



Workers Compensation Claim State Environmental Guide - Kentucky

KENTUCKY – <http://www.labor.ky.gov/workersclaims>

Indemnity issues

Temporary Total Benefits	<p>Average Weekly Wage is determined from the highest 13-week quarter of gross AWW for the 52 weeks preceding the date of injury. Overtime hours are calculated at the regular hourly rate, not the overtime rate.</p> <p>TTD benefit is 2/3 of the injured employee's gross average weekly wage subject to the following limits for 2017.</p> <p>Min: \$167.00 Max: \$835.04</p> <p>Waiting period: 7 day waiting period, which is paid once disability surpasses 14 days.</p> <p>Checks can be sent to the employer; however, if the injured employee submits a written request that checks be sent directly to them, checks must be sent to them.</p>
Temporary Partial Benefits	No provisions for this benefit under the KY WC law.
Permanent Partial Benefits	<p>Based on a whole body impairment rating pursuant to the 5th edition of the American Medical Association's <i>Guidelines to the Evaluation of Permanent Impairment</i>.</p> <p>Min: None Max: \$626.29</p> <p>Benefit duration: Limited generally to 425 weeks, but if the disability rating (impairment X grid factor) is 50% or greater, benefits are paid for a 520 week period.</p> <p>The following basic formula is used to determine the weekly benefit rate due: $AWW \times 66.67\% = PPD \text{ rate (subject to maximum)} \times (\text{AMA impairment rating}) \times (\text{Factor(s)}) = \text{weekly PPD benefit due.}$ <i>(continued on next page)</i></p>



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Indemnity issues

<p>Permanent Partial Benefits (cont.)</p>	<p>The factor to use is determined by the following:</p> <table border="0"> <thead> <tr> <th><u>AMA impairment rating</u></th> <th><u>Factor</u></th> </tr> </thead> <tbody> <tr> <td>0-5%</td> <td>0.65</td> </tr> <tr> <td>6-10%</td> <td>0.85</td> </tr> <tr> <td>11-20%</td> <td>1.00</td> </tr> <tr> <td>21-25%</td> <td>1.15</td> </tr> <tr> <td>26-30%</td> <td>1.35</td> </tr> <tr> <td>31-35%</td> <td>1.50</td> </tr> <tr> <td>36% and above</td> <td>1.70</td> </tr> </tbody> </table> <p>In addition to the factor above, one or more of the following additional factors may apply:</p> <p>If the injured employee does not retain the physical ability to return to the type of work performed at the time of the injury, the weekly benefit due may be multiplied by 3.</p> <p>If the injured employee returns to work at an equal to or greater wage and at some point there is an interruption of that employment, the weekly benefit due will be multiplied by 2 during the period of unemployment.</p> <p>Additional factors relating to the injured employee's education level and/or age may or may not apply in a given case.</p> <p>Given the complexity of factors that may or may not apply, it is strongly suggested that you consult a claim professional in the computation of PPD benefits due.</p>	<u>AMA impairment rating</u>	<u>Factor</u>	0-5%	0.65	6-10%	0.85	11-20%	1.00	21-25%	1.15	26-30%	1.35	31-35%	1.50	36% and above	1.70
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<p>Permanent Total Benefits ((see Major Developments)</p>	<p>PTD benefits are payable "when an employee has a complete and permanent inability to perform any type of work as a result of an injury." Permanent and total disability shall be presumed in the following instances:</p> <ol style="list-style-type: none"> 1. total and permanent loss of sight in both eyes 2. loss of both feet at or above the ankle 3. loss of both hands at or above the wrist 4. loss of one foot at or above the ankle and loss of one hand at or above the wrist 5. permanent and complete paralysis of both arms, both legs, or one arm and one leg. 6. incurable insanity or imbecility, or 7. total loss of hearing <p>Min: \$167.00 Max: \$835.04</p> <p>Benefits are payable until injured employee qualifies for Social Security, or minimum two years indemnity if within two years of qualifying or already qualified on date of injury.**</p>																

