss of entire body part and corresponding percentage of AWW. Max and min same as TTD. Week to week credit for other benefits “voluntarily paid”. AMA Guidelines in effect.
Permanent Total Benefits	Same min and max and comp. rate calculation as TTD. Unlimited benefits, retro period same as TTD. Reverse offset if employee is receiving SSD benefits.
Fatality Benefits	Min and max same as TTD. Death must be causally related and occur within two years of accident. Benefits are calculated based on # of dependants. (Section 1332). Benefits for dependant children expire at age 18 or until 23 if enrolled as a full time student at accredited educational institution. Benefits for dependant spouse (no common-law) expire upon her death or remarriage. Funeral benefits is $7500
Vocational Rehabilitation	Employer has a duty to furnish this service. Beneficial to determine value of claim and reduce or eliminate SEB exposure.
Settlement Allowed	Yes, upon agreement of parties. Waivable (by employee) initial mediation conference and mandatory in-person pre-trial mediation.
Cap on benefits, exceptions	If employee voluntarily retires, benefits may stop.

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Medical Issues

Initial Choice of Provider	Employee and Employer each get one choice in any field or specialty. Must still show medical necessity.
Change of Provider	Only upon reasonable request by either party.
Medical Fee Schedule	Yes
Managed Care	None
Utilization Review	- All non-emergency hospital admissions must be pre-certified with an appropriate length of stay being assigned. Continued stay review must also be performed on each approved admission. - Either party can file for State Independent Medical Examination by a third physician appointed by the Department of Labor or Hearing Officer if in litigation.
Treatment Guidelines	None
Medical Mileage Reimbursement Rate	Yes. Reimbursement is at .52 cents
Ability to Terminate Medical Treatment	No limit on medical treatment that is reasonable and necessary.
Settlement Allowed	Yes.
Cap on benefits, exceptions	None, unless judgment obtained.

Other Issues

Staff Counsel	Waller and Assoc. 3838 N Causeway Ste 3160 Metairie, LA 70161 504-832-7625 Maricle & Associates Three United Plaza Ste 350 8545 United Plaza Blvd, Baton Rouge LA 70809 225-924-9585
Hearings require attorney or claim handler participation	Yes. However, attorney handling is strongly recommended.

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Occupational Diseases	Yes. Section 1031.1 "only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process or employment."
Second Injury Fund availability	Yes. Must be filed within 52 weeks of first benefit paid. 130 week cap on exposure and $25,000 on medical. Pre-accident disability must merge with disability related to work accident to create a greater disability. Expert opinion required.
Other Offset Opportunities	Social Security Disability upon declaring P&T.

State workers compensation website link: www.laworks.net

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