Workers Compensation Benefit Overview – Maine

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	No Minimum compensation rate. The maximum compensation rate effective July 1, 2008 is $596.42. The maximum compensation rate is adjusted annually on July 1. Employees who are injured on or after 1/1/93 and who are receiving the maximum weekly compensation rate, are entitled to the yearly increases in the maximum weekly benefits rate until they reach 80% of their after tax average weekly wage. The date of the injury controls the calculation of the weekly compensation rate. For example for injuries on or after 1-1-93 the compensation rate is determined by the 52 weeks of wages prior to the injury, including overtime and fringe benefits where applicable. The weekly benefit is 80% after- tax of the average weekly wage. The Maine Board publishes a "weekly benefits table" every year which is used to determine the actual compensation rate. Compensation benefits are not payable for the first 7 days of incapacity, unless the capacity continues for more than 14 days, in which case the entire period of incapacity is due. Benefits for total compensation continue to be unlimited in duration provided the employee remains qualified under section 212 of the statue.
Temporary Partial Benefits	The date of injury controls the calculation of the temporary partial benefits. For example for injuries on or after 1-1-93 the employer is responsible for 80% of the difference between the pre-injury, after tax average weekly wages and the current earnings. There is no minimum rate for temporary partial benefits. The maximum weekly compensation benefit payable effective July 1, 2008 is $596.42. The duration of benefits is determined by the permanent impairment percentage of the "whole body". If the permanent impairment does not exceed 13.2% of the whole body the employee is no longer entitled to partial compensation after receiving 260 weeks of benefits, currently 468 (as of 1/1/09) for injuries after 1/1/00. The Board can upon application extend these benefits for "extreme financial hardship".
Permanent Partial Benefits	Entitlement to benefits for permanent impairment depends on the date of injury. For injuries on or after 1/1/93, an employee' whole person impairment is relevant only to determine the duration of entitlement to benefits for partial incapacity. The threshold is currently 13.2% impairment. Any impairment rating above the threshold could qualify for benefits above the CAP.

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Fatality Benefits	If death occurs as a result of the compensable workers' compensation claim the employee's widow, widower, or other eligible dependents are entitled to on-going total compensation. The duration of these benefits depends on the date of injury. Injuries before 1-1-93 the benefits are payable to the surviving spouse for the duration of his/ her life time until he/she becomes dependent on another person. Upon death of the spouse the benefits are payable to the children until the age of 18. These benefits are adjusted annually on July 1. Injuries on or after 1-1-93 the benefits are capped at 500 weeks from the date of death or until the child's 18th birthday whichever is longer. The dependents are also entitled to the reasonable expenses of burial, not to exceed $4,000 and an additional payment of $3,000 as incidental compensation.
Vocational Rehabilitation	Not mandatory. The employee may request vocational rehabilitation and the employer must provide. The Maine WC Board can order the services and the employee must participate or there may be a loss or reduction in benefits.
Settlement Allowed	Settlement of both the indemnity and medical benefits allowed.
Cap on benefits, exceptions	Temporary total benefits are not capped. Partial benefits may be capped. (see above)

Medical Issues

Initial Choice of Provider	The employer has the right to choose a health care provider for the first 10 days after the "inception of health care". If directed, the employee must treat with the employer's choice of physician. In cases of emergency, the injured worker should report to the emergency room.
Change of Provider	After treating with the preferred provider, an injured worker may see a physician of their choice upon notice the employer. An employee who receives treatment from his chosen health care provider may not change to another provider more than once without approval from the employer or the Board. An employee is entitled to treatment provided by a specialist with a referral from his treating physician. Treatment by a subsequent specialist in the same field is not covered without prior approval from the employer or the Board.
Medical Fee Schedule	The health care providers may not charge more than is charged to private third party payers, such as Blue Cross/Blue Shield, for similar treatment.
Managed Care	No

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Utilization Review	Entities Affected: Any entity conducting workers' compensation utilization review must be certified by the Worker's Compensation Board. Citation: Regs 90-351, Chapter 7 Description: To be certified by the Board, an entity must submit evidence of URAC accreditation, or application for URAC accreditation. In the latter case, the entity has six months to achieve URAC accreditation. Administrative Hold: Provider has 10 days from request to submit necessary info – Admin Hold does not apply.
Treatment Guidelines	Utilization Review Agents providing or performing UR services shall utilize Treatment Guidelines approved by the Maine Workers' Compensation Board. These specific treatment guidelines relate to low back pain, carpal tunnel syndrome, pain treatment.
Medical Mileage Reimbursement Rate	Effective January 1, 2009 the mileage rate is $.55 per mile.
Ability to Terminate Medical Treatment	No limit on medical treatment if reasonable, necessary and related. An IME needed to terminate.
Settlement Allowed	Medical can be settled.
Cap on benefits, exceptions	No

Other Issues

Staff Counsel	Unable to assign staff counsel due to geographical location. Panel counsel only.
Hearings require attorney or claim handler participation	The claim handler can handle the mediations but hearings require counsel.
Occupational Diseases	A disease which results from causes or conditions characteristic of a particular trade or occupation may be found compensable, and subject to the more restrictive Occupational Disease Law (39-A M.R.S.A section 601-15).
Second Injury Fund availability	None
Other Offset Opportunities	Apportionment opportunities. It is required the carrier for the most recent compensable injuries make all benefits payments to which the employee is entitled. Depending on the date of injury the Supplemental Benefits Fund may be an option.

State workers compensation website link: http://www.maine.gov/wcb/

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