Indemnity issues

<p>Fatality Benefits</p>	<p>If death occurs within 4 years of the date of the injury, as a direct result of the injury a lump sum is due to the deceased's estate. Lump Sum: \$82,022.93 The surviving spouse and certain dependents are also entitled to income benefits depending on their status. Min: \$167.00 Max: \$835.04 Varies depending on mix of dependents and their status. Benefit due is determined as a percentage of the deceased employee's AWW (Average weekly wage; subject to the maximum or minimum). Example: Widow or widower with no dependent children – 50% of AWW to a max of \$417.55. Example: Widow or widower with children living in the home – 45% of AWW and 15% for each child – subject to a max of \$626.29. Supreme Court case Feb. 2008 ruled that the termination of income benefits to the widow following the death of the injured employee in both work-related and non-work-related death claims occurs <i>when the widow or widower reaches age 60</i>. Benefits are payable to dependent children to age 18, or until age 22 if they maintain full-time student status and provide proof of the same.</p>
<p>Vocational Rehabilitation</p>	<p>Vocational Rehabilitation is not mandatory. Employer can be obligated to pay for the cost of retraining to include tuition, books for a 52 week period. Covered expenses can also include transportation, lodging, and meals. On a case by case basis, additional periods of vocational retraining may be awarded by an Administrative Law Judge.</p>
<p>Settlement Allowed</p>	<p>Yes, subject to review and approval by the Department of Workers Claims. Indemnity benefits – PPD and PTD can be commuted to a lump sum using the state-mandated discount rate, which is updated annually. Current approved discount rate for 2017 is 1.0%.</p>
<p>Cap on benefits, exceptions (<i>see Major Developments</i>)</p>	<p>PPD and PTD benefits are capped at the injured employee's regular Social Security retirement age, or two years after the date of injury, whichever occurs last. TTD and PTD benefits can be credited by any unemployment insurance benefits paid during the period of disability. These benefits may also be reduced by any disability or sickness and accident payments from a plan that is <i>wholly</i> funded by the employer.</p>

Medical issues

<p>Initial Choice of Provider</p>	<p>Employee. If the employer is officially enrolled in managed care- employee must choose a gatekeeper physician from the approved managed care network.</p>
<p>Change of Provider</p>	<p>Employee can change once with no referral. If they want to change a 3rd time with no referral, then the employer or the carrier must agree to the change.</p>
<p>Medical Fee Schedule</p>	<p>Yes</p>
<p>Managed Care</p>	<p>Yes – Employer can officially enroll in managed care to become a Managed Care Employer which requires their injured employee's to choose their treating physician from the managed care network available.</p>
<p>Utilization Review</p>	<p>Yes – specific regulations exist regarding the utilization review process and timeframes.</p>
<p>Treatment Guidelines</p>	<p>None</p>

Medical issues

Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	Currently 40 cents per mile for mileage 7/1/2017 through 9/30/2017. Rate is updated quarterly. The historic mileage chart can be found at the following website: http://finance.ky.gov/services/statewideacct/Pages/travel.aspx
Network Information	CorVel network is used.
Ability to Terminate Medical Treatment	If it is determined that all or any portion of any ongoing care is either not reasonable and necessary, or is unrelated to the work injury, then on post award cases, we can file a Motion for a Medical Fee dispute to seek official relief. We can only terminate ongoing medical by way of an award from an Administrative Law Judge.
Settlement Allowed	Yes- again subject to review and approval by the Department of Workers Claims.
Cap on benefits, exceptions	No cap. Once PPD or PTD has been either awarded or resolved by agreement, then the injured employee has the right to reasonable and necessary medical treatment for the work injury for their lifetime.

Other Issues

WC Hearing Docket Speed	<p>Once application has been filed and notice has been sent of assignment to an Administrative law judge, the following time frames are evoked:</p> <ol style="list-style-type: none"> 1. Employer/carrier has 45 days to file a Notice of Acceptance or Denial 2. Both parties have 60 days from the initial notice letter date to file proof. Defendant then has an additional 30 days thereafter, then plaintiff an additional 15 days. 3. Case is then set for a BRC (Benefit Review Conference) where the parties informally discuss the case and pursue and chances of resolution/settlement. If case does not resolve, it is set for a hearing. 4. Following the Hearing, each party can file a brief and the ALJ has 60 days to render a decision. 5. Each party has 14 days post the decision to file a Petition for Reconsideration. <p>Often, a case goes to a BRC hearing within 6 months and if needed to a Hearing a decision within 1 year after the initial filing of the Application. Litigation associated with Medical fee disputes generally take a year to 18 months.</p>
Staff Counsel	Staff Counsel not allowed in Kentucky
Hearings require attorney or claim handler participation	Yes – attorney participation
Occupational Diseases	Occupational Disease claims must be filed within 3 years after diagnosis or after symptoms first appear which are sufficient to inform the employee of the disease, whichever is earlier. The maximum period to file most occupational disease claims is 5 years after the injured employee was last exposed to the occupational hazard causing the disease.
Second Injury Fund availability	Does not apply for injuries of 12/12/1996 and after
Other Offset Opportunities	See cap on benefits under Indemnity.
EDI	Claims EDI Release 3: FROI & SROI (3/28/2011)
In-State Adjusting Required	No

Other Issues

License or Certification Required	Yes
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