TRAVELERS

Workers Compensation Claim
State Environmental Guide - Vermont

VERMONT – http://www.labor.vermont.gov/

Indemnity Issues

Temporary Total Benefits	**21 V.S.A. 642 and Rule 15 Temporary Total**: 2/3 (.0667) of the AWW (for dates of injury prior to July 1, 2008 AWW is based on 12 weeks. AWW is based on 26 weeks for dates of injury after July 1, 2008). If more than three months have elapsed between the date of injury and an initial period of temporary disability (whether total or partial) causally related thereto, two *Wage Statements* (Form 25) shall be submitted – one covering the 26-week period prior to the date of injury and one covering the 26-week period prior to the date of disability. Upon comparing them, the employer or insurance carrier shall calculate the injured worker's weekly compensation rate as follows: If the average weekly wage has increased since the date of injury, the compensation rate shall be adjusted upward accordingly; 8.1662 If as a consequence of the injury the average weekly wage has decreased since the date of injury, the compensation rate shall be based on the average weekly wage as of the date of injury; 8.1663 If the average weekly wage has decreased since the date of injury for reasons unrelated thereto, the compensation rate shall be adjusted downward accordingly. If the injured worker does not have 12 weeks or 26 weeks of wages prior to the date of injury, then wages from a comparable employee or rate of hire can be used. The injured worker receives the highest AWW. An additional $10.00 per unmarried, dependent child/grandchildren under the age of 21 is added to the compensation rate; however, the total compensation rate, including dependency benefits, cannot exceed 90% of the AWW prior to applying any applicable Cost of Living Adjustment ("COLA"). There is a 3 day waiting period, retro to day 1 after 10 days. TT benefits can be discontinued when employee returns to work, refuses a light duty job offer or when maximum medical improvement (MMI) is reached. Except for situations where the employee returns to work, TT benefits can be discontinued only with a Form 27. The injured worker receives a COLA annually on July 1 only after 26 weeks of total disability. Effective 7/1/2018 the minimum compensation rate is $437.00 and the maximum compensation rate is $1311.00. Effective 7/1/19 the Maximum Rate will be $1,353.00 and the Minimum Rate will be $451.00. Effective 7/1/2021 for claims with a DOL 6/30/1986 forward the maximum rate is $1542.00. The minimum rate as of 7/1/2021 is $514.00 If the employee's AWW is lower than the minimum compensation rate, the weekly compensation rate is 90% of the AWW prior to any COLA. Effective July 1, 2022 - The Vermont Department of Labor has announced new maximum and minimum weekly compensation rates effective July 1, 2022. The new maximum rate for injuries prior to July 1, 1986 is $1,069.00 and for injuries

