Workers Compensation Benefit Overview – New Jersey

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	The min and max change every year and the rates are set by the State Division of WC. (**2009 Max: $773; Min: $206**). The waiting period is seven days. Retro back to the first day of lost time after the waiting period. The seven days do not need to be consecutive. 70% of the Average Weekly Gross Wage is paid, not greater than the max or less than the minimum rate of the year the accident occurred.
Temporary Partial Benefits	Not applicable.
Permanent Partial Benefits	A schedule of disabilities and maximum benefits are published yearly by the state of NJ. The year that the accident occurred in is the same as the schedule that is used, even if the perm is awarded years after the accident. Permanent disability ratings are based on a percentage of body part, with a corresponding number of weeks and monetary rate. Perm exams are scheduled towards the end of 26 weeks after the last date of treatment. A permanency rating is given by an authorized medical provider for the petitioner and respondent and a judge rules on the permanency based on the exams and evidence submitted. Perm payments accrue after the last date of TT payment and then continue weekly for the stated award. PP rate cannot exceed the TT rate.
Permanent Total Benefits	The rules above also apply to perm total benefits. In NJ, if we know a claimant will be perm total from the start, we can voluntarily start to pay perm total benefits (i.e. permanent brain injury, severe paralysis). Perm total benefits are lifetime benefits unless the person becomes employable.
Fatality Benefits	Funeral allowance allotted ($3,500) Lifetime weekly benefits to the widow/widower unless they remarry. 70% of wages – 450 weeks plus spouse's statutory benefits.
Vocational Rehabilitation	Not required in NJ.
Settlement Allowed	Full and final settlements are allowed under certain circumstances and must be approved within the NJ court system and put through by a judge. Section 34:15-20.
Cap on benefits, exceptions	TT benefits are paid until the claimant has reached maximum medical improvement.

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Medical Issues

Initial Choice of Provider	The employer is responsible for furnishing to the injured worker such medical, surgical and other treatment, and hospital service necessary to cure and relieve the worker of the effects of the injury and to restore the functions of the injured member or organ where such restoration is possible. "The mere furnishing of medical treatment or the payment thereof by the employer shall not be construed to be an admission of liability." (Sec. 34:15-15).
Change of Provider	The insurance company acts on behalf of the employer and usually takes over medical management once notice of the claim has been received. The employer/insurer can change the provider without restriction. Where the employee is not satisfied with the level of care, a motion for medical treatment may be filed.
Medical Fee Schedule	No medical fee schedule in NJ. Reasonable and customary is applied.
Managed Care	Insurers may use an approved managed care program to provide medical services. Managed care programs approved by the Department of Insurance. Comprehensive description of certification requirements to be found in New Jersey Administrative Code Title 8 Chapter 38. Subchapter 2.2
Utilization Review	Utilization review programs within managed care arrangements must include hospital preadmission, requirements for second surgical opinions, concurrent and retrospective review on the number of visits and costs on a per-case basis and on a provider specific basis.
Treatment Guidelines	Managed care arrangements must develop plan treatment protocols before plan can be certified.
Medical Mileage Reimbursement Rate	Mileage is not reimbursed. Transportation can be provided if medically necessary.
Ability to Terminate Medical Treatment	When the claimant has reached Maximum Medical Improvement or no further medical treatment is necessary as authorized by the treating physician. Or when an Independent Medical Exam or IME states that claimant is MMI and no further medical treatment is necessary.
Settlement Allowed	Full and final settlements are allowed under certain circumstances and must be approved within the NJ court system and put through by a judge. Section 34:15-20.
Cap on benefits, exceptions	Medical benefits are paid until the claimant has concluded treatment or until MMI is reached.

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Other Issues

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Hearings require attorney or claim handler participation	Attorney for hearing or trial. Hearing Rep can also authorize settlement up to a certain monetary amount.
Occupational Diseases	Cumulative trauma is recognized. All prior carriers are brought in. The last carrier usually gets the brunt of the case unless there was a medical exam proving manifestation or prior treatment for the injury alleged.
Second Injury Fund availability	SIF is available in NJ. To be eligible for Fund benefits, an individual must be totally and permanently disabled as the direct result of a work-related injury in combination with a pre-existing permanent partial disability. It is not necessary that the pre-existing permanent partial disability be work-related.
Other Offset Opportunities	Social Security offset, Second Injury Fund, Credit for Prior Awards.

State workers compensation website link:
http://lwd.dol.state.nj.us/labor/wc/wc_index.html

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