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Temporary Total Benefits - continued	after June 30, 1986 the new maximum rate is $1604.00. The minimum rate is $535.00. The new Form 28 (FY22) and Form 28A (FY22), which you should use to update the claimant's rates as of July 1, 2022 are now available for download. Form 28: https://labor.vermont.gov/document/workers-compensation-form-28-fiscal-year-2023 Form 28A: https://labor.vermont.gov/document/workers-compensation-form-28a-fiscal-year-2023 Historical rate data: https://labor.vermont.gov/document/historical-rates-fiscal-year-2023
Temporary Partial Benefits	**21 V.S.A. 646 Temporary Partial**: 2/3 of the difference between the AWW and gross earnings after return to reduced work. Temporary Partial begins on the 8th day of partial disability if no temporary total is due. TP benefits may be discontinued when employee returns to full duty work or when maximum medical improvement (MMI) is reached and a Form 27 is filed.
Payments	**Pursuant to 21 V.S.A sec 650(f)**, the employer/carrier MUST notify the claimant and the Department in writing of the week day that payment will be mailed or deposited on and the starting date for such payment. The following forms were revised to include this information Form 32 (replaces Form 21 & 24), Form 22, Form 23, and Form 25. If the benefit payment is NOT mailed or deposited on the day established, the new provision requires the employer/carrier to pay to the claimant a late fee of $10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day. Effective July 1, 2013, under 21 V.S.A. § 618(f), if the employee consents in writing, weekly temporary indemnity benefits may be paid by means of an electronic prepaid benefit card.
Permanent Partial Benefits	As of July 1, 2015, the minimum compensation rate is $408.00 and the maximum compensation rate is $1224.00. If the employee's AWW is lower than the minimum compensation rate, the full amount of the AWW is used for purposes of permanency benefits. Permanent partial disability benefits begin at the end of temporary total or temporary partial. If there is no temporary total or temporary partial, then, permanent partial disability benefits begin the day after the date of injury. There are limited amount of weeks. For the spine - 550 weeks. For all other body parts - 405 weeks. The AMA Guides, 5th edition is used to determine the rating in whole person. The employee must be rated for PPD within 45 days of filing a Form 27 to discontinue benefits based on MMI.
Permanent Total Benefits	**21 V.S.A. 644 Permanent Total**: 66 2/3% of the AWW for 330 weeks. Benefits will continue beyond 330 weeks if loss of actual earnings or earning capacity is not restored.

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Fatality Benefits	**21 V.S.A. 632, 633, 634, 635 636, 637, 639 Death Benefits**: payable to spouse until the age of 62, remarriage, or death, whichever occurs first. Payable to a dependent until the age of 18. In no event shall the spouse receive less than a sum equal to 330 times the maximum weekly compensation except when the compensation terminates by reason of death. Burial and funeral expenses in the amount of $10,000, and expenses for out-of-state transportation of the decedent to the place of burial not to exceed $5,000.00.
Vocational Rehabilitation	We notify the Department of Labor if the injured worker is out of work for 90 consecutive days (TTD only). The State refers the injured worker for a VR screening to determine whether an Entitlement Assessment applies. If the injured worker is not referred for an Entitlement Assessment, vocational rehabilitation is closed. If the injured worker is eligible for an Entitlement Assessment, we assign a vendor to complete the Entitlement Assessment. If entitled, we provide vocational rehabilitation services to assist the injured worker in securing suitable employment.
Settlement Allowed	Yes. The new Form 16 replaces the Form 14 & 15 and is used when settling indemnity benefits only or both indemnity and medical benefits.
Cap on benefits, exceptions	No cap on TTD or TPD Benefits.

Medical issues

Initial Choice of Provider	Employer has the right to direct care for the initial visit.
Change of Provider	Employer has the right to designate the treating health care provider who will initially treat an injured worker. If the worker is dissatisfied with the choice, they may choose another provider, but must notify the employer in writing of the change, the reason they were dissatisfied, and the name of the medical provider the injured worker has selected. (Form 8)
Medical Fee Schedule	Yes. The State of Vermont uses the melded rate of what private insurers are paying for services. Rule 40.024 sets a prescription drug reimbursement level at the average wholesale price plus a $3.15 dispensing fee. This rule also deals with intravenous drugs and infusion therapy.
Managed Care	No
Utilization Review	Effective July 1, 2011, within 14 days of receiving a pre-authorization request and medical evidence supporting the request, the carrier must either: (1) authorize the procedure; or (2) deny the treatment because the entire claim is disputed or because the proposed treatment is unreasonable or unnecessary based on a preponderance of credible medical evidence specifically addressing the proposed treatment; or (3) schedule an IME to occur within 45 days of the pre-authorization request. Notwithstanding the employer's denial, the Department may on its own initiative issue an order authorizing the treatment upon a finding that the evidence shows that the treatment is reasonable, necessary and related to the work injury. Authorization notification must be sent to the provider, injured worker and the

Medical issues

	Department. Denials must be sent to the IW, provider and the Department and if based on medical necessity must include credible medical evidence for the denial; or notify the IW, provider, and Department if an IME or medical record review is being ordered.
Treatment Guidelines	No
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	$.58.5 cents (no longer deduct miles driven to and from work)
Network Information	Corvel
Ability to Terminate Medical Treatment	We can terminate medical benefits if the medical treatment is not reasonable and not medically necessary.
Settlement Allowed	Yes. The new Form 16 replaces the Form 14 & 15 and is used when settling indemnity benefits only or both indemnity and medical benefits.
Cap on benefits, exceptions	No cap on medical benefits

Other Issues

Denials	When denying the entire claim, the Form 2 Denial must be filed with the Department within 21 days from receiving notice or knowledge of the injury, with a copy to the employee. Extensions of the 21 day period are allowed for good cause if requested within the 21 period. If a Form 2 or request for an extension is not filed within 21 days, the Department may find that the claim is accepted and certain defenses are waived. In accepted claims, Form 2 Denials of specific benefits or additional claims, except medical benefits, must be filed within 21 days from the date the benefit/claim was requested. Form 2 Denials of medical bills must be filed within 30 days of receipt of the bill, with a copy to the provider. Pay Without Prejudice period has been clarified by rules adopted effective August 1, 2015 which state that at any time during its investigation, the employer or insurance carrier may elect to pay without prejudice all or a portion of any benefits to which the injured worker claims entitlement. The employer or insurance carrier shall notify both the injured worker and the Commissioner of its election to do so in writing. In the case of medical bills, the notice shall specify the nature and duration of all medical services or supplies to be paid without prejudice. In the case of indemnity benefits, the notice shall specify the type and duration of the benefit(s) to be paid without prejudice, and shall be accompanied by a *Certificate of Dependency and Concurrent Employment* (Form 10) and a *Wage Statement* (Form 25) sufficient to allow calculation of the compensation rate to be used. If the employer or insurance carrier fails to deny compensability of the claimed benefit(s) in accordance with **Rule 11.0000** within 90 days of making a payment without prejudice, it shall be deemed to have accepted responsibility for them.
WC Hearing Docket Speed	6 months to obtain a Hearing and 6 months to receive a decision.
Staff Counsel	No staff counsel available
Hearings require attorney or claim handler participation	Claim handler can participate in the informal conference process. Formal Hearings require defense counsel.

Other Issues

Occupational Diseases	None
Second Injury Fund availability	None
Other Offset Opportunities	We can use prior PPD to the same body part as an offset to current claim. This is allowed as of right for PPD paid for a prior work injury. Apportioning permanent impairment from a prior non-work related injury depends on whether the prior injury was disabling/symptomatic at the time of the work injury.
EDI	Claims EDI Release 1: FROI only (7/1/2005)
In-State Adjusting Required	No
License or Certification Required	Yes – WC Claim Professionals adjusting Workers' Compensation claims on behalf of an insurer must possess a Workers' Compensation Adjuster license for VT. There is a requirement that WC Claim Professionals managing VT WC claims attend VT specific training sponsored by the State of VT. For WC Claim Professional who have a New VT license, they do not need to attend the seminar the first year that their license is issued. For example: those who receive their VT WC license in 2021 do not need to begin to attend the seminar until 2022. Once a WC Claim Professional receives their license, they will be added to the distribution list to receive emails from the VT Department of Labor to attend the seminar. Typically there are 4 sessions within the 2-year period which are typically in May & October and they need to be attended in person. When to attend: WC Claim Professionals with a VT WC license need to attend at least 1 seminar within a 2-year period. In 2022, it will begin a new 2-year period; typically there are 2 seminars within a year. For example, if a WC VT licensed Claim Professional happens to attend the seminar in May 2022; then they are in compliance for VT WC license requirements until 2024. In 2024 the VT WC Claim Professional can attend any of the seminars within that 2-year time frame (example: if you attend May 2022; they can attend the VT seminar anytime in in 2024/2